



CITY OF DURHAM | DURHAM COUNTY
NORTH CAROLINA



GUIDELINES FOR THE SUBMITTAL OF
DEVELOPMENT PLANS AND COMMITTED ELEMENTS

Date: September 6, 2006

A. Purpose

As set forth in Section 3.2.4C, Applications Sufficient for Processing, of the Unified Development Ordinance (UDO), the purpose of these guidelines is to ensure that committed elements associated with development plans as described in Sec. 3.5.6, Development Plans, of the UDO and any revisions to development plans submitted pursuant to this same section are submitted in a form that permits their review in a timely manner.

B. Applicability

These procedures shall be applied to all zoning map cases utilizing a development plan that are submitted pursuant to Sec. 3.5, Zoning Map Change, of the UDO.

C. Development Plans

1. Initial Submittal and Review

The initial submittal and review of any zoning map change case shall follow the procedures established in Secs. 3.2, Common Review Procedures, and 3.5, Zoning Map Change, of the UDO. During this initial submittal and review stage of the development plan process, applicants may make revisions to the development plan and submit them in conjunction with any review cycle established by the Planning Department for the submittal of zoning map change requests. Such submittals and re-reviews shall continue until the zoning map change has been determined to meet all technical requirements of the development ordinances or the applicant indicates that he/she no longer intends to make any changes. Once that determination has been made, the Planning Director shall schedule the case for hearing by the Planning Commission.

2. Revisions Subsequent to Scheduling of the Planning Commission Hearing

To ensure adequate time to review any proposed development plan against the technical requirements of the development ordinances, any revisions to a development plan made less than ten days before the agenda deadline (or 23 days prior to the scheduled meeting date) shall result in an automatic deferral of the case to the next Planning Commission agenda, if the public hearing on the case has not been advertised. If the public hearing on the case has been advertised and the Planning Commission can continue the case, the Planning Director shall notify the Planning Commission in writing that revisions have been received but not reviewed and request that

the case be continued. In cases that the Planning Commission cannot continue, the Planning Director shall recommend denial of the case and, if further review of the development plan indicates further revisions are required, the Planning Director shall submit the plan back to the Planning Commission as a new case. At the discretion of the Planning Director, if the Department's workload permits review of the development plan, the Planning Director may waive this provision and provide a recommendation on the revised plan.

3. Revisions Subsequent to the Planning Commission Recommendation
Applicants may revise development plans subsequent to the Planning Commission's recommendation on the development plan, provided that the proposed revision does not trip any of the thresholds for revisions established in Sec. 3.5.12, Significant Modifications to Development Plans that Require a Zoning Map Change, of the UDO; proposed changes that trip any of these thresholds shall require that the item go back to the Planning Commission for new public hearings.

Any changes to a development plan after the Planning Commission recommendation must be submitted at least ten days before the scheduled deadline date for placement of the item on a governing body agenda to ensure adequate time to review the revised plan against ordinance requirements. Revisions submitted after that date (generally, 45 days before the City Council meeting date and 29 days before the Board of Commissioners meeting date) shall result in an automatic deferral of the case to the next governing body meeting, if the public hearing on the case has not been advertised. If the public hearing on the case has been advertised, the Planning Director shall notify the governing body in writing that revisions have been received but not reviewed and request that the case be continued three cycles. At the discretion of the Planning Director, if the Department's workload permits review of the development plan, he may waive this provision and provide a recommendation on the revised plan or may request continuance for only two cycles.

D. Committed Elements

1. Format

Committed elements are defined as commitments for performance on a development plan in excess of ordinance standards. Any proposed committed element that simply restates an existing ordinance standard shall not be accepted as a committed element.

To ensure that committed elements are enforceable, any proffered committed element shall clearly identify the party responsible for implementation of the proffer and the timing by which the proffer shall be completed. In addition, if implementation or enforcement of the proffer is to be assigned to the responsibility of any entity other than the Planning

Department, that responsibility shall be clearly indicated as part of the committed element.

2. Procedure

To ensure that the language of committed elements meets the standards established above, the Planning Department shall track the language of previously approved committed elements and make them available to applicants as models for their use.

The language for any proposed committed elements that do not utilize a previously approved model shall be submitted to the Planning Director for review at least five working days prior to the date of the hearing where the item is scheduled to be heard. The Planning Director, who may consult with other staff, including the City or County Attorney, as appropriate, shall review the proposed language and recommend changes to the language necessary to ensure that the proffer results in a valid committed element. Proffered committed elements submitted after that time (generally, the Monday before a City Council or Board of Commissioners meeting date or a Tuesday before a Planning Commission meeting date) shall result in a recommendation of continuance of the hearing for at least one cycle, if the proffered element does not require revisions to the development plan. If, in the opinion of the Planning Director, the proffered element requires revision of the development plan, the recommended continuance shall be three cycles of the governing body. At the discretion of the Planning Director, if the Department's workload permits review of the proposed proffer, the Planning Director may waive this provision and provide a recommendation on the revised plan with the additional proffer.

4. Tracking

The Planning Department shall track proffers of committed elements and any proffers that are routinely suggested shall be reported to the Planning Commission and the JCCPC as part of its proposed work program as potential ordinance changes.