DURHAM
1869
CITY OF MEDICINE

CITY OF DURHAM | DURHAM COUNTY
NORTH CAROLINA

DURHAM COUNTY

Date: August 4, 2014

To: Thomas J. Bonfield, City Manager
Through: Keith Chadwell, Deputy City Manager
From: Steven L. Medlin, AICP, Planning Director
Subject: *Unified Development Ordinance* Text Amendment, Technical Changes VIII (TC1300001)

Summary. This text amendment would make necessary technical revisions and minor policy changes to various provisions of the *Unified Development Ordinance* (UDO). The amendments (Attachment A) are grouped into three categories: amendments necessary to comply with state or federal regulations; amendments identified as necessary corrections, clarifications, reorganization, or other minor changes to more accurately comply with the intent of the regulations or codify interpretations of regulations; and additional corrections or clarifications from review of current standards established through the changes to discretionary regulations (text amendment TC1100007).

Recommendation. The staff recommends approval of the text amendment. The Planning Commission recommended approval, 11-0, of the text amendment on May 13, 2014.

Background. The JCCPC has recommended that staff initiate seven comprehensive technical 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 revisions to the UDO as necessary. The revisions include those necessary to conform to state or federal regulations; general corrections, clarifications, or reorganization of standards as a result of ongoing evaluation of UDO regulations; and additional revisions base upon text change TC1100007, which removed administrative discretionary regulations from the UDO.

The JCCPC was provided the first public draft of amendments at its February 5, 2014, meeting for initial review; with subsequent review at its April 2, 2014, meeting. At that meeting, the JCCPC received and reviewed additional modifications presented by staff, and subsequently voted unanimously to move the item forward through the adoption process without requesting any additional changes or clarifications. The

Planning Commission held its public hearing on the text amendment on May 13, 2014, and recommended approval with a vote of 11-0. The Durham Board of County Commissioners will consider this text amendment at its June 23, 2014, meeting.

Issues. The proposed amendments are listed in Attachment A to this document. The amendments are grouped into three categories as follows, plus additional modifications subsequent to the draft presented to the JCCPC at its April meeting.

State or federally mandated changes: The proposed revisions in this set of amendments would:

- Modify the UDO in light of recent updates to the general statutes regarding the responsibilities, processes, and procedures of the Board of Adjustment (per Session Law 2013-126);
- Correct the family care home definition and group living categories to comply with state and federal laws;
- Modify daycare facility standards to be consistent with state law;
- Modify riparian buffer and watershed standards due to Session Law 2012-200;
- Align regulations for temporary landfills and rename them as Land Clearing and Inert Debris (LCID) Landfills in accordance with Title 15A – Environment and Natural Resources, of the North Carolina Administrative Code (NCAC); and
- Revise bed and breakfast (per Session Law 2013-413) and accessory dwelling regulations (recent case law).

General corrections, reorganization, clarifications, and other minor changes: These amendments are a result of routine monitoring and evaluation of current regulations and responses to issues raised by staff, the development community, or the public that do not result in any substantial change in policy. These amendments consist of:

- Corrections to certain duties of review entities;
- Corrections and clarifications of common review procedures and application processes;
- Reorganization of different special use permit processes;
- Updates and clarification of various permit approval or process requirements;
- Corrections to certain standards for development tiers and historic district overlays;
- Modifications to the use table, limited use standards, and temporary uses;

- Corrections and minor modification to development standards for agriculture in the RR and RS-20 districts, infill standards, and nonresidential development standards;
- Clarification to residential development in nonresidential districts;
- Clarification and minor modification of standards for planned and design districts;
- Clarifications to floodplain, watershed, and steep slope standards;
- Modification of certain floodplain standards in anticipation of future flood map changes;
- Corrections and clarifications to parking and landscaping standards;
- Clarifications and minor modifications to sign standards;
- Clarifications and minor modifications to infrastructure and enforcement standards; and
- Corrections and additions to definitions.

Amendments based upon comments on text amendment TC1100007, Removal of Discretionary Standards: Amendments found in this section are a result of comments submitted for text amendment TC1100007 by the Inter Neighborhood Council (INC) and the Bicycle and Pedestrian Advisory Committee (BPAC). Staff and both attorneys' offices reviewed the comments, resulting in agreement that certain standards warranted further correction or clarification. Staff responded to each group indicating which comments warranted changes. Staff met with representatives of INC to discuss the responses to the comments, resulting in additional agreed-upon changes.

All comments, and staff responses to comments, were reported to the JCCPC on October 2, 2013, and to the Durham Board of County Commissioners (BOCC) at its work session on November 4, 2013. The BOCC subsequently approved TC1100007 on November 11, 2013, to be effective December 1, 2013. Since Durham now operates under one version of the UDO, these amendments, along with the other noted technical and minor changes to the UDO, can begin the official adoption process.

Additional changes to the April JCCPC draft: The following items have been modified subsequent to the draft presented to the JCCPC at its April meeting, and incorporated into the draft text amendment submitted to the Planning Commission for its public hearing on May 13, 2014. Additional minor changes not listed have also been made that fixed minor typographical, numbering, or syntax errors.

- Sec. 3.12, Temporary Use Permit; paragraph 3.12.1, Applicability: Corrected the flowchart.

- Sec. 3.17, Certificate of Appropriateness: Modified the expiration for master certificate of appropriateness to four years; removed ability for extensions.
- Paragraph 4.10.5, Downtown Historic District Overlay: Modified paragraph b to clarify the text.
- Sec. 6.12, Design Districts: Provided updated graphics.
- Paragraph 6.12.2D.6.b, Building Standards: Modified minimum forecourt depth to remain at five feet.
- Sec. 7.1, Housing Types; paragraph 7.1.1, General: Added text to clarify applicability of housing types in planned districts that allow residential uses.
- Sec. 7.2, Open Space: Modified the usable open space exemption for consistency with Sec. 6.9, Nonresidential and Group Living Development in Residential Districts.
- Paragraph 8.3.1E, Replacement Tree Coverage: Provided further clarification and reference to the approved *Landscape Manual*.
- Sec. 8.4, Floodplain and Flood Damage Protection Standards; paragraph 8.4.2, Applicability: Deleted the amendment since an update is not needed at this time.
- Sec. 9.9, Fences and Walls: Condensed the height table to remove repetitive text.

Minor changes made at the Planning Commission hearing include:

- Paragraph 3.7.3C.3: Clarified additional text for site plan amendments needed due to changes in flood data.
- Paragraph 9.2.1, Landscape Manual: Deleted additional unnecessary text.
- Paragraph 13.6.1B.2: Deleted because the standard is redundant with paragraph 12.3.1C, Intersections. Paragraph 13.6.1B will be re-numbered accordingly.

At the request of the Planning Commission, staff reviewed two additional sections proposed for amendment to verify whether the changes were clear and correct.

- Paragraph 10.3.3. Bicycle Parking in the Downtown and Compact Neighborhood Tiers: Determined no additional changes were necessary. The bicycle parking rate currently in effect is a multiplier and does not conflict with the fact that most bicycle parking racks provide two parking spaces.
- Paragraph 11.4.2D, Directional Signs for Sale, Lease, or Rental of Residential Property: Determined there was a conflict between the regulations in paragraph #4 and proposed paragraph #6. Additional changes have also been brought to staff's attention; therefore, the proposed revisions to paragraph 11.4.2D have been removed to develop more appropriate standards.

Clarification of proposed text in paragraph 3.5.6D.10, Uses and Minor/Major Special Use Permits, and deletion of the findings in paragraph 8.4.4D.1, Fill or Development in the Floodway Fringe or Non-Encroachment Area Fringe (these findings were re-located to paragraph 3.9.8C) have also been added to the proposed text amendment

request. Neither of these changes creates new standards not already reviewed by JCCPC or the Planning Commission. The changes clarify the proposed requirement and delete a redundancy, respectively.

Staff Contact. Michael Stock, AICP, Senior Planner, 919-560-4137 ext. 28227; Michael.Stock@DurhamNC.gov.

Attachments:

Attachment A, An Ordinance to Amend Provisions of the Unified Development Ordinance (TC1300001), Mark-up Version
Attachment B, Planning Commission Comments