



Date: January 7, 2019

To: Wendell Davis, County Manager
Through: Jay Gibson, General Manager
From: Patrick O. Young, AICP, Planning Director
Subject: Expanding Housing Choices

Executive Summary

In November 2018, as part of the Expanding Housing Choices project, the Planning Department released for public discussion a set of proposals to revise current zoning standards within the *Unified Development Ordinance* (UDO). This project is designed to explore a suite of potential changes to the UDO that can influence the supply and affordability of housing in a context-sensitive manner. The Planning Department, concurrent with the public release, has provided opportunities to review, discuss, and comment through public open houses, an online open house and questionnaire, and individual meetings with the Planning Department. This memo and presentation are intended to provide the details of the proposed concepts (essentially bringing the “open house” to the Board of Commissioners), following-up on the presentation and discussion of the concepts presented to the Board of Commissioners at its September 4, 2018, work session.

Recommendation

Staff recommends that the Board of Commissioners receive the presentation and provide comment. No additional action is required.

Background

Fast-paced population growth, limited availability of developable tracts, and a renewed preference for in-town living has led to a housing availability and affordability challenge in Durham. Over time, zoning rules have restricted development in many neighborhoods almost exclusively to single-family dwellings, eliminating many of the varied small-scale and often more affordable housing options that once existed. This project explores ways to revise current zoning regulations to help expand the choices that people have when it comes to housing types, and in turn aid, in conjunction with other initiatives, in providing more affordable and attainable housing options. See Attachment C for the November 2018 Open House presentation.

Beginning in spring 2018 the Planning Department convened a group of affordable and market-rate housing practitioners (“practitioners’ panel”) to advise staff of the particular challenges they face in building a diversity of housing options at a range of price-points. Common themes that emerged from these meetings included:

- Restrictive zoning districts: Many zoning districts simply do not allow housing types other than single-family, require large tracts of land that are increasingly expensive and rare, and require too much parking;
- Cost of land, labor, construction materials; and
- Cost of compliance with City regulation, including stormwater control measures, connection fees, commercial building codes, and roadway build-out.

To measure public opinion and concerns regarding expanding housing choices in general, and certain housing types more specifically, a questionnaire was released and made available from June 15 through August 15. The questionnaire was advertised through the City and the County Public Affairs' Offices. In an effort to collect broader participation, Planning staff attended several events throughout the summer, including the Rock the Park concert series, the Durham Farmers' Market, and the Latino Festival. Flyers were also distributed through the Police Department during National Night Out events. Over 1,300 people participated in the survey, with details regarding the results of the questionnaire found in Attachment B.

Based on input from the practitioners' group, results of the questionnaire, and best practices from across the country, staff has compiled information regarding six proposed concepts for how to amend the UDO in order to allow for a greater variety of housing choices in a context-sensitive manner. These concepts were presented to the City Council and Board of Commissioners at their work sessions in August and September, respectively, along with groups such as the Inter-Neighborhood Council (INC), the Coalition for Affordable Housing and Transit (CAHT), the Triangle J Council of Government's (TJCOG) Housing Practitioners' quarterly meeting, and the Planning Department's practitioners' panel.

- **Accessory Dwelling Units (ADUs):** Modify UDO regulations to increase viability for more properties.
- **Duplexes:** Allow duplexes as a housing type in more locations, especially within the Urban Tier.
- **Lot Dimensions:** Adjust lot dimensional standards to allow more opportunities for small-scale infill.
- **Small House/Small Lot:** Create a new housing type/lot dimensional standard to accommodate small houses.
- **Cottage Court:** Create a new housing type/lot dimensional standard to allow for clusters of small homes built around a common green space.
- **Infill Standards:** Modify residential infill standards to promote more context-sensitive development.

After receiving positive feedback from those work sessions, staff began developing specific revisions to the current regulations, and further utilizing the practitioners' panel for preliminary review of the draft details. Along with the public outreach initiatives in November and December regarding the public discussion draft, the "open house" presentations are being provided to the City Council, Board of Commissioners, and Planning Commission. As previously mentioned,

any group or organization interested in speaking with the Planning Department has also been invited to contact us to schedule an individualized meeting.

Issues and Analysis

The Expanding Housing Choices project has been not only highlighted as a component of a broader strategy for housing affordability in Durham, but also as a long-term strategy to address the housing shortage that is driving escalating costs in Durham as a whole, and particularly in Urban Tier neighborhoods. This project aims to contribute to market-rate affordability by removing certain regulatory barriers that restrict the supply and type of housing, while also resulting in more flexibility for affordable housing projects that utilize the Affordable Housing bonus program.¹

Planning staff regards this project as “Phase 1”, or initial steps, towards expanding housing choice in Durham, with a goal to bring proposed revisions to the governing bodies by the Spring of 2019. The comments received through the public outreach and discussion period, along with feedback provided from the governing bodies, will guide staff in finalizing these details of the proposed amendments. Many other issues will need substantive partnerships with other departments to address, and will require more time. Other issues include, but are not limited to, stormwater regulations, design standards for projects with three or more units, utility connection fees and other impact fees. Additional ordinance changes may also result through broader policy discussions and ultimate guidance through the new forthcoming *Comprehensive Plan* project. Ultimately, the goal is to provide the elected officials with an initial set of options that could help remove certain zoning regulatory barriers to increasing densities and providing additional housing options. The elected officials could adopt all the options, none of the options, or something in between.

The following provides a summary of the proposed changes being presented for discussion and feedback, with Attachment D providing more details regarding the proposed changes. *The following is not meant to provide detail regarding all of the associated development standards, just a highlight of standards that are proposed for revision.*

1. Revisions to Accessory Dwelling Unit (ADU) standards

Upon adoption of the UDO, accessory dwelling units became allowed by right in Durham (the previous *Merged Zoning Ordinance* allowed them only with an approved minor special use permit). However, few such units have been developed. These are viewed as a discreet way to introduce more density into neighborhoods in a context-sensitive manner, while providing homeowners an opportunity to gain more income through rent, provide a continuum of care for family members or themselves, or both as needs change over time. Staff has proposed the following changes, keeping in mind the need to allow them in more instances while maintaining the need for context-sensitivity to the neighborhood and neighbors.

- a. Revise the size allowance to a maximum of 800 square feet, with no percent requirement. The current size requirement is a maximum of 30% of the primary structure (e.g.: a 2,000 square foot house would allow an ADU with a maximum size of 600 square feet).
- b. Refine where the ADU can be placed on the lot by allowing them to be to the side of the primary structure in a limited manner. Currently, if detached, they can only be to the rear of the primary structure.

¹ The UDO defines an Affordable Housing Dwelling Unit as one that is affordable to a household earning 60 percent or less of the Area Median Income. The Affordable Housing Bonus program is within Sec. 6.6 of the UDO.

- c. Allow an ADU on a lot that has a duplex. Currently, they can be only place on a lot where there is a single dwelling unit (single-family house or townhouse).
- d. Remove the requirement that ADUs can only be on lots that meet current dimensional standards of the zoning district.
- e. Propose a a version that involves the subdivision of property (see Small Flag Lot in “Small Houses on Small Lots”).

2. Small Houses on Small Lots

A common request heard by staff is the ability to allow for smaller lot sizes for smaller houses. The UDO does not mandate a minimum house size, although minimum housing codes require certain room sizes that result in minimum sizes. The discussion focuses on the ability to provide more units while not requiring oversized lots for the units. The UDO, to varying degrees, allows for this primarily through rezoning to a Planned Development Residential (PDR) district, which provides for lot size flexibility, cluster subdivisions that allow for a limited amount of lot reduction in trade for additional open space, lot averaging where a subdivision can provide smaller lots (at a limit) as long as the average size of all the lots meets minimum lot size requirements of the zoning district, and a conservation subdivision that allows for smaller lots while setting aside at least 50% of the site area for conservation purposes (environmental and/or cultural).

While lot cluster subdivisions, lot averaging, and conservation subdivisions are already allowed by right, they each have limitations or substantial standards that promote different goals such as increased open space and preservation, or allowance for a minimal amount of subdivision flexibility. A PDR district is not a by-right district, but a planned district that requires a development plan as part of a rezoning request, and must be approved by the governing body in a public hearing process.

The following concepts are proposed to address the basic request of allowing for a small lot, by right, if a small house is placed on it. The two “small house” housing types proposed address the issue through typical residential development patterns. The “small flag lot” proposal, adapted from the current by-right allowance of flag lots, provides an opportunity to subdivide a lot that has an excessive rear yard, but a narrower lot that would be prohibitive to creating a flag lot due to the 20-foot pole width requirement. It would also provide a fee-simple option to the ADU model, where if the ADU is used for income-purposes, it would most likely need to be a rental unit.

a. “Small House” housing type.

- Small lot area and small lot width
- Limits on the size of the house and footprint of the house
- Limit to the height of the house
- Allows only an ADU attached to the primary structure
- Allowed for single-family or for duplex
- Still must adhere to infill street yard standards, and maintain side and rear yards
- Must be identified on a plat
- Would not need to comply with density limits of the zoning district
- Allowed within the Urban Tier

b. “Small House Pocket Neighborhood”

- Maintains most of the same standards and characteristics of the “Small House” housing type, but would set aside common area and shared parking

- Is a modification to the existing “Patio House” housing type found in UDO Sec. 7.1
 - Would require a minimum amount of common area for the development site
 - Would require a minimum amount of private open space
 - Shared parking spaces would be required
 - Allowed in Urban and Suburban Tier (where “patio house” is currently allowed)
- c. *“Small Flag lot”*
- A flag lot is generally a lot with two distinct parts:
 - The “flag”, which is the building site, meets the lot width requirements and is located behind another lot; and
 - The “pole”, which connects the flag to the street, typically provides the street frontage and access, and does not meet the minimum lot width requirement.
 - Flag lots are allowed by right and require a minimum pole width of 20 feet
 - For the Urban tier and RU districts in the Suburban tier, allow for a 12 foot wide pole width.
 - For flag lots with poles less than 20 feet in width, building size is limited to a size and height.
 - Minimum yard requirements are maintained.
 - Only one is allowed to be created from a parent lot of record.

3. Where Housing Types are Allowed

The concept and regulation of “housing types” was introduced with the adoption of the UDO. These expand upon the traditional use regulations, such as single-family, duplex, and multi-family, by developing standards for more specific types of each category. Thus, within the “single-family” category, examples of such housing types include “single-family detached”, “single-family attached”, “zero lot-line”, “semi-attached”, and “traditional house”. The “multi-family” category includes “townhouse”, “multiplex” and “apartment”. A “duplex” would be in the “two-family” category.

- a. Expand the allowance of duplexes throughout the Urban Tier
- b. Allow duplexes and townhouses in cluster and conservation subdivisions; allow duplexes within external lots of cluster subdivisions
- c. Allow all single-family housing types within a conservation subdivision
- d. Allow multiplex for current Thoroughfare Density Bonus (applies in RU districts only along major thoroughfares and boulevards and currently allows townhouses)

4. Zoning and Housing Type Standards

Some regulations are broadly applicable to the zoning district, while others are also based upon the housing type. For example, height is regulated through the zoning district no matter the housing type (i.e.: 35 feet is the maximum height for the RU-5 district), but lot widths for a housing type vary based upon the zoning district (and sometimes just the tier) and the housing type (i.e.: the lot width for a single-family detached house is 35 feet in RU-5, but 60 feet in RS-8).

- a. Reduce lot width for most RU districts, and RS districts in the Urban Tier.
- b. Reduce lot area for most RU districts, and RS districts in the Urban Tier.
- c. Align lot width and area requirements for duplexes and semi-attached houses with single-family detached housing type.
- d. Allow for attached or detached duplexes.
- e. Allow more two-unit townhouse configurations in the Urban Tier.

- f. Delete “total side yard” requirements for districts in the Urban Tier and RU districts in the Suburban Tier.
- g. Increase maximum densities of zoning districts to correspond with proposed lot sizes. However, the proposed densities would remain within the density ranges established on the future land use map (FLUM), where residential areas in the Urban tier are designated primarily as either medium density at 6-12 dwelling units/acre or medium-high at 8-20 dwelling units/acre. In cases where they exceed the FLUM designations, a rezoning with a development plan would be required.

5. Infill Regulations

Infill regulations, implemented with the adoption of the UDO, install supplemental regulations for residential development on smaller sites, generally less than four acres, and primarily applicable within the Urban tier. These regulations override general development standards such as lot width, street yard, and height, while providing additional requirements for items such as parking, landscaping, and building width.

Although regulating single-family and duplex building aesthetic design is prohibited by state law unless within a historic district (and other more unique circumstances), the infill standards allow for context-sensitive development standards based upon building placement, mass, and scale. The revisions are proposed to enhance current regulations, make the regulations clearer and more enforceable or, in the instance of lot width, to prevent nullifying other revisions being proposed.

- a. Apply regulations to RU districts in the Suburban tier in the same instances as within the Urban Tier.
- b. Delete lot width requirements.
- c. Delete window requirements along the side of a house.
- d. Revise landscaping requirements to focus on tree planting (based upon Old West Durham NPO).
- e. Revise the context area used for building width to align with the context area used for street yards.
- f. Clarify building height measurement.
- g. Revise vehicle use are (parking and driveway) standards consistent with Old West Durham NPO.

6. Other Miscellaneous Revisions

These revisions do not fit in a particular category, but aid nonetheless in the provision of more housing options and providing additional density.

- a. Add a clear calculation for density consistent with how parking spaces are calculated: round up if the calculation results in a fraction of 0.5 or greater; round down if less than 0.5.
- b. Allow more vehicular access flexibility for residential double-frontage lots, or “through lots,” focusing on access to ADUs, duplexes, and multifamily.
- c. Residential non-conforming lots:
 - Reduce the minimum lot width from 35 feet to 30 feet to allow building a single-family structure on a non-conforming lot by-right.
 - Apply the allowance to duplexes.

As discussed during the August work session, the Planning Department recognizes that implementing some or all of the proposed changes could add to issues Durham is already experiencing, and that corresponding measures or programs should be considered in addition to adopting any zoning changes.

1. *Impact to tree canopy.* A major initiative that is currently underway is maintaining, if not enhancing, Durham’s current tree canopy. Although there are already UDO provisions

regarding tree coverage, the zoning modifications proposed may have the effect of reducing existing trees in order to accommodate the additional density.

- a. As part of these proposals, revision to the current landscaping section for Infill Standards would more clearly prescribe maintaining or planting a tree, in addition to any street tree requirements. This standard would implement what was developed for the Old West Durham NPO.
 - b. Street trees are required in the amount of 1 per 40 linear feet of street frontage, located within 30 feet of right-of-way. A concurrent tree and landscaping text amendment is considering modifications to that requirement to move trees closer to right-of-way while also providing tree coverage on the lot itself.
 - c. Residential development that requires a site plan or subdivision approval currently requires 3% of the site to be reserved for tree coverage (kept or newly planted). The same concurrent text amendment will consider modifying the requirement, focusing on maintaining existing vegetation.
2. *More impervious surface.* Increasing the built environment will undoubtedly increase the amount of impervious surface.
- a. As part of these proposals, revisions to the current vehicular use area (parking) section for Infill Standards are proposed to minimize the amount of driveway paving allowed, again utilizing a standard adopted with the Old West Durham NPO. This, and the requirement of keeping or planting a tree, will help minimize the hardscaping of a lot.
 - b. Also as part of these proposals, ADU and small house provisions limit the footprint and overall size of a house, and reduce (if not eliminate) parking requirements.
 - c. As part of a current text amendment (TC1800002 Omnibus Changes 12), changes to the current Infill Standards would eliminate the requirement for on-site parking if the lot is narrow (less than 40 feet wide) and the street yard requirement would conflict with driveway standards. This would also reduce the need for additional impervious surface.
3. *More parking congestion.* More density in areas will in turn add to more people who will most likely have a car. Parking and traffic are a current issue due to the increased popularity of Durham as a place to work, live, or visit. Whether or not some or all of the proposed changes are adopted won't address this issue. What can help is directing denser development to areas where car dependency is reduced (and hopefully eliminated) and where public transit is effectively established. This aids to reduce a household's combined housing/transportation costs, and can allow households to more easily age in place where services are generally more available and infrastructure is already established. Programs and initiatives that make transit more effective, such as bus route analyses and the development of light and regional rail, would help all of Durham's citizens.
4. *Teardowns.* Durham is experiencing teardowns, especially within the older neighborhoods near Durham's downtown. A teardown of an existing house (or duplex) to build a bigger, pricier house is already happening. The proposed revisions may not slow this issue, but allow more opportunities for more units to be built in the place of one unit, which could affect pricing. The proposals add additional options and can increase the allowed number of units, thus more units can then be offered to more households at possibly lower price points (especially if the units are smaller in scale as some of the revisions would mandate as a trade-off for increased density). The units may be market rate, but the price points may be attainable to a wider range of households. Additionally, as the revisions aid market-rate builders, they would help affordable housing builders even more if utilizing the existing Affordable Housing Bonus program, which provides further density and lot dimensional relief if providing defined affordable housing units.

Additional programs should also be developed to better inform current residents of their rights as homeowners, and help understand the value of their property. Speculators currently send out letters offering cash for a home (many Planning staff receive letters a few times a year, at a minimum), and this can appear as an attractive offer (especially to low and moderate income households). The Community Development Department is currently investigating programs to provide aid and advice to homeowners in order to make informed decisions about their property. This is a needed service whether or not the proposed revisions are adopted.

5. *Change to neighborhood character or “feel”.* Ultimately, teardowns can lead to changes in neighborhood character. Changes to, or near, a single-family neighborhood can be worrisome to the residents of that neighborhood. However, changes happen to neighborhoods now. Neighbors come and go; lots that have stood vacant for decades and have provided some woodland to a neighborhood can be developed; and additions or renovations to, or the teardown and reconstruction of, houses are currently performed. These are meaningful now, and the proposed revisions for additional allowances could escalate these changes. However, evidence suggests such neighborhood change is more incremental, even if it feels dramatic². Nevertheless, staff has kept these concerns in mind.
 - a. Infill standards are not eliminated, but expanded to include portions of the Suburban Tier zoned with RU (Residential Urban) zoning districts. Infill standards apply to lots or sites less than four acres, require adherence to established street yards, and built to a height based upon neighboring developed lots. Lot width requirements of the infill standards are proposed to be removed because, as discussed above, if kept they would nullify the changes proposed to allow more density.
 - b. The proposed lot size and width changes are incremental, where the proposed reductions are primarily “one-step down” utilizing existing lot standards. For example, RS-10 lot sizes in the Urban Tier are proposed to be RS-8 lot sizes; RS-8 sizes in the Urban Tier are proposed to be RU-5 lot sizes; RU-5 lot sizes are proposed to be RU-M lot sizes.
 - c. Dramatically new or existing housing types are not proposed or expanded.
 - Duplexes are proposed to be allowed in RU-5 districts by right, but many neighborhoods either have zoning that is a mix of RU-5 and RU-5(2) (RU-5(2) currently allow duplexes), or have duplexes but are currently nonconforming (allowed when built but subsequently zoned out). Revision to duplex lot standards are proposed, but to align with single-family lot standards in an attempt to make them less distinguishable from each other in mass and scale.
 - None of the proposed revisions would expand where apartments would be allowed (smaller 3-4 unit buildings, called “multiplexes”, are proposed along major thoroughfares).
 - Small housing types would allow for significantly smaller lots, but in turn restrict height and size, maintain compliance to infill standards regarding placement along a street, require additional common space for the development if a “pocket neighborhood”, and limit the number of small flag lots.

² Herridges, Daniel. “Your City Isn’t Changing as Fast as You Think.” Strong Towns. August 27, 2018.

Staff Contacts

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Attachments

Attachment A: Expanding Housing Choices August-September 2018 Work Session
Presentation Documents

Attachment B: Summer 2018 Questionnaire Results

Attachment C: November/December Open House Presentation- Discussion Draft

Attachment D: Discussion Draft Open House posters

Attachment E: Discussion Draft Scenario Sheets

Attachment F: Discussion Draft online Questionnaire