



Date: January 14, 2019

To: Wendell Davis, County Manager

Through: Jay Gibson, General Manager

From: Patrick O. Young, AICP, Planning Director

Subject: *Unified Development Ordinance* Text Amendment, Omnibus Changes 12 (TC1800002)

Summary. This text amendment proposes technical revisions and minor policy changes to various provisions of the Unified Development Ordinance (UDO). The amendments are identified as necessary corrections, clarifications, re-organization, or other minor changes to clarify the intent of the regulations or codify interpretations of regulations, or reflect minor policy changes and are not solely technical in nature. Standards are proposed for mailbox clusters for residential developments as a result of United States Postal Service (USPS) requirements. Additional amendments specific to the initiation process for a Neighborhood Protection Overlay (NPO) are not included per the request of the Planning Commission, but will be brought forward as a separate text amendment item.

Recommendation. That the Board of Commissioners approve the attached Ordinance to amend Article 3, Applications and Permits; Article 4, Zoning Districts; Article 5, Use Regulations; Article 6, District Intensity Standards; Article 7, Design Standards; Article 9, Landscaping and Buffering; Article 10, Parking and Loading; Article 12, Infrastructure and Public Improvements; Article 13, Additional Requirements; Article 14, Nonconformities; Article 16, Design Districts; and Article 17, Definitions, of the *Unified Development Ordinance*; and approve a consistency statement declaring the request consistent with the Durham *Comprehensive Plan* and that the request is reasonable and in the public interest. Information supporting these recommendations is found within this memo, attached documents, and any information provided through the public hearing.

Background. The Joint City-County Planning Committee (JCCPC) has reviewed eleven comprehensive technical and minor policy change text amendments since the UDO took effect on January 1, 2006. In each case, both governing bodies adopted the proposed text amendment. This text amendment would continue the practice of making comprehensive technical and other minor policy revisions to the UDO as necessary. Cluster mailbox standards are proposed due to USPS requirements for clusters of mailboxes instead of previously permitted individual mailboxes.

The JCCPC was presented with a draft for review and comment on August 1, 2018. No substantial changes or modifications beyond technical corrections were requested. Concurrent with JCCPC review, other city and county department, including respective Attorney's offices,

reviewed the proposed text changes prior to initiating the public hearing process. The Planning Commission recommended approval, 9-0, of the text amendment on October 9, 2018, with the referral of the Neighborhood Protection Overlay process revisions (Sec. 4.8, Neighborhood Protection Overlay) to be referred back to staff. The Planning Commission determined that the Ordinance request is consistent with the adopted *Comprehensive Plan* and that the request is reasonable and in the public interest based on comments received at the public hearing and the information in the staff report. The Durham City Council will consider this amendment at its December 17, 2018, meeting.

Issues. The proposed amendments are listed in Attachment A to this document, with a summary as follows. As recommended by the Planning Commission, the amendments associated with Sec. 4.8, Neighborhood Protection Overlay (Part 8 of the Planning Commission draft), were referred back to staff for additional review, and will be brought forward as a separate text amendment item. Additionally, the amendment to Sec. 12.2, Ingress and Egress, (also within the Planning Commission draft) will be brought forward through TC1800006, Private Streets, for consistency purposes.

Part 1: Amendments to Article 3, Applications and Permits; and Article 4, Zoning Districts.

- Technical revision regarding references to required pre-application meetings for neighborhood protection overlays and reasonable accommodations.
- Revised notification requirements to:
 - Expand neighborhood organization notification for all public hearing requests;
 - Make property owner notification for local historic district and neighborhood protection overlay zoning consistent with current requirements for initial zonings; and
 - Revise property owner notification for future land use map amendments to be consistent with a zoning map change.
- Technical wording correction for “Criteria to Modify Tier Boundaries”.
- Clarify wording for site plan exemption for utility work within right-of-way.
- Delete superfluous and incorrect text for residential intent statements.

Part 2: Amendments to Article 5, Use Regulations.

- Amend the use table by:
 - Correcting a reference;
 - Deleting the allowance of self-storage within the Downtown Design District, consistent with the Compact Design District;
 - Adding “outdoor recreation” as an allowed use in the Industrial Park (IP) district, consistent with the Industrial Light (IL) district.
- Amend use categories by placing massage therapy and similar uses under “Medical Facilities” and remove from “Retail Sales and Service”.
- Amend limited use standards by:
 - Adding new text for wireless communication facilities regarding small wireless facilities, safety regarding pedestrian and vehicular movement, and clarifying concealed and non-concealed collocation requirements;
 - Deleting text regarding self-storage in the Downtown Design (DD) district; and

- Revising the food service limitation for outdoor recreation to specifically address the Rural Residential (RR) district.

Part 3: Amendments to Articles 6, District Intensity Standards and 7, Design Standards.

- Technical corrections to tables for Flexible Development Tools and Permitted Housing Types.
- Technical amendments regarding to the Affordable Housing Bonus general requirements, adding attributes to make affordable units more indistinguishable from market-rate units.
- Amendment to the Affordable Housing Bonus in the Urban and Suburban Tiers to increase the bonus from one-to-one to two-to-one to create a more viable bonus.
- *Added subsequent to JCCPC review:* Additional text to the Affordable Housing Bonus general requirements to explicitly state affordable units must be provided at least concurrently, if not before, additional bonus units are provided. Also revised text to the Compact Neighborhood section (paragraph 6.6.2) to clarify how standards applied to different zoning districts.
- Technical amendments to Infill Standards to:
 - Clarify applicability and certain terms;
 - Clarify how corner lots are treated;
 - Remove design criteria regarding windows that may violate state enabling legislation; and
 - Alleviate parking requirements for certain narrower lots. *Text clarified subsequent to the Planning Commission meeting.*
- Amendments for encroachments into yards by re-locating existing allowances and adding new allowances.
- Adjust townhouse housing type to allow for two-unit configurations. *As discussed at the Planning Commission hearing, the 20% proposed by staff is increased to 25%.*
- Adjust the Mixed Use (MU) district to exempt affordable housing dwelling units from the mix of uses calculations, and to require a minimum amount of the units within each phase.
- Technical clarification to open space requirements for cluster subdivisions.
- Technical clarification to lighting measurement requirements.

Part 4: Amendments to Articles 9, Landscaping and Buffering; 10, Parking and Loading; 12, Infrastructure and Public Improvements; and 13, Additional Requirements for Subdivisions.

- Technical correction to the table for Design District bicycle parking.
- Technical clarifications to parking design standards for vehicles and bicycles.
- Revision and re-organization to walkway standards in general and those for along common access driveways that only serve rear-loading parking.
- Technical reference correction for sedimentation and erosion control.
- Technical corrections to the link-node ratio street curve measurement utilizing existing method for block faces, and a technical correction for stub-outs.
- *Added subsequent to JCCPC review:* Revision to Sec. 9.5, Mass Grading Buffers and Revegetation, to add applicability to the Compact Neighborhood Tier based upon the new Compact Neighborhood Tiers recently adopted.

Part 5: Amendments to Article 14, Nonconformities.

- Clarification and re-organization of allowances to create nonconforming lots, and adding additional provisions to allow for a nonconforming lot.
- Clarification of side yard requirements for nonconforming lots.

Part 6: Amendments to Article 16, Design Districts.

- Additional screening standards for utilities to address cost and feasibility issues of current utility placement standards.
- Clarification of frontage type applicability for townhome lots along alleys.
- Technical correction to sidewalk accessibility ramp requirements.
- Technical reference corrections and additions.
- Clarification of height allowance within Support 2 sub-district related to the affordable housing provision.
- Revision to alternate streetscape plans to require certain streetscape furnishings for instances where a boundary cannot encompass an entire block face or there would be a gap between block faces.

Part 7: Amendments to Article 17, Definitions.

- Revise “adult establishment” to establish a separate definition for “massage therapy.”
- Delete definition of “clear-cut” due to the parameters established in clear-cutting provisions of the Ordinance.
- Combine definitions of “block face” and “linear block”.
- Delete an incorrect portion of “floor area ratio” definition.
- Add “massage therapy” definition.
- Clarify “public utility”, “right-of-way”, and “setback” definitions.

Part 8: Amendments to add requirements for “Cluster Box Units” for residential developments (a.k.a. a grouping of individual residential mailboxes).

The purpose of these amendments is to add a limited set of requirements for clusters of mailboxes, including parking, due to United State Postal Service requirements for accessible parking. The proposed standards include:

- Location requirements;
- Vehicular and pedestrian parking and access requirements;
- Credit towards open space requirements; and
- A definition for “Cluster Box Units”.

Part 9: Amendments to support Crime Prevention Through Environmental Design (CPTED) strategies for natural surveillance.

Amendments proposed in the section add opacity maximums for fences around pools and clarify lighting requirements.

Part 10: Amend the UDO to revise the term “multi-family” to read “multifamily”, consistent with the definition in Sec. 17.3, Defined Terms.

Consistency with the *Comprehensive Plan*; Reasonableness and in the Public Interest. The purpose of this and similar text amendments that have preceded this one is to update, clarify, and implement minor changes to a significant regulatory tool (the UDO) that implements various development policies found within the *Comprehensive Plan*; a reasonable undertaking and in the public interest. Although the *Comprehensive Plan* does not specifically address most these omnibus text amendments, it is consistent with the Durham Comprehensive Plan Vision, which states:

- “Promote the creation, enhancement and sustainability of a healthy, livable, safe and beautiful community for all Durham citizens.
- Promote a range of choices in transportation, education, housing and economic opportunities to effectively serve a diverse community.
- Promote the identity of our distinct neighborhoods by encouraging design elements and public facilities appropriate to the character of each area.
- Protect our historic heritage, open spaces and natural resources.
- Provide opportunities for high quality growth and development.”

Amendments regarding CPTED principles comply with policies 4.1.1j and 12.3.2b, Crime Prevention Through Environmental Design.

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Attachment:

Attachment A: Statement of Consistency Pursuant to NCGS § 153A-341

Attachment B: An Ordinance to Amend the *Unified Development Ordinance* Regarding Various Provisions of the Unified Development Ordinance (TC1800002)

Attachment C: Planning Commission Comments