

**AN ORDINANCE TO AMEND
THE *UNIFIED DEVELOPMENT ORDINANCE*
REGARDING THE NEIGHBORHOOD PROTECTION OVERLAY (TC1800010)**

WHEREAS, the Durham County Board of Commissioners wishes to amend certain provisions in the *Unified Development Ordinance* (UDO) by making revisions to the Neighborhood Protection Overlay (NPO) process; and

WHEREAS, it is the objective of the Durham County Board of Commissioners to have the UDO promote regulatory efficiency and consistency and the health, safety, and general welfare of the community;

NOW, THEREFORE, be it ordained that Article 2, Review Authority; and Article 4, Zoning Districts of the *Unified Development Ordinance* are amended to make the following changes set forth in the deletions (strikethroughs) and additions (underlining) below:

PART 1

[Amendments to revise the initiation process of a neighborhood protection overlay, and other technical changes]

Sec. 2.2 Joint City-County Planning Committee (JCCPC)

[Paragraphs not listed remain unchanged]

2.2.3 Powers and Duties

C. The JCCPC shall be responsible for review of the Administrative Guidelines established by the Planning Director governing neighborhood meetings pursuant to paragraph 3.2.3, Neighborhood Meeting; ~~the guidelines for establishing Neighborhood Protection Overlays pursuant to paragraph 4.6.2, Establishment of Overlay;~~ the Landscape Manual pursuant to paragraph 9.2.1, Landscape Manual; and the Durham Design Manual.

Sec. 4.6 Neighborhood Protection Overlay (-P)

[Paragraphs not listed remain unchanged]

4.6.1 Purpose

The purpose of the Neighborhood Protection Overlay is to protect ~~and preserve~~ the established character of existing neighborhoods by ~~limiting the flexibility of modifying the standards of~~ underlying base districts in order to more effectively match the density, intensity, or established character of an existing area. ~~The overlay may also be used to establish specific design guidelines that are more detailed than the standards of this Ordinance for use during review of development within the overlay.~~

4.6.2 Establishment of Overlay

A. A petition to establish a neighborhood protection overlay shall not be construed as a complete and accepted zoning map change application. The governing body, as applicable based upon jurisdiction, shall be the approving authority to initiate a neighborhood protection overlay application, and would therefore be the official applicant.

- AB.** A Neighborhood Protection Overlay ~~may only~~shall be established as both a zoning map change in accordance with the requirements of Sec. 3.5, Zoning Map Change, to reflect the boundaries of the designated overlay, and a text amendment in accordance with the requirements of Sec. 3.19, Text Amendment, to codify the standards established within the overlay.
- BC.** Multiple Neighborhood Protection Overlays shall not be designated over any individual property. A property may only be located within one Neighborhood Protection Overlay.
- CD.** The overlay ~~and any associated~~ standards ~~or guidelines~~ shall reflect the prevalent intensity and consistent building design in the neighborhood, to ensure that new development reflects the identifiable physical character of the area. ~~The standards or guidelines proposed for the overlay shall be included with the original petition for designation as defined in paragraph 4.6.3, Modification of Standards.~~
- D.** ~~The Planning Director, or designee, shall review any proposed overlay and any associated standards or guidelines to determine their conformity with the requirements of this section. As part of this review, the Planning Department shall hold at least one neighborhood meeting to ensure continued neighborhood support for the request prior to initiating the public hearing process.~~
- E.** ~~No review fee shall be required in the establishment of a Neighborhood Protection Overlay.~~

E. Petition Submittal

1. Required Pre-Petition Conference

Prior to submittal of a petition and the required pre-submittal neighborhood meeting, a pre-petition conference with the Planning Director or designee shall be required. The Planning Director or designee may establish deadlines for such conferences.

2. Required Pre-submittal Neighborhood Meeting

After the pre-petition conference and prior to submittal of a petition, a neighborhood meeting shall be held pursuant to paragraph 3.2.3, Neighborhood Meeting. In lieu of those requiring notification pursuant to paragraph 3.2.3C, the following shall be notified:

- a. All officers and/or representatives of any neighborhood association or other neighborhood group established within the proposed boundaries of the neighborhood protection overlay and that is registered with the Planning Department to receive notice.
- b. Each owner of record of property within the proposed boundaries of the neighborhood protection overlay.

3. Submittal

- a. Petitions to initiate the establishment of a neighborhood protection overlay shall be submitted to the Planning Department pursuant to the established submittal schedule for such petitions, and shall utilize the official forms maintained by the Planning Department pursuant to paragraph 3.2.4, Application Requirements, and any other requirements of this section.
- b. In order to be accepted for review, a petition shall provide documentation that demonstrates compliance with the following requirements:
 - (1) The proposed overlay area totals at least 15 acres, excluding right-of-way;
 - (2) The average age of structures within the proposed area is at least 25 years old;

- (3) At least 75% of parcels within the proposed area are developed;
- (4) The required pre-petition meeting was held;
- (5) The required pre-submittal neighborhood meeting was held and performed as required per this section and paragraph 3.2.3, Neighborhood Meeting; and
- (6) The additional documents listed in paragraph c, below, were provided.

c. Additional Submittal Requirements

- (1) A proposed map of the overlay area. The proposed overlay area shall not include properties for which the owners were not notified for the neighborhood meeting.
- (2) A petition of support signed by property owners and residents within the proposed area.
- (3) Documentation of a consistent, identifiable physical character.
- (4) Documentation of historical, social, or other significance applicable to the neighborhood.
- (5) A discussion of specific physical elements or development patterns that are not adequately addressed by the base zoning regulations.
- (6) A plan for neighborhood outreach and overlay development.
- (7) Any other materials the petitioner(s) believe are pertinent to the request.

d. Notification Fees

If required through the adopted fee schedule, mailed notification fees for the governing body meeting shall be required at the time of submittal.

4. Action by the Planning Department

The Planning Director or designee shall review the submittal for completeness and conformance with the requirements of this section, and forward the request to the applicable governing body for its review and determination to initiate the petition. Prior to forwarding to the governing body, the following shall be performed:

- a. Signs shall be placed throughout the proposed NPO area to inform residents of the request; and
- b. The applicant(s) shall be offered an opportunity to present the request to the JCCPC.

5. Action by the Governing Body

- a. The Planning Department shall perform a mailed notice in accordance with a zoning map change pursuant to paragraph 3.2.5, Notice and Public Hearings, indicating a petition to initiate an NPO has been filed and shall be considered for initiation by the governing body at a specified date and time.
- b. Upon review of provided information, the governing body shall determine whether and when to initiate the designation process for the neighborhood protection overlay. At a minimum, the governing body shall consider the following:
 - (1) That the documents submitted as part of the petition submittal are correct and sufficient.
 - (2) Support by residents and property owners. An indicator shall be the petition of support submitted as part of the request, but other indicators may be considered.
 - (3) That there is a historical, social, or other type of significance that the overlay request would aid in preserving.

(4) That there are consistent and identified physical characteristics and other elements that the base zoning cannot sufficiently address.

(5) That the parameters of the proposed overlay would be consistent with the *Comprehensive Plan* and other applicable policies.

(6) That there are sufficient staffing resources that would not negatively impact approved work program priorities.

c. If the governing body initiates the overlay request, it shall refer the item back to the JCCPC for consideration within the Planning Department's work program.

F. If an overlay designation is initiated and overlay development has begun, the Planning Director or designee:

1. Shall review any proposed overlay area and associated standards to determine their conformity with the requirements of this section. As part of this review, the Planning Department shall hold at least one neighborhood meeting prior to initiating the public hearing process; and

2. May review progress with the governing body prior to the required public hearings to verify continued support for the overlay or to discuss new issues pertinent to the establishment of the overlay.

4.6.3 Modification of Standards

A. A Neighborhood Protection Overlay may allow for the modification of any of the following standards within this Ordinance:

1. ~~Restrictions to the use~~ Use regulations in Article 5, Use Regulations ~~(the proposed standards may impose stricter limitations governing uses than allowed by the underlying zoning but shall not permit uses not allowed by the underlying districts);~~

2. District intensity standards in Article 6, District Intensity Standards;

3. Site design standards in Article 7, Design Standards;

4. Tree protection and tree coverage standards in Article 8, Environmental Protection;

5. Landscaping and buffering standards in Article 9, Landscaping and Buffering; or

6. Parking standards in Article 10, Parking and Loading; ~~or~~

7. ~~Sign standards in Article 11, Sign Standards.~~

~~**B.** A Neighborhood Protection Overlay may allow for restrictions on building design or placement details, including scale, mass, materials, and architectural style.~~

~~**Commentary:** North Carolina Session Law SL2015-86 limits the ability to place design or aesthetic regulations upon single-family and two-family residential structures.~~

~~**CB.** Any modified standards and regulations applicable within a Neighborhood Protection Overlay shall be expressly set forth in the overlay district at the time of adoption.~~

4.6.4 Design Guidelines

~~Where appropriate and allowed by State statute, a Neighborhood Protection Overlay may require the application of specific design guidelines in the review of development. Such guidelines shall be established as part of the overlay district at the time of adoption, and implemented through review and approval of site plans pursuant to Sec. 3.7, Site Plan Review, or architectural review pursuant to Sec. 3.23, Architectural Review.~~

PART 2

That the Unified Development Ordinance shall be renumbered, including references, as necessary to accommodate these changes.

PART 3

That this amendment of the Unified Development Ordinance shall become effective upon adoption.