

**AN ORDINANCE TO AMEND VARIOUS PROVISIONS
OF THE *UNIFIED DEVELOPMENT ORDINANCE*
REGARDING HISTORIC PRESERVATION, APPLICATION PROCEDURES, AND
NOTIFICATION PROCEDURES (TC1600004)**

WHEREAS, the Durham Board of County Commissioners wishes to amend certain provisions in the Unified Development Ordinance by making technical revisions regarding historic preservation procedures and regulations, and other general application and notification procedures; and

WHEREAS, it is the objective of the Durham Board of County 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; Article 3, Applications and Permits; and all other articles as necessary regarding Part 5 of this Ordinance, of the Unified Development Ordinance are amended to make the following changes set forth in the deletions (strikethroughs) and additions (underlining) below:

PART 1

[Amend powers and duties for Governing Bodies and HPC in Article 2, Review Authority, to address amendments to preservation plans and the *Historic Properties Local Review Criteria*]

Sec. 2.1 Governing Bodies

[Paragraphs not listed remain unchanged]

2.1.2 Powers and Duties

The governing bodies shall be responsible for final action regarding the following:

- A.** Amendments to the adopted Comprehensive Plan, including the annual Evaluation and Assessment Report;
- B.** Amendments to the text of this Ordinance;
- C.** Amendments to the text of the *Historic Properties Local Review Criteria*;
- D.** Amendments to the text of Local Historic District Preservation Plans,
- CE.** Applications for zoning map changes;
- DF.** Applications for major site plans;
- EG.** Applications for historic district/landmark designation;
- FH.** Applications for major special use permits and TIA special use permits; ~~and~~
- GI.** Vested rights determinations that require a public hearing pursuant to Sec. 3.20, Statutory Vested Rights Determination-; and
- HJ.** The *Durham Design Manual* and the *Landscape Manual for Durham, NC* (the *Landscape Manual*), including any subsequent revisions.

Sec. 2.5 Historic Preservation Commission (HPC)

[Paragraphs not listed remain unchanged]

2.5.4 Powers and Duties

C. Review Authority

The HPC shall be responsible for reviewing and making recommendations regarding [the following applications](#):

- [1. applications for historicLocal historic district/landmark designations;](#)
- [2. Amendments to the text of the *Historic Properties Local Review Criteria*; and](#)
- [3. Amendments to the text of Local Historic District Preservation Plans.](#)

PART 2

[Amend Sec. 3.2, Common Review Procedures, to address amendments to preservation plans and the *Historic Properties Local Review Criteria*, the new category for COAs, pre-application conference requirements, adjustment to mailed or published notice, and minor technical or re-organization of certain sections for clarity]

Sec. 3.2 Common Review Procedures

[Paragraphs not listed remain unchanged]

3.2.2 Pre-Application Conference

- A. Before submitting an application for development approval [that does not require a pre-submittal conference](#), it is recommended that ~~each applicant schedule~~ a pre-application conference [be scheduled](#) with the Planning Director or designee to discuss the procedures, standards and regulations required for development approval in accordance with of this Ordinance.
- B. A mandatory pre-application conference with the Planning Director or designee shall be required for the following development reviews:
 1. Comprehensive Plan amendments not initiated by the City or County;
 2. Zoning map changes not initiated by the City or County;
 3. [Site plan or preliminary plat applications for property zoned or in the process to be zoned:](#)
 - [a. Design District; or](#)
 - [b. With a development plan.](#)
 - ~~34.~~ Conservation subdivision (after preparation of site analysis map);
 - ~~45.~~ Design, minor, or major special use permit;
 - ~~56.~~ Variance;
 - ~~67.~~ Landmark designation; and
 - ~~78.~~ ~~Minor or major~~ [Major Works](#) certificate of appropriateness.

3.2.5 Notice and Public Hearings

A. Summary of Notice Required

1. Notice shall be required for applications for development approval as shown in the table below.

Procedure	Published	Mailed	Posted
Comprehensive Plan Future Land Use Map Amendment	✓	✓	✓
Zoning Map Change	✓	✓	✓
Site Plan		✓	
Design or Minor Special Use Permit	✓	✓	✓
Major or Transportation Special Use Permit	✓	✓	✓
Variance	✓	✓	✓
Appeal of Administrative Decision	✓	✓	✓
Major Works Certificate of Appropriateness		✓	✓
Historic District Designation	✓	✓	✓
Historic Landmark Designation	✓	✓	
Historic Properties Local Review Criteria Text Amendment	✓	✓	
Historic District Preservation Plan Text Amendment	✓	✓	✓
Minor or Major Certificate of Appropriateness	✓	✓	✓
UDO or Comprehensive Plan Text Amendment	✓	✓	
Vested Rights Determination	✓	✓	✓
Evaluation and Assessment Report	✓		

2. Mailed Notice

a. [Mailed Notice Table](#)

The director of the appropriate department or designee shall [provide notification notify by first class mail](#) as indicated in the notification table below.:

- ~~(1) The applicant and all property owners, if applicable, of the property under consideration; and~~
- ~~(2) All property owners, as indicated by County tax listings of property ownership, within the applicable notification distance from the property under consideration as specified in the table below.~~

Procedure	Property Owner		Registered Organization
	Subject Property, if applicable	Notification-Distance of Property from Subject Property (ft.)	Distance of Registered Organization or Individual from Subject Property (ft.)
Comprehensive Plan Future Land Use Map Amendment	✓	1,000	<u>1,000</u>
<u>Comprehensive Plan Text Amendment</u>	---	---	<u>All</u>
Zoning Map Change	✓	600	<u>1,000</u>
<u>UDO Text Amendment</u>	---	---	<u>All</u>
Initial Zoning	✓	100	<u>1,000</u>
Site Plans ¹	✓	600	<u>1,000</u>
Board of Adjustment Hearings	✓	600	<u>1,000</u>
Governing Body Quasi-Judicial Hearings	✓	600	<u>1,000</u>
Historic District Designation	✓	600 and all subject properties	<u>1,000</u>
Historic Landmark Designation and Certificate of Appropriateness (<u>major works</u>)	✓	All adjacent properties ²	---
<u>Historic District Preservation Plan Text Amendment</u>	✓	<u>All adjacent properties²</u>	<u>1,000</u>
<u>Historic Properties Local Review Criteria Text Amendment</u>	---	---	<u>All</u>
Vested Rights Determination	✓	<u>Subject property and all adjacent properties²</u>	---

¹Mailed notice shall be required only for major site plans pursuant to paragraph 3.7.3B, Major Site Plans.

²Adjacent properties shall include properties directly across the street from the subject property (where applicable).

b. All property owner notification shall be performed through first class mail utilizing the County property tax listings for property ownership.

c. Notice to registered organizations or individuals shall utilize the contact information provided to the Planning Department to receive notice pursuant to paragraph 3.2.5D, Registration to Receive Notice. Notice shall be provided to each organization or individual via first class mail, electronic mail, or another manner offered by the Planning Director.

~~**b. For amendments to the Future Land Use Map of the Comprehensive Plan, Zoning Map Changes, Site Plans that require mailed notice pursuant to paragraph 3.2.5A, Summary of Notice Required, Board of Adjustment hearings, and Major Special Use Permits, notice shall also be provided to any organization or individual located within 1,000 feet of the site under consideration which is registered to receive notice pursuant to paragraph 3.2.5D, Registration to Receive Notice. Notice shall be provided to each organization or individual in the manner specified in its registration information, which may be first class mail, electronic mail, or other manner offered by the Planning Director.**~~

~~c. For UDO or Comprehensive Plan Text Amendments, notice shall be provided to any organization or individual that is registered to receive such notice pursuant to paragraph 3.2.5D, Registration to Receive Notice. Notice shall be provided to each organization or individual in the manner specified in its registration information, which may be first class mail, electronic mail, or other manner offered by the Planning Director.~~

B. Public Notice Requirements

4. Content of Notice

a. Published or Mailed Notice

A published or mailed notice shall provide at least the following:

- ~~(1) Parcel Identification Number;~~
- ~~(2) The address of the subject property (if available);~~
- ~~(3) The A general description or address of the location of the land that is the subject of the application, which may include and for mailed notice, a location map;~~
- ~~(4) A description of the action requested;~~
- ~~(5) Where a zoning map change or a Comprehensive Plan Future Land Use Map amendment is proposed, the current and proposed districts/designations;~~
- ~~(6) The time, date and location of the public hearing;~~
- ~~(7) A phone number to contact the Planning Director or designee;~~
- ~~(8) A statement that interested parties may appear at the public hearing; and~~
- ~~(9) A statement that substantial changes to the proposed action may be made following the public hearing.~~

b. Published Notice for UDO, Comprehensive Plan, Historic District Preservation Plan, or Historic Properties Local Review Criteria Text Amendments

[Text remains unchanged]

E. Required Hearing

- 1. A legislative public hearing or a quasi-judicial hearing shall be required for development review as shown in the table below.

Applications for Approval	Historic Preservation Commission	Board of Adjustment	Planning Commission	Governing Body
Certificate of Appropriateness <u>(Major Works)</u>	✓ ² ₁			
UDO Text Amendment			✓	✓
<u>Historic District Preservation Plan Text Amendment</u>	✓		✓ ²	✓
<u>Historic Properties Local Review Criteria Text Amendment</u>	✓			✓
Vested Rights Determination				✓

1 Requires a quasi-judicial hearing.

2-See Sec. 3.17, Certificate of Appropriateness, for the type that requires a public hearing. Required only if associated with adding or removing a local historic district designation.

PART 3

[Amend Sec. 3.5, Zoning Map Change; Sec. 3.6, Subdivision Review; and Sec. 3.7, Site Plan Review, to revise submittal requirements for changes to development plans, and to cross-reference pre-application conference requirements for certain preliminary plats and site plans]

Sec. 3.5 Zoning Map Change

[Paragraphs not listed remain unchanged]

3.5.12 Deviations from Approved Development Plans

B. Changes to Portions of Development Plans

- 1.** Where a deviation is proposed from a portion of a development plan, for example from one phase or zoning district, the Planning Director may consider cumulative deviations and the impact of such portion on the overall development in a significance assessment. If the deviation is deemed significant, the Planning Director shall determine whether it requires a zoning map change to all or only a portion of the development plan.
- 2.** A petition to change a development plan must include the previously approved development plan documents in its entirety with elements proposed for change clearly delineated (graphically and in text format). Previously approved documentation will be replaced in its entirety with the modified development plan.

Sec. 3.6 Subdivision Review

[Paragraphs not listed remain unchanged]

3.6.4 Conservation Subdivision and Preliminary Plat Pre-Application Conference

All applicants considering petitioning for a conservation subdivision or any other preliminary plat pursuant to paragraph 3.2.2, Pre-Application Conference, shall schedule a pre-application conference with the Planning Director, or designee to discuss the procedures, standards, and regulations required for subdivision approval in accordance with the provisions of this Ordinance.

Sec. 3.7 Site Plan Review

[Paragraphs not listed remain unchanged]

3.7.5 Site Plan Requirements

- A.** A pre-application conference shall be required pursuant to paragraph 3.2.2, Pre-Application Conference.
- AB.** An application for site plan review shall be submitted in accordance with paragraph 3.2.4, Application Requirements.
- BC.** Site plans shall demonstrate compliance with all applicable Ordinance requirements, including any variance obtained pursuant to Sec. 3.14, Variance, and any other applicable development requirements. Site plan documents shall contain the information required within the site plan checklists maintained by the Planning Department unless expressly exempted by another provision of this Ordinance, or unless the Planning Director or designee makes the determination that less detailed information is adequate for review.
- CD.** No processing or review of a site plan will proceed without the required information.
- DE.** Site plan applications shall utilize applicable forms maintained by the applicable City, County, or State department or agency.

EF. A site plan shall conform to an approved development plan except as required under paragraph 3.5.12D, Changes Required by Ordinance or Other Law, or as authorized under paragraph 3.5.12, Deviations from Approved Development Plans, and paragraph 3.5.6C, Authority of the Planning Director.

FG. All requirements imposed through a site plan shall run with the land and shall apply against any owner, subsequent owner, or occupant.

PART 4

[Amend Sec. 3.16, Historic District or Landmark Designation and Sec. 3.17, Certificate of Appropriateness, to add explicit reference to the *Historic Properties Local Review Criteria*, clarify the process to remove a local historic district designation, revise required information on an ordinance for landmark designation, re-organize Sec. 3.17 due to the new COA categories, and minor technical or re-organization of certain sections for clarity]

Sec. 3.16 Historic District or Landmark Designation

[Paragraphs not listed remain unchanged]

3.16.1 Applicability

- A. The City Council and the Board of Commissioners, as applicable, may designate, ~~in their respective jurisdictions~~, an area as an historic district or a property as an historic landmark, or amend or remove a local historic district designation or landmark designation.
- B. A property owner or owners may request an area to be designated as an historic district or that a property be designated as an historic landmark, or to amend or remove a local historic district designation or landmark designation.

3.16.2 Designation of an Historic District

A. Application Process

1. General

Petitions to initiate the establishment of a local historic district are granted or denied by the applicable governing body, depending upon jurisdiction. Petitions shall first be considered by the Historic Preservation Commission (HPC), which shall make a recommendation to the governing body as to whether the governing body should or should not initiate the request. If the governing body initiates the request, staff will proceed as directed with the designation of a local historic district zoning overlay (-H), including development of the required Historic District Preservation Plan.

B. Historic District Preservation Plan

- 1.** An Historic District Preservation Plan shall include an investigation and report describing the significance of the buildings, structures, features, sites, or surroundings included in the proposed historic district and a description of the boundaries of the proposed historic district, in accordance with NCGS §160A-400.4(1); principles and design review criteria (guidelines) for certificates of appropriateness as required in NCGS §160-400.9(c); and a preservation strategy tailored to the individual needs of the specific area.

2. Historic Properties Local Review Criteria

The Historic Properties Local Review Criteria, as amended, shall be the adopted principles and design review criteria applicable to all local historic districts, and shall be specifically referenced within the Historic District Preservation Plan.

D. Action by the Historic Preservation Commission

1. The HPC shall conduct a public hearing and give notice in accordance with paragraph 3.2.5, Notice and Public Hearings, on the proposed historic district designation and the Historic District Preservation Plan, prior to making a recommendation for approval or denial to the appropriate governing body.
2. The HPC shall review the proposed historic district designation and the Historic District Preservation Plan and shall recommend to the appropriate governing body denial of the request or designation of the area.
3. The HPC shall forward its recommendation on historic district designation to the Planning Commission and to the governing body with a recommended Historic District Preservation Plan. Consideration of the Historic District Preservation Plan shall be part of the consideration of the historic district designation.

F. Action by the Governing Body

1. The governing body shall set a public hearing and shall notify property owners within the proposed historic district of the public hearing in accordance with the public hearing and notification provisions of paragraph 3.2.5, Notice and Public Hearings.
2. The governing body, shall hold a public hearing to consider the request to designate the historic district and the adoption of the Historic District Preservation Plan. The protest petition procedures as established for a petition for zoning map change in paragraph 3.5.13, Valid Protest Petition, ~~shall~~ may apply to the designation or amendment of an historic district.
3. If the governing body, ~~shall deny~~ denies a request for designating an historic district, property owners may not initiate a new request to designate an historic district for the same area until at least one year after the governing body's action to deny the request.
4. When the governing body, designates an area as an historic district, the Historic District Preservation Plan for the particular historic district shall become City or County policy and all appropriate public bodies or administrative officials cited as having implementation responsibilities shall be directed to use their best efforts to ensure the effective implementation of the Plan as it is written.

3.16.3 Designation of an Historic Landmark

F. Adoption of an Ordinance of Designation

Upon compliance with the required procedures of this section, the governing body may, for its respective jurisdiction, adopt and from time to time amend or repeal an ordinance designating one or more historic landmarks. The ordinance shall include the following information:

5. A note that structural and site improvements shall require approval of a certificate of appropriateness pursuant to Sec. 3.17, Certificate of Appropriateness, if applicable; and that, for each building, structure, site, area or object, the waiting period set forth in paragraph 3.17.6, COA for Demolition, Destruction and Relocation ~~3.17.3, Certificates of~~

~~Appropriateness for Demolition, Destruction and Relocation~~, of this Ordinance shall be observed prior to its demolition; and

3.16.5 Repeal of Historic District or Historic Landmark Designation

A. A petition to remove a local historic district overlay designation on property, along with revision to the applicable preservation plan, shall follow the same procedures for a zoning map change, and shall also require the following prior a public hearing with the Planning Commission:

1. The petition shall be sent to the State Historic Preservation Office for a review consistent with paragraph 3.16.2C, Action by the NC Department of Cultural Resources.
2. A public hearing for review and recommendation by the Historic Preservation Commission consistent with paragraph 3.16.2D, Action by the Historic Preservation Commission.

AB. The governing body may repeal an ordinance designating ~~an historic district or an a~~ historic landmark. The repeal process shall be consistent with the adoption process prescribed within NCGS §160A-400.6. The governing body's action to repeal an ordinance of designation shall include the reasons for the repeal and a review by the State Historic Preservation Office.

BC. When such repeal occurs, the Planning Director, or designee, shall notify the HPC and the property owner or owners. When such repeal occurs of an historic landmark designation, the Planning Director, or designee, shall also notify the Register of Deeds for Durham County and the Durham County Tax Supervisor.

Sec. 3.17 Certificate of Appropriateness (COA)

[Paragraphs not listed remain unchanged]

3.17.1 Applicability

A. From and after the designation of an historic district or historic landmark, no exterior feature or designated portion of any building or other ~~structure-site work~~ (including masonry walls, fences, light fixtures, steps, pavement, above-ground utility and mechanical equipment, signs, landscaping, and other appurtenant features) ~~nor any above-ground utility structure nor any type of outdoor advertising sign~~ shall be erected, altered, restored, moved or demolished within ~~or on such a~~ historic district or on such historic landmark until after an application for a certificate of appropriateness (COA) as to the exterior feature or designated portion has been submitted to and approved by the Historic Preservation Commission (HPC).

B. Work done by the City and County and by public utility companies shall be subject to the provisions of this section.

~~**B.** The City or the County shall not grant any building permit or other permit for the purposes of constructing, altering, moving or demolishing any structure within or on an historic district or historic landmark for which a certificate of appropriateness has not been approved. A certificate of appropriateness shall be required whether or not a building permit is required. Any building permit or other permit not issued in conformity with this section shall be invalid. A certificate of appropriateness may be issued by the HPC subject to reasonable conditions necessary to carry out the purposes of this Ordinance.~~

CB. For the purposes of this section, the term "exterior feature" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features. In the case of outdoor advertising signs, the term "exterior features" shall be construed to mean the style, material, size and location of all such signs. These "exterior features" may include historic signs and significant landscape, archaeological and natural features of the area.

DC. For the purposes of this section, the term "designated portion" shall mean any portion of an historic landmark that was included in the ordinance designating the landmark, including the main structure or structures, the interior or portions of the interior, any outbuildings or secondary structures, site elements and landscaping.

D. A COA shall be required whether or not another permit is required.

3.17.2E. Circumstances Not Requiring Certificates of Appropriateness Work Not Requiring a COA

A1. Nothing in this Ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior ~~architectural~~ feature in the historic district or on an historic landmark which does not involve a substantial change in the design, material, or outer appearance thereof, as described in the *Historic Properties Local Review Criteria*, as amended. ~~provided that any required building permit is obtained. Examples of this work shall include, but not be limited to, the following:~~

- ~~— 1. Caulking or reglazing windows;~~
- ~~— 2. Minor repairs to windows, doors, siding, gutters, etc;~~
- ~~— 3. Replacement of existing mechanical equipment;~~
- ~~— 4. Repairing or repaving of flat concrete work in side and rear yards;~~
- ~~— 5. Repairing or repaving of existing street yard paving, concrete work and walkways, if the material the same or similar in appearance is used;~~
- ~~— 6. Roofing work, if no change in appearance occurs;~~
- ~~— 7. Foundation work, if no change in appearance occurs; or~~
- ~~— 8. Chimney work, if no change in appearance occurs.~~

B2. Nor shall this Ordinance be construed to prevent the construction, reconstruction, alteration, restoration or demolition of any such feature which is determined to be a threat to the public safety. The Inspections Director, or designee, shall certify in writing to the approving authority ~~HPC~~ that such action is required for the public safety because of an unsafe or dangerous condition.

C3. Nothing herein shall be construed to prevent a property owner from making any use of his or her property not prohibited by other statutes, ordinances or regulations.

D4. No certificate of appropriateness shall be required for interior changes. However, this does not excuse the property owner from obtaining required building permits for interior work.

3.17.2 Coordination with Other Permits

The City or the County shall not grant any building permit or other permit for the purposes of constructing, altering, moving or demolishing any structure within or on an historic district or historic landmark for which a COA has not been approved.

3.17.3 Application Requirements

- A.** An application for a COA shall be submitted in accordance with paragraph 3.2.4, Application Requirements.
- B.** An applicant may file with the application any additional relevant information bearing on the application.

3.17.3 Certificates of Appropriateness for Demolition, Destruction and Relocation

- A.** An application for a certificate of appropriateness authorizing the demolition, destruction or relocation of a structure in a designated historic district or of a designated historic landmark shall not be denied. However, the effective date of such a certificate of appropriateness may be delayed for a period of up to 365 days from the date of approval. This maximum period of delay shall be reduced by the HPC when it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such structure or landmark by virtue of the delay. During such period, the HPC may negotiate with the owner and with any other parties in an effort to find a means of preserving the structure or landmark.
- B.** If the HPC finds that the structure has no particular significance or value toward maintaining the character of an historic district, it shall waive all or part of such period and authorize earlier demolition or removal.
- C.** An application for demolition, destruction and relocation of a building, site or structure determined by the State Historic Preservation Officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where the HPC finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return from such structure or landmark by virtue of the denial.

3.17.4 Master Certificates of Appropriateness for Public Projects

- A.** Work done by the City and County and by public utility companies within any historic district shall be subject to the provisions of this section. However, rather than obtaining individual certificates of appropriateness for each proposed project in an historic district, the City and County and public utility companies may instead obtain a master certificate of appropriateness from the HPC.
- B.** The provisions of this section that apply to certificates of appropriateness shall also apply to master certificates of appropriateness. No master certificate of appropriateness shall be valid for a period greater than four years from the date of issuance.
- C.** In addition to acquiring a master certificate of appropriateness, the City and County and any public utility companies shall notify the City Manager or County Manager, as appropriate, prior to performing any work within any historic district. In emergency situations, as determined by the Inspections Director, or designee, notification by the next work day is acceptable. Such work shall be done in accordance with the principles and design criteria adopted for the historic district as part of the Historic District Preservation Plan. The City Manager or County Manager, as appropriate, may inspect all work done pursuant to a master certificate of appropriateness.

3.17.5-4 Administrative Minor Works Certificate of Appropriateness COA

- A. Pursuant to the HPC rules of procedure, the Planning Director, or designee, may approve or amend ~~certificates of appropriateness COAs~~ for the following activities, or may refer them to the HPC for a decision:
 - 1. Activities expressly authorized by the HPC;
 - 2. Minor design changes to projects for which a ~~certificate of appropriateness COA~~ has been issued by the HPC; or
 - 3. Anything not specifically covered by this section that the Planning Director or designee determines is not so significant as to impair or affect historic, architectural, or aesthetic character.
- B. A public hearing or public notice shall not be required unless the application is referred to the HPC for a ~~major or minor~~ major works certificate of appropriateness COA.
- C. Conformance to the applicable design review criteria within the adopted *Historic Properties Local Review Criteria*, as amended, shall be required in order to approve or amend a COA.
- D. Conditions may be placed upon a COA as part of the approval in order to facilitate compliance with the *Historic Properties Local Review Criteria*, as amended. A violation of any conditions shall be considered a violation of the COA.

3.17.6 Application Requirements

- ~~A. An application for a certificate of appropriateness shall be submitted in accordance with paragraph 3.2.4, Application Requirements.~~
- ~~B. An applicant may file with the application any additional relevant information bearing on the application.~~

3.17.5 Major Works COA

The HPC shall be the approving authority for any improvement to property within a local historic district or with a local historic landmark designation that requires a COA, but does not qualify as a minor COA.

3.17.7 Notification of Affected Property Owners

~~Prior to the issuance or denial of a certificate of appropriateness, the Planning Director, or designee, shall take such action as may be reasonable to inform the owner of any property likely to be materially affected by the application.~~

3.17.8A. Notification of the Commission

The Planning Director, or designee, shall notify the members of the HPC at least seven calendar days before its regularly scheduled meeting of any pending applications scheduled for ~~certificates of appropriateness~~ the public hearing.

3.17.9B. Action by the Historic Preservation Commission

- A1.** The HPC shall hold a public hearing for a major works certificate of appropriateness COA. ~~A public hearing shall not be required for a minor certificate of appropriateness.~~ Public notice of applications ~~for major and minor certificates of appropriateness~~ shall be provided pursuant to paragraph 3.2.5, Notice and Public Hearings.
- B2.** As part of its review procedure, the HPC may view the premises and seek the advice of the North Carolina Department of Cultural Resources or other expert advice as it may deem necessary under the circumstances.

- ~~€3.~~ The HPC shall approve, approve with modifications or conditions, or disapprove an application for a ~~certificate of appropriateness or master certificate of appropriateness~~ major works COA.
- ~~D4.~~ Prior to final action on an application for a certificate of appropriateness in an historic district, the HPC, using the ~~principles and applicable~~ design review criteria adopted ~~pursuant to paragraph 3.16.3B, Historic District Preservation Plan within the Historic Properties Local Review Criteria, as amended~~, shall make findings of fact indicating the extent to which the application is or is not consistent with the historic character and qualities of the historic district.
- ~~E5.~~ Prior to final action on an application for a certificate of appropriateness for an historic landmark, the HPC, using the ~~principles and applicable~~ design review criteria adopted ~~within the Historic Properties Local Review Criteria, as amended pursuant to 3.16, Historic District or Landmark Designation~~, shall make findings of fact indicating the extent to which the application is or is not consistent with the historic character and qualities of the historic landmark property ~~the principles and design review criteria~~.
- ~~F6.~~ The HPC may not deny a certificate of appropriateness for demolition except as specified in paragraph 3.17.6, COA for Demolition, Destruction and Relocation ~~3.17.3, Certificate of Appropriateness for Demolition, Destruction and Relocation~~.

3.17.10C. Approval Criteria for Historic Districts

- A1.** For historic districts, the intent of these regulations is to ensure, insofar as possible, that buildings or structures in the historic district shall be in harmony with other building or structures located therein. However, it is not the intention of these regulations to require the reconstruction or restoration of individual or original buildings or to prohibit the demolition or removal of such buildings or to impose architectural styles from particular historic periods. In considering new construction, the HPC shall encourage contemporary design which is harmonious with the character of the historic district.
- B2.** In granting a ~~certificate of appropriateness~~ COA, the HPC shall take into account, in accordance with the Historic Properties Local Review Criteria, as amended ~~principles and design review criteria of the Historic Preservation Plan adopted for the historic district~~:
 - 1a.** The historic or architectural significance of the structure under consideration in relation to the historic value of the district;
 - 2b.** The exterior form and appearance of any proposed additions or modifications to that structure; and
 - 3c.** The effect of such additions or modifications upon other structures in the vicinity.
- 3.** The HPC may place conditions upon a COA as part of the approval in order to facilitate compliance with the Historic Properties Local Review Criteria, as amended. A violation of any condition shall be considered a violation of the COA.

3.17.11D. Approval Criteria for Historic Landmarks

- A1.** In granting a ~~certificate of appropriateness~~ COA, the HPC shall take into account in accordance with the principles and design review criteria adopted for historic landmarks, namely the Historic Properties Local Review Criteria, as amended:
 - 1a.** The historic or architectural significance of the structure, site or setting under consideration; and

2b. The exterior form and appearance of any proposed additions or modifications to the structure, site or setting.

B2. The intent of these regulations is to ensure, insofar as possible, that changes to buildings or structures designated as historic landmarks shall be in harmony with the historic character that was cited as the reasons for designation.

3. The HPC may place conditions upon a COA as part of the approval in order to facilitate compliance with the *Historic Properties Local Review Criteria*, as amended. A violation of any condition shall be considered a violation of the COA.

3.17.12E. Deferral of Application

A1. An applicant for a ~~certificate of appropriateness~~COA may request that the HPC's consideration of the application be deferred to a specific date.

B2. Upon such request, the Planning Director, or designee, shall have the authority to grant the deferral.

C3. A request for deferral shall be made in writing to the Planning Director, or designee, at least ten days prior to the scheduled consideration of the application and shall indicate the date to which the deferral is requested and the reasons for the deferral. Only one deferral shall be permitted for each application.

3.17.13F. Time Limits

A1. Final action shall be taken upon any application for a ~~certificate of appropriateness~~COA within 180 days after the complete application is submitted to the Planning Director or designee. Such 180-day time period shall include any continuance or deferred consideration by the HPC or deferral granted as requested by the applicant under paragraph 3.17.~~125E~~, Deferral of Application. If final action is not taken within such 180-day time period, the application shall be deemed approved.

B2. A master ~~certificate of appropriateness~~COA shall expire four years after the effective date, and all other ~~certificates of appropriateness~~COAs shall expire two years after the effective date, if:

1a. A building permit or other development permit has not been issued;

2b. A building or other development permit has expired; or

3c. If work not requiring a permit has not been initiated.

3.17.6 COA for Demolition, Destruction and Relocation

A. An application for a certificate of appropriateness authorizing the demolition, destruction or relocation of a structure in a designated historic district or of a designated historic landmark shall not be denied. However, the effective date of such a certificate of appropriateness may be delayed for a period of up to 365 days from the date of approval. This maximum period of delay shall be reduced by the HPC when it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such structure or landmark by virtue of the delay. During such period, the HPC may negotiate with the owner and with any other parties in an effort to find a means of preserving the structure or landmark.

B. If the HPC finds that the structure has no particular significance or value toward maintaining the character of an historic district, it shall waive all or part of such period and authorize earlier demolition or removal.

C. An application for demolition, destruction and relocation of a building, site or structure determined by the State Historic Preservation Officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where the HPC finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return from such structure or landmark by virtue of the denial.

3.17.7 Master COA for Public Projects

A. Rather than obtaining individual COA for each proposed project in an historic district, the City and County and public utility companies may instead obtain a master COA from the HPC.

B. The provisions of this section that apply to COAs shall also apply to master COAs.

C. In addition to acquiring a master COA, the City and County and any public utility companies shall notify the City Manager or County Manager, as appropriate, prior to performing any work within any historic district. In emergency situations, as determined by the Inspections Director, or designee, notification by the next work day is acceptable. Such work shall be done in accordance with the *Historic Properties Local Review Criteria*, as amended, adopted for the historic district as part of the Historic District Preservation Plan. The City Manager or County Manager, as appropriate, may inspect all work done pursuant to a master COA.

3.17.14-8 Submission of New Application

If the HPC denies an application for a ~~certificate of appropriateness~~COA, a new application affecting the same property may be submitted only if substantial changes are made in plans for the proposed construction, reconstruction, alteration, restoration, moving or demolition, or if conditions related to the historic district or historic landmark or surrounding uses have changed substantially.

3.17.15-9 Local and State Coordination

The HPC shall use all reasonable efforts to expedite any concurrent process with the North Carolina Department of Cultural Resources if such a process is desired by the applicant for the purpose of securing both a certificate of appropriateness and a Federal historic preservation tax credit.

3.17.16-10 Specific Enforcement

A. Compliance with the terms of a ~~certificate of appropriateness~~COA shall be enforced by the Inspections Director, or designee. Construction or other work which fails to comply with a certificate of appropriateness shall be a violation of this Ordinance and subject to Article 15, Enforcement. The discontinuance of work for a period of six months shall be considered a failure to comply with a ~~certificate of appropriateness~~COA.

B. Nothing contained in this section shall prohibit, impair or limit in any way the power of the City or County to prevent the construction, reconstruction, alteration, restoration or removal of buildings, structures, appurtenant fixtures or outdoor signs in the historic district in violation of the provisions of this Ordinance. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

C. Failure to obtain a required COA prior to commencing work shall be subject to Article 15, Enforcement.

3.17.~~17~~11 Appeal

An appeal of a decision of the Commission in granting or denying any certificate of appropriateness is taken to the Board of Adjustment. An appeal may be taken by any aggrieved party, shall be taken within times prescribed by the Commission's Rules of Procedures, and shall be in the nature of *certiorari*. Appeal of the Board of Adjustment action may be taken by filing a petition for *certiorari* with the Durham County Superior Court.

PART 5

Throughout the Unified Development Ordinance, the phrase "an historic" shall be replaced with the phrase "a historic."

PART 6

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

PART 7

That this amendment of the Unified Development Ordinance shall become effective January 1, 2017.