

**AN ORDINANCE TO ESTABLISH, UPDATE, OR REORGANIZE  
PERMITS AND APPLICATIONS OF THE *UNIFIED DEVELOPMENT ORDINANCE*  
(TC2100004)**

**WHEREAS**, the Durham County Board of Commissioners wishes to establish or re-organize certain rules and procedures for applications regarding street closings, street renamings, annexations, zoning map changes, and development agreements; and

**WHEREAS**, it is the objective of the Durham County Board of Commissioners to have the *Unified Development Ordinance* 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 Article 12, Infrastructure and Public Improvements, 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 Article 2, Review Authority, and Sec. 3.2, Common Review Procedures, and Sec. 3.6, Subdivision Review]

**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 Rectification 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;
- E. Applications for zoning map changes;
- F. Applications for major site plans;
- G. Applications for historic district/landmark designation;
- H. Applications for major special use permits and TIA special use permits;
- I. Applications for street closings;

- J. Applications for street renamings;
- K. Applications for annexations;
- L. Applications for statutory development agreements;
- ~~HM.~~ Vested rights determinations that require a public hearing pursuant to Sec. 3.20, Vested Rights Determination;
- ~~JN.~~ The Durham Design Manual and the Landscape Manual for Durham, NC (the Landscape Manual), including any subsequent revisions; and
- ~~KO.~~ Any other authority for a final action delegated to the governing body by state statute.

**Sec. 2.3 Planning Commission**

[Paragraphs not listed remain unchanged]

**2.3.5 Powers and Duties**

**A. Review Authority**

1. The Planning Commission shall be responsible for reviewing and making recommendations regarding the following:
  - e. Applications for development agreements pursuant to Sec. 3.26, Statutory Development Agreement.
  - ef. Adoption of or amendment to redevelopment plans as set forth in NCGS §160A-513; and
  - fg. The Planning Department Annual Work Plan.

**Sec. 2.7 Durham City-County Planning Department**

[Paragraphs not listed remain unchanged]

**2.7.4 Powers and Duties**

- B. The Planning Director or designee shall be responsible for reviewing and making recommendations regarding the following:
  9. Applications for street closing;
  10. Applications for street renamings;
  11. Applications for annexations;
  12. Applications for statutory development agreement;
  - ~~9-13.~~ Applications for historic district/landmark designation; and
  - ~~1014.~~ Applications for vested rights determinations requiring a public hearing pursuant to Sec. 3.20, Vested Rights Determination.
- C. The Planning Director or designee shall be responsible for final action regarding the following:
  9. Applications for street withdrawal;
  10. Applications for vested rights determinations not requiring a public hearing pursuant to Sec. 3.20, Vested Rights Determination;
  - ~~9-11.~~ Applications for architectural review; and
  - ~~10.12.~~ Applications for temporary use permits.

**Sec. 2.10 Summary of Review Authority**

The following table summarizes review authority under this Unified Development Ordinance.

Application or Permit	Sedimentation and Erosion Control Officer	Inspections Director	Planning Director	Historic Preservation Commission	Board of Adjustment	Planning Commission	Governing Body	Section
<b>Planning Director Action</b>								
Interpretation of the Ordinance		R	D*		<A>			Sec. 3.1
Common and Way-Finding Signage Plans		R	D		<A>			Sec. 3.11
Home Occupation Permit			D		<A>			Sec. 3.13
Administrative Certificate of Appropriateness			D	<[A]>				Sec. 3.17
Demolition by Neglect (City Only)			D	<[A]>				Sec. 3.18
<a href="#">Limited Agriculture Permit (City-Only) Vested Rights Determination</a>			D*					<a href="#">Sec. 3.22</a> <a href="#">Sec. 3.20</a>
Architectural Review			D		[A]			Sec. 3.22
Administrative Site Plan Review	R	R	D		[A]			Sec. 3.7
Subdivision Review other than Major Preliminary Plat	R	R	D		[A]			Sec. 3.6
Temporary Use Permit			D		<[A]>			Sec. 3.12
Sign Permit			D		<[A]>			Sec. 3.10
<a href="#">Street Withdrawal</a>			D		<A>[A]			<a href="#">Sec. 3.24</a>
<b>Historic Preservation Commission Action</b>								
Certificate of Appropriateness			R	[D]	<A>			Sec. 3.17
<b>Board of Adjustment Action</b>								
Variance			R		<[D]>			Sec. 3.14
Appeal of Administrative Decision			R		<[D]>			Sec. 3.15
Design or Minor Special Use Permit			R		<[D]>			Sec. 3.9
<a href="#">Reasonable Accommodations</a>			R		[D]			<a href="#">Sec. 3.23</a>
<b>Governing Body Action</b>								
<i>Comprehensive Plan</i> Amendment			R			<R>	<D>	Sec. 3.4
Text Amendment			R			<R>	<D>	Sec. 3.19
Zoning Map Change			R			<R>	<D>	Sec. 3.5
Historic District Designation			R	<R>		<R>	<D>	Sec. 3.16
Landmark Designation			R	<R>			<D>	Sec. 3.16
Major or Transportation Special Use Permit			R				<D>	Sec. 3.9
Vested Rights Determination <sup>1</sup>		R	R				<D> <sup>A</sup>	Sec. 3.20

Application or Permit	Sedimentation and Erosion Control Officer	Inspections Director	Planning Director	Historic Preservation Commission	Board of Adjustment	Planning Commission	Governing Body	Section
Major Site Plan Review	R	R	R		[A]		D	Sec. 3.7
Major Preliminary Plat	R	R	R		[A]		D	Sec. 3.6
<a href="#">Street Closing</a>			R				<D>	<a href="#">Sec. 3.24</a>
<a href="#">Annexation</a>			R				<D>	<a href="#">Sec. 3.27</a>
<a href="#">Statutory Development Agreement</a>			R			<R> *	<D>	<a href="#">Sec. 3.26</a>
<a href="#">Street Renaming</a>			R				<D>	<a href="#">Sec. 3.25</a>

R = Review or Recommendation

D = Decision

A = Appeal

<> = [Legislative Public Hearing Required](#)

[ ] = [Quasi-judicial \(Evidentiary\) Public Hearing Required](#)

\* = Except as noted in the relevant Ordinance section

<sup>1</sup>Final decision depends upon the type of vested rights determination per Sec. 3.20, Vested Rights, and NCGS 160D-108.

### Sec. 3.2 Common Review Procedures

[Paragraphs not listed remain unchanged]

#### 3.2.1 Applicability

The review procedures described below apply to the types of applications listed below, as may be limited by the individual subsections that follow.

- A. Comprehensive Plan Amendment
- B. Zoning Map Change
- C. Subdivision, including Conservation Subdivision
- D. Site Plan
- E. Special Use Permit
- F. Sign Permit
- G. Temporary Use Permit
- H. Home Occupation Permit
- I. Variance
- J. Appeal of Administrative Decision
- K. Historic District/Landmark Designation
- L. Certificate of Appropriateness
- M. UDO Text Amendment
- N. Statutory Vested Rights Determination
- O. Floodplain Development Permit
- P. Architectural Review
- Q. Reasonable Accommodation
- R. [Street Closing/Withdrawal](#)

- S. Street Renaming
- T. Annexation
- U. Statutory Development Agreement

**3.2.2 Pre-Application Conference**

**B.** A mandatory pre-application conference with the Planning Director or designee shall be required for the following development reviews:

- 8. Landmark designation; ~~and~~
- 9. Major works certificate of appropriateness.;
- 10. Annexation;
- 11. Street Closing;
- 12. Street Renaming; and
- 13. Statutory Development Agreement.

**3.2.3 Neighborhood Meeting**

**A.** At least one neighborhood meetings shall be held according to Planning Department procedures for ~~the following development reviews~~ any application indicated as requiring a neighborhood meeting as specified per this Ordinance.;

- ~~1. Comprehensive Plan amendment per paragraph 3.4.4, Neighborhood Meeting per paragraph 3.4.4, Neighborhood Meeting;~~
- ~~2. Zoning map change, including an initial zoning map change;~~
- ~~3. Conservation subdivision; and~~
- ~~4. Other applications as may be specified elsewhere in this Ordinance.~~

**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 Amendment	✓	✓	✓
Zoning Map Change, including an initial zoning map change	✓	✓	✓
Site Plan		✓	
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	✓	✓	
<i>Historic Properties Local Review Criteria Text Amendment</i>	✓		
Historic District Preservation Plan Text Amendment	✓	✓	✓
UDO or <i>Comprehensive Plan</i> Text Amendment	✓		

Procedure	Published	Mailed	Posted
Vested Rights Determination	✓	✓	✓
Rectification Report	✓		
Reasonable Accommodation		✓	✓
<a href="#">Street Closing</a>	✓	✓	✓
<a href="#">Street Renaming</a>		✓	
<a href="#">Annexation</a>	✓		
<a href="#">Statutory Development Agreement</a>	✓	✓	✓

**B. Public Notice Requirements**

**2. Mailed Notice**

**a. Mailed Notice Table**

The director of the appropriate department or designee shall provide notification as indicated in the notification table below:

Procedure	<del>Property Owner</del> Mailing Range	
	Subject Property, if applicable	Distance of Property from Subject Property, including adjacent properties <sup>2</sup> (ft.)
Comprehensive Plan Future Land Use Map or Tier Map Amendment	✓	600
Zoning Map Change, including an Initial Zoning Map Change	✓	600
Site Plans <sup>1</sup>	✓	600
Board of Adjustment	✓	600
Governing Body Quasi-Judicial Hearings	✓	600
Historic District Designation; Neighborhood Protection Overlay	✓	100
Historic Landmark Designation and Certificate of Appropriateness (Major Works)	✓	All adjacent properties <sup>2</sup>
Historic District Preservation Plan Text Amendment	✓	All adjacent properties <sup>2</sup>
Vested Rights Determination	✓	All adjacent properties <sup>2</sup>
<a href="#">Annexation</a>	✓	<u>600</u>
<a href="#">Street Closing</a>		<u>600</u>
<a href="#">Street Renaming</a>		<u>All adjacent properties</u>
<a href="#">Statutory Development Agreement</a>	✓	<u>600</u>

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

2 Properties are “adjacent” even if separated by a street, railroad, or other transportation corridor.

- b. All ~~property owner mailed~~ notification shall be performed through first class mail utilizing the County property tax listings for property ownership. Where the tax records reflect a different mailing address for an owner of the property and the actual property address, then notification shall also be mailed to the address of the property itself in addition to the property owner address.

**3. Posted Notice (Sign)**

A sign noticing the public hearing shall be prominently posted by the director of the appropriate department, or designee, not less than 14 days prior to the public hearing at which the application shall be reviewed. The sign shall be posted on the property or at a point visible from the nearest improved public street. Where a site fronts along multiple improved public streets, one sign is required for each street frontage, unless such street frontage has limited access and poses unsafe conditions for posting such as, but not limited to, freeways and expressways. In the case of multiple parcels, sufficient signs shall be posted to provide reasonable notice to interested persons.

**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
Transportation Special Use Permit				✓ <sup>1</sup>
Comprehensive Plan Adoption/Amendment			✓	✓
Zoning Map Change			✓	✓
Minor Use Permit		✓ <sup>1</sup>		
Major Special Use Permit				✓ <sup>1</sup>
Variance		✓ <sup>1</sup>		
Appeal of Administrative Decision		✓ <sup>1</sup>		
Historic District Designation	✓		✓	✓
Historic Landmark Designation	✓			✓
Certificate of Appropriateness (Major Works)	✓ <sup>1</sup>			
UDO Text Amendment			✓	✓
Historic District Preservation Plan Text Amendment	✓		✓ <sup>2</sup>	✓
Historic Preservation Local Review Criteria Text Amendment	✓			✓
Site-Specific Vested Rights Determination <sup>3</sup>				✓
Reasonable Accommodation		✓ <sup>1</sup>		

Applications for Approval	Historic Preservation Commission	Board of Adjustment	Planning Commission	Governing Body
<u>Annexation</u>				✓
<u>Street Closing</u>				✓
<u>Street Renaming</u>				✓
<u>Statutory Development Agreement</u>			✓ <sup>3</sup>	✓

1 Requires a quasi-judicial hearing.

2 Required only if associated with adding or removing a local historic district designation.

3 Only if associated with a zoning map change or modifies an Ordinance standard, per Sec. 3.26, Statutory Development Agreement.

**Sec. 3.6, Subdivision Review**

[Paragraphs not listed remain unchanged]

**3.6.4 Conservation Subdivision ~~and~~ Preliminary Plat Pre-Application Conference and Neighborhood Meeting**

**A. 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.

**B. Pre-Application Neighborhood Meeting**

The applicant shall hold a neighborhood meeting as set forth in paragraph 3.2.3, Neighborhood Meeting, prior to application submittal.

**PART 2**

[Amendments to Sec. 3.5, Zoning Map Change]

**Sec. 3.5 Zoning Map Change**

[Paragraphs not listed remain unchanged]

**3.5.3 Neighborhood Meeting**

An applicant petitioning for a zoning map change, including an initial zoning due to annexation, shall hold neighborhood meeting(s) as set forth in paragraph 3.2.3, Neighborhood Meeting.

**3.5.6 Development Plan**

**D. Requirements**

**1. General**

**a.** A development plan shall be signed and sealed by a Professional Engineer, Registered Architect, or Registered Landscape Architect. All graphic depictions shall be accurately scaled, and separate or additional sheets may be required by the Planning Department.

**b.** A development plan shall include a signed request from each property owner that the development plan be approved. A request from an owner’s representative is unacceptable unless a document establishing legal authority to act as representative is included.



**2. Contiguous Development**

Parcels within a development plan shall be contiguous.

- a. Parcels directly across from each other by an intervening existing or proposed public right-of-way shall also be considered contiguous for the purposes of this section.
- b. Private rights-of-way are considered private property.
- c. Limited-access right-of-way shall not qualify as intervening right-of-way, unless it is a UC or UC-2 district, or is proposed right-of-way as part of the development.

**9. Statutory Development Agreements**

A statutory development agreement, pursuant to Sec. 3.26, Statutory Development Agreements, proposed in association with the zoning map change application shall be a commitment of the development plan.

**910. Phasing Plans [Text remains unchanged]**

**1011. Uses and Minor/Major Special Use Permits [Text remains unchanged]**

**3.5.9 Action by the Planning Commission**

**A. General Procedures**

- 3. Except in the case of expedited hearings pursuant to paragraph 3.5.9C, Expedited Hearings, the Commission shall make its recommendation within three consecutive regular Commission cycles (approximately 90 days total) of its initial public hearing. The time period for a recommendation may be altered, as in the case of significant modifications, in which case three additional consecutive regular cycles shall be granted before the case shall go to the governing body.

**3.5.11 Action by the Governing Body**

**B. Expedited Hearing**

- 1. The governing body, in situations in which it determines certain standards have been met, may expedite the hearing process on a proposed ~~or prospective~~ zoning map change.
- 2. The governing body may consider a written request from a potential applicant, or from staff, requesting an expedited hearing process. The request shall identify and support the reasons for such expedited consideration.
- 3. ~~An expedited hearing shall not be granted when a Comprehensive Plan amendment is required, or when a Traffic Impact Analysis is required.~~
- 43. In order to grant the request, the governing body shall find that at least one of the criteria below have been met:
  - a. Deadlines set by the local, State, or Federal government for receipt of applications for needed funding, designation, or other regulations concerning the property make expedited consideration necessary;
  - b. The prospective zoning map change request results from an emergency beyond the control of the applicant, such as response to a disaster;
  - c. The prospective zoning map change request addresses an urgent matter of public health or safety; or
  - d. There are special circumstances that will have a substantial negative impact on the development which could not have reasonably been anticipated and which make expedited consideration necessary.

### 3.5.12 Deviations from Approved Development Plans<sup>1</sup>

#### ~~A. Significant Deviations~~

~~The deviations from an approved development plan listed below are deemed significant and shall require that the entire plan be resubmitted for a zoning map change in accordance with the application requirements of this section, except as specified in paragraphs B, C, and D below. Deviations not listed below do not require a zoning map change unless they are otherwise deemed significant or substantial:~~

- ~~1. Increase by any amount in the number of residential units or approved density of residential projects in the overall project, except through use of the density bonus pursuant to Sec. 6.6, Affordable Housing Bonus;~~
- ~~2. Decrease by more than 20% in total density in residential projects, except in the Downtown Tier or Compact Neighborhood Tier;~~
- ~~3. Decrease by more than five percent in total density in residential projects located within the Downtown Tier or Compact Neighborhood Tier, unless that decrease results from the application of UDO requirements relating to size or design;~~
- ~~4. In a nonresidential or mixed-use development, a cumulative expansion adjacent to a residential district or use that exceeds five percent of total building floor area or 4,000 square feet, whichever is greater, or a cumulative decrease that exceeds 20% of total building floor area if creating or maintaining intensity was important to the zoning map determination;~~
- ~~5. With regard to development plans that were approved before commitments, or committed elements, were required to be identified on development plans, any change to a development plan depiction that exceeds current Ordinance requirements for setbacks, open space, buffer width or planting, recreation areas, tree protection areas, landscaped areas, or limitations on height, unless such depiction is clearly identified as "conceptual" or "illustrative";~~
- ~~6. Elimination or reduction of a dedication of right of way, greenway, or other public component;~~
- ~~7. A change in the proposed phasing of the project where phasing plans are required or are commitments;~~
- ~~8. A change in use category (for example, residential to office, office to commercial, commercial to industrial, as described in Article 5, Use Regulations), if limitations on the number, range, or types of uses were proposed with the development plan and the governing body limited its consideration of uses to those uses;~~
- ~~9. A change in the number, location, or configuration of access points to the development; or a change to previously shown public road improvements;~~
- ~~10. A change in the location, square footage, or size of a building adjacent to a residential district or use;~~
- ~~11. A change in the architectural design or architectural guidelines unless explicitly indicated as "conceptual" or "illustrative";~~

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<sup>1</sup> Much of this section is re-stated below to allow for easier review and reading, avoiding the need to read through strikethrough and underlining. Significant changes will be noted in following notes.

- ~~12. If a Traffic Impact Analysis was originally submitted, a change that would increase the total vehicle peak hour trips by three percent or greater. If a Traffic Impact Analysis was not originally submitted, a change that would require a Traffic Impact Analysis;~~
- ~~13. An increase of more than three percent in impervious surface area; and~~
- ~~14. Any change that is otherwise prohibited under this Ordinance.~~

**~~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.~~

**~~C. Changes Following Transfers to Residential Owners~~**

~~Where a deviation is proposed from a development plan and a portion of the development has been transferred to a residential owner, the Planning Director may exclude such residential portion from a significance assessment if it meets all minimum ordinance requirements. If the deviation is deemed significant, the Planning Director shall determine whether it requires a zoning map change to all or part of the development plan.~~

**~~D. Changes Required by Ordinance or Other Law~~**

~~Notwithstanding the other requirements of this section and except as stated below, a site plan or preliminary plat shall deviate from an approved development plan to conform to the requirements of a new ordinance or other law adopted after development plan approval, and a zoning map change shall not be required. Exceptions are: 1) where the development plan is vested by the appropriate governing body pursuant to the statutory vested rights procedure; and 2) as authorized under paragraph 1.10.3A, Approved Site Plans, Plats, and Permits and Completed Applications. Under such exceptions, the site plan or preliminary plat may conform to the approved development plan.~~

The following deviations from an approved development plan require a zoning map change or an amendment to the development plan, as indicated below.

**A. Deviations that Require a Zoning Map Change**

- 1. A decrease by more than 20% in total density of the residential development<sup>2</sup>, except in a Design District zoning district<sup>3</sup>;

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<sup>2</sup> Previously stated as "residential project"

<sup>3</sup> Previously stated as "Downtown and Compact neighborhood tiers"

2. A decrease by more than five percent in total density in residential projects located within a Design District zoning district<sup>4</sup>, unless that decrease results from the application of UDO requirements relating to size or design.
3. In a nonresidential or mixed-use development on a site adjacent to a residential district<sup>5</sup>, a cumulative expansion by more than five percent of total building floor area or 4,000 square feet, whichever is greater, or a cumulative decrease of more than 20% of total building floor area.
4. Changes to the proposed phasing of the project where phasing plans are required or commitments.
5. Changes to the use category (for example, residential to office, office to commercial, commercial to industrial, as described in Article 5, Use Regulations), if limitations on the number, range, or types of uses were proposed with the development plan and the governing body limited its consideration of uses to those uses;
6. A change to the number, location, and/or type (i.e. full versus limited movements) of access points along the same right-of-way or cardinal direction of the development that does not provide equal or improved safety, circulation, and connectivity.
7. A change in the location of a building for sites adjacent to a property with a residential district or use<sup>6</sup>.
8. An increase of more than three percent in impervious surface area.
9. A change to an environmental protection, including tree coverage, that exceeds current ordinance requirements.
10. Any graphic or text commitments or committed elements not identified as qualifying as an amendment, below.
11. Any other change to a development plan depiction, unless such depiction is clearly identified as "conceptual" or "illustrative", and not identified as qualifying as an amendment below.

**B. Deviations that Require Amendments to Development Plans<sup>7</sup>**

The purpose of this paragraph is to allow for a limited range of changes (referred to as "amendments") to an existing development plan that would not require a new zoning map change. If the proposed amendment would require a new or revised TIA, then it shall require a new zoning map change.

1. The process for amendments shall follow the same adoption process for a zoning map change, but does not change the zoning designation.
2. A petition to change a development plan must include the previously approved development plan documents in their entirety with elements proposed for change clearly delineated (graphically and in text format). Previously approved documentation will be supplemented or replaced in its entirety with the modified development plan.
3. The following qualify as amendments. Proposals utilizing more than two of the categories listed below shall require a zoning map change.

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<sup>4</sup> Previously stated as "Downtown and Compact neighborhood tiers"

<sup>5</sup> Wording modified for clarity

<sup>6</sup> Modified to focus on the location of buildings

<sup>7</sup> New section

- (a) Changes to architectural or other building design or layout commitments, guidelines, or depictions, including specific limits on height.
- (b) A change to the requirement on the plan using definitive terms such as, but not limited to, "shall", "must", or "will".
- (c) Additional, or the removal of, depicted internal access points or connectivity between sections of the development.
- (d) An increase in allowed density through the use of a density bonus other than an affordable housing bonus.
- (e) A change in housing type(s) or proportion of housing type mix.
- (f) A change to identified building or parking envelopes.

**E. Changes to Portions of Development Plans**

If a zoning map change request seeks to rezone a portion of a site under an existing development plan, it shall be demonstrated that the remaining site under the existing development plan can meet all ordinance requirements including committed elements of the development plan. Otherwise, the entire site under the existing development plan shall require a zoning map change.<sup>8</sup>

**F. Changes Following Transfers to Residential Owners<sup>9</sup>**

Where a change is proposed to a development plan and a portion of the development has been transferred to residential owner(s), owner acknowledgment from those owner(s) is not required if the proposed zoning map change or amendment requires no development improvements on those properties.

**G. Changes Required by Ordinance or Other Law<sup>10</sup>**

Notwithstanding the other requirements of this section and except as stated below, a site plan or preliminary plat shall deviate from an approved development plan to conform to the requirements of a new ordinance or other law adopted after development plan approval, and a zoning map change shall not be required. Exceptions are:

1. Where the development plan is vested pursuant to the vested rights procedure; and
2. As authorized under paragraph 1.10.3A, Approved Site Plans, Plats, and Permits and Completed Applications.

Under such exceptions, the site plan or preliminary plat shall conform to the approved development plan.

**H. Changes Allowed by an Affordable Housing Bonus<sup>11</sup>**

Amendments to an existing development plan, or a new zoning map change approval, are not required in order to utilize and comply with the requirements of the affordable housing bonuses within this Ordinance, as applicable.

**I. Development Plans that Required a TIA<sup>12</sup>**

1. Except for development projects that will utilize the affordable housing bonus of this Ordinance, a new zoning map change is required for any proposal that exceeds the peak hour trip generation of the TIA that was performed with the original zoning map

<sup>8</sup> The second paragraph has been deleted due to the addition of the amendments section.

<sup>9</sup> Revised to clarify the original intent

<sup>10</sup> Current section

<sup>11</sup> Currently allowed but new section added to be more explicit,

<sup>12</sup> New section

change by more than three percent. If a TIA was not required for the development plan, but the proposed development requires it, then a zoning map change is required.

**2. Committed Public Road Improvements.**

- a. Road improvements that were committed as recommended by the TIA performed with the original zoning map change are exempted at the time of full build-out through a new TIA that demonstrates the intensity of the full build-out of the overall development no longer warrants the improvement.
- b. The City Transportation Department, and NCDOT, as applicable, shall review the new TIA to verify the accuracy of the analysis, and that the previously recommended and committed improvements are no longer warranted. However, if the new TIA indicates that additional improvements are needed, then those new improvements shall be required of the development.

**PART 3**

**[Establish new Sec. 3.24, Street Closing/Withdrawal]**

**Sec. 3.24 Street Closing/Withdrawal**

The purpose of this section is to establish the process for requesting the permanent closing of public right-of-way or withdrawal of dedicated right-of-way.

Commentary: For the temporary closing or blocking of streets within the city, see Durham City Code Article VII, Temporary Closing or Blocking of Streets. For state rights-of-way and within the county, refer to the North Carolina Department of Transportation (NCDOT).

**3.24.1 Street Closing**

**A. General**

1. For the purposes of this Ordinance, a "street closing" application shall be considered an application to permanently close a public right-of-way in the City or County performed pursuant to NCGS §160A-299 or §153A-241, applicable NCDOT regulations, Sec. 51 of City of Durham Charter, Secs. 62-17 and -18 of the Durham City Code, and this Ordinance.
2. The governing bodies are the approving authority for the permanent closing of a public street or alley, or other public right-of-way.
3. A request to close a public right-of-way may be initiated by any person, entity, or organization.

**B. Pre-Application Conference**

The applicant(s) applying for a closing shall schedule a pre-application conference in accordance with paragraph 3.2.2, Pre-Application Conference.

**C. Application Requirements**

1. A street closing application shall be submitted to the City or County Clerk's office, as applicable.
2. A street closing application shall be submitted pursuant to paragraph 3.2.4, Application Requirements, and Secs. 62-17 of the City of Durham Code of Ordinances if within the city jurisdiction.
3. The following shall also be addressed by the applicant for a street closing application:
  - a. The closing does not cause a parcel to lack frontage along a public-right-of-way.
  - b. How the parcels are accessed other than from the closed right-of-way, if applicable.
  - c. How the closing of the right-of-way impacts current or potential connectivity within a development or neighborhood.
  - d. The circumstances that warrant the closing if connectivity is negatively impacted.
  - e. A discussion of the public interest in closing the right-of-way.

**D. Action by the Planning Director**

**1. Review of Application**

After receiving the application, the Planning Director or designee, along with other applicable agencies, shall be responsible for review and recommendation regarding closing requests.

**2. Public Hearing Notification**

The Planning Director or designee shall schedule a public hearing and give public notice as set forth in NCGS §160A-299 or §153A-241, Durham City Charter Secs. 51 and 62-18, and this section and paragraph 3.2.5, Notice and Public Hearings, as applicable.

**E. Action by the Governing Body**

**1. Within the City**

**a. Right-of-Way under NCDOT Control**

Pursuant to NCGS §160A-299, no street or alley under the control of the North Carolina Department of Transportation (NCDOT) may be closed without the NCDOT consent.

**Commentary:** This action is needed for improved and maintained roads within City jurisdiction. Approval by NCDOT removes the roads from its list for maintenance.

(1) In order to request consent, a resolution from the City Council shall be sent to the NCDOT requesting removal of the right-of-way from its maintenance list. Consent shall be obtained prior to setting a public hearing date.

(2) Once NCDOT has granted this request, City Council shall set a public hearing date in accordance with City Charter Secs. 51 and 62-18.

(3) Before taking action on a street closing, the governing body shall consider the recommendations of the Planning Director or designee, and shall conduct a public hearing.

**b. All Other City Public Right-of-Way**

For public right-of-way not under NCDOT control:

(1) The City Council shall set a public hearing date in accordance with City Charter Secs. 51 and 62-18.

(2) The City Council shall consider the recommendations of the Planning Director, or designee, and shall conduct a public hearing prior to taking final action on the request.

**2. Within the County**

Pursuant to NCGS §153A-241, closure of public right-of-way shall require consent by NCDOT.

**a.** In order to request consent, a resolution from the Board of County Commissioners shall be sent to the NCDOT requesting removal of the right-of-way from its maintenance list. Consent shall be obtained prior to setting a public hearing date.

**Commentary:** This action is needed for improved and maintained roads within the County. Approval by NCDOT removes the roads from its list for maintenance.

**b.** Once NCDOT has granted this request, the Board of County Commissioners shall set a public hearing date so that notice of such hearing shall be published once a week for four successive weeks prior to the hearing date.

**c.** The Board of County Commissioners shall consider the recommendations of the Planning Director or designee, and shall conduct a public hearing prior to taking final action on the request.

**F. Appeal**

Appeal from final action can be taken by filing a petition for certiorari with the Durham County Superior Court.



**G. Recordation**

The approved order and plat for a closing that has not been appealed, or has survived appeal, shall be recorded at the applicable Register of Deeds.

**3.24.2 Right-of-Way Withdrawal**

**A. Applicability**

1. For the purposes of this Ordinance, a “right-of-way withdrawal” application shall be considered an application to permanently withdraw a public right-of-way in the City or County performed pursuant to NCGS §136-96, applicable NCDOT regulations, applicable charter provisions for the city of Durham, and this Ordinance.
2. If the right-of-way does not qualify for withdrawal, then closing of the right-of-way shall be performed through the street closing process pursuant to paragraph 3.24.1, Street Closing.

**B. Application**

1. An application for withdrawal shall be submitted in accordance with paragraphs 3.2.4, Application Requirements, and 3.6.8, Final Plat Approval.
2. An application for withdrawal for right-of-way under control of NCDOT shall also be processed and approved in accordance with the regulations established by NCDOT for such a request.

**C. Action by the Planning Director**

The Planning Director or designee shall review applications pursuant to the requirements of this section, NCGS §136-96, and Durham City Charter Sec. 51.2, as applicable.

**PART 4**

[Establish new Sec. 3.25, Street Naming and Renaming, and codify standards for naming streets]

**Sec. 3.25 Street Naming and Renaming**

**3.25.1 New Street Naming**

The initial naming of a new right-of-way or driveway allowed by this Ordinance shall be approved pursuant to Sec. 12.3.2, Street Names.

**3.25.2 Street Renaming**

**A. Applicability**

For the purposes of this Ordinance, a “street renaming” application shall be considered an application to change the official name of a street, alley, or private drive.

**B. Pre-Application Conference**

The applicant(s) applying for a street renaming shall schedule a pre-application conference in accordance with paragraph 3.2.2, Pre-Application Conference.

**C. Application**

1. An application for renaming shall be submitted in accordance with paragraphs 3.2.4, Application Requirements; 3.6.8, Final Plat Approval; and 12.3.2, Street Names.
2. An application for the renaming of right-of-way under control of NCDOT shall also be processed and approved in accordance with the regulations established by NCDOT for such a request.

**D. Action by the Planning Director**

**1. Review of Application**

- a. After receiving the application, the Planning Director or designee, along with other applicable agencies, shall be responsible for review and recommendation regarding renaming requests.
- b. If the right-of-way is under NCDOT control, approval from NCDOT is required prior to scheduling a hearing with the governing body.

**c. Public Meeting Requirement**

Prior to the scheduling of the public hearing, at least one public meeting shall be scheduled by the Planning Director or designee regarding the renaming request. Owners of all property fronting along the subject "street" shall be notified of the meeting.

**2. Public Hearing**

The Planning Director or designee shall schedule a public hearing and give public notice pursuant to paragraph 3.2.5, Notice and Public Hearings.

**E. Action by the Governing Body**

The City Council or Board of County Commissioners, as applicable, shall be the approving authority for renaming right-of-way, subject to approval by NCDOT if applicable, and hold a public hearing prior to taking final action on the request.

1. Before taking action on a street renaming request, the governing body shall consider any recommendations of the Planning Director or designee, and of staff agencies, and shall conduct a public hearing where interested parties may be heard.
2. The governing body may continue a public hearing prior to closing the hearing and taking action on the request.
3. Following the public hearing, the governing body may approve the request, deny the request, or send the request back to the administration for additional consideration.

**F. Approved Requests**

A request that is approved by the applicable governing body shall be recorded at the Register of Deeds with an associated final plat, along with any additional requirements by NCDOT as applicable.

**Sec. 12.3 Streets**

[Paragraphs not listed remain unchanged]

**12.3.2 Street Names**

**A. General**

- ~~1. Street names shall not duplicate nor closely approximate existing street names within the City or County in spelling or pronunciation. The provisions of this section shall apply to the initial naming and renaming pursuant to Sec. 3.25, Street Naming and Renaming.~~

- ~~2.~~ Extensions of existing, named streets shall bear the existing street name.
- ~~3.~~ Except for the naming or renaming of a street or right-of-way with a full or proper name, ~~The the~~ Planning Director or designee, in consultation with the Durham Emergency Communications Center, shall be the approving authority for initial street names, or as provided by NCDOT procedures for right-of-way under NCDOT control.
  - a. Except for a full or proper name, the initial naming of a right-of-way or driveway, as allowed in this section, shall be reviewed for approval on a final plat.
  - b. Approval of a full or proper name street name shall require approval by the applicable governing body, and NCDOT if applicable.
  - c. Approval of a street renaming shall be pursuant to Sec. 3.25, Street Naming and Renaming.

**B. Public or Private Streets**

- ~~1.~~ A street name shall be established for a public street or a private street.
- ~~2.~~ Proposed street names shall be reviewed for approval on a final plat.

**C. Townhouses and Pedestrian Malls**

- ~~1.~~ A street name can be established for a driveway allowed for access within a townhouse development under paragraph 12.2.2B.2.b., above, and for a pedestrian mall under paragraph 16.4.3C, Pedestrian Malls. Establishing a name shall not result in circumventing development requirements for private streets, sidewalks, street trees, or other items.
- ~~2.~~ Proposed street names shall be reviewed for approval on a final plat.

**E. Rules for Names**

The following rules shall apply for approval of any new street name.

- 1. Names submitted for approval of a new development shall be limited to only the number of names needed for the development. No extra names shall be reserved for future applications.
- 2. Names shall only be used for the project for which they were approved and shall not be used for other locations or projects.
- 3. Approval of names includes the approval of the spelling. A variation from the approved spelling shall not be allowed.
- 4. Each street name shall consist of at least two parts: the primary name and the street suffix type. The approval of the street suffix is part of the street name approval. Street suffixes shall only be from the official USPS list.
- 5. A street suffix shall not be part of, or come before, a primary name.  
Commentary: For example, "LEAFY DRIVE ROAD" would not be approved because "Drive" is a suffix used as a part of the primary name.  
"AVENUE OF AMERICAS" places the suffix before the primary name, and is therefore not approvable.
- 6. Streets shall have unique names, including primary names and suffixes.
  - a. Names shall not duplicate, or approximate or vary, an existing name in spelling or pronunciation.  
Commentary: For example, "MAIN STREET" is an existing name, therefore "MANE STREET," "MAINE STREET," and "MAIN DRIVE" would not be approved.
  - b. The prohibition on duplicate or approximate names shall apply to a component of a name.

Commentary: For example, OAKS DRIVE, OAK RIDGE DRIVE, and OAK PLEASANT DRIVE all contain "Oak" as the primary name or a component of the primary name.

- c. Words or names which are difficult to pronounce, and words in which the pronunciation is different than spelling, and therefore may cause confusion for citizens, users, and service providers, shall not be used.
- d. Full names or proper names shall only be approved by the applicable governing body.
- 7. Cardinal directions shall not be used in a manner that is inconsistent with the current addressing system, or in a manner that would cause confusion.

Commentary: For example, EAST APPALACHIA DRIVE would not be approved if there were no corresponding WEST/NORTH/SOUTH APPALACHIA DRIVE. Additionally, a directional name will not be approved as a standalone name in a location that is contrary to the directional portion of the name. For example, NORTH COAST ROAD would not be appropriate along the south shores of Jordan Lake.

- 8. Additional Restrictions
  - a. Numbers, spelled out or symbolized, shall not be used in the street name.
  - b. Abbreviations or acronyms shall not be used in the street name.
  - c. Special characters such as hyphens, symbols, apostrophes or other punctuation, or signs shall not be used as characters in the street name.
  - d. Extensions or conjunctions shall not be used in the street name.
  - e. The maximum length for street names shall be twenty characters.

## **PART 5**

[Amendments to establish a new section for Statutory Development Agreements, replacing current section 1.12]

### **Sec. 1.12 Development Agreements**

~~1.12.1 Development agreements may be approved by the applicable governing body, pursuant to NCGS Chapter 160D, Article 10 (formerly §160A-400.20 et seq. and §153A-349.1 et seq.) and the following requirements shall apply:~~

~~A. The proposed development within the agreement shall adhere to the provisions of this section unless ordinance requirements or standards are varied by the approved development agreement.~~

~~B. Development agreements shall not:~~

~~1. Allow uses and/or housing types that are not allowed in the underlying zoning district of the subject property.~~

~~2. Reduce environmental requirements within Article 4, Zoning Districts, and Article 8, Environmental Protection.~~

~~C. A public hearing by the Planning Commission, in accordance with paragraph 3.5.9, Action by the Planning Commission, shall be required for any development agreement application that proposes modification to standards of this section or is associated with a zoning map change.~~

~~D. The following shall be required prior to the official submittal of a development agreement proposal:~~

- ~~1. A pre-submittal meeting with the Planning Department and any other applicable departments and agencies.~~
- ~~2. A neighborhood meeting pursuant to paragraph 3.2.3, Neighborhood Meeting.~~

### **Sec. 3.26 Statutory Development Agreement**

#### **3.26.1 Purpose**

Statutory development agreements are intended to provide for community benefits within developments that are difficult to accommodate within traditional zoning processes. Additionally, they can provide regulatory certainty, a schedule for development, coordination for the provision of public facilities, sustainable design, and improved management of environmentally sensitive lands, as applicable. This section provides a procedure for requests for statutory development agreements pursuant to NCGS Chapter 160D, Article 10, Development Agreements; and 160D-704, Incentives.

#### **3.26.2 Applicability**

The city or county, with approval by the applicable governing body based upon jurisdiction, may enter into a statutory development agreement pursuant to NCGS Chapter 160D, Article 10, Development Agreements; 160D-704, Incentives; and the requirements of this Ordinance.

#### **3.26.3 Pre-Application Conference**

The applicant(s) applying for a development agreement shall schedule a pre-application conference in accordance with paragraph 3.2.2, Pre-Application Conference.

#### **3.26.4 Neighborhood Meeting**

The applicant(s) applying for a development agreement shall hold one or more neighborhood meetings in accordance with paragraph 3.2.3, Neighborhood Meeting.

#### **3.26.5 Application Requirements**

- A. An application for a development agreement shall be submitted in accordance with paragraphs 3.2.4, Application Requirements.

#### **3.26.6 Requirements and Limitations**

##### **A. Statutory Requirements**

A development agreement shall adhere to the requirements of NCGS Chapter 160D, Article 10, Development Agreements.

##### **B. Limitations**

A development agreement may modify the standards of this Ordinance except:

1. The process for adoption and execution of a development agreement shall not be modified.
2. A development agreement shall not allow uses and/or housing types that are not allowed in the underlying zoning district of the subject property.
3. A development agreement shall not reduce environmental requirements within Article 4, Zoning Districts; and Article 8, Environmental Protection.
4. A development agreement shall not reduce requirements within Article 12, Infrastructure and Other Public Improvements.

#### **3.26.7 Review of Application**

After receiving the application, the City or County Attorney's office, as applicable; the Planning Director or designee; and any other applicable department or agency shall be responsible for review and recommendation regarding the request.

**3.26.8 Coordination with a Zoning Map Change**

When a development agreement request is associated with a zoning map change, the public hearings may be heard at the same time; however, decisions shall be rendered with separate motions.

**3.26.9 Action by the Planning Commission**

**A. General Procedures**

1. Before making any recommendation on a petition for a statutory development agreement, the Planning Commission shall consider any recommendations from the Planning Director and any other department or agency, and shall conduct a public hearing where interested parties may be heard.
2. Notice and public hearing requirements shall be in accordance with paragraph 3.2.5, Notice and Public Hearings.
3. Except in the case of expedited hearings pursuant to paragraph 3.26.10B, Expedited Hearing, the Commission shall make its recommendation within three consecutive regular Commission cycles (approximately 90 days total) of its initial public hearing. In case of significant modifications, the time period for a recommendation may be altered, in which case a maximum of three additional consecutive regular cycles may be granted before the case shall go to the governing body.
4. When a recommendation is not made within the time periods established in this section, the governing body may process the request without a Commission recommendation.

**3.26.10 Action by the Governing Body**

**A. General Procedures**

1. Before taking action on a development agreement request, the governing body shall consider any recommendations of the Planning Commission, Planning Director or designee, and of staff agencies, and shall conduct a public hearing where interested parties may be heard.
2. Notice and public hearing requirements shall be in accordance with paragraph 3.2.5, Notice and Public Hearings.
3. The governing body may continue a public hearing prior to closing the hearing and taking action on the request.
4. Following the public hearing, the governing body may approve the request, deny the request, or send the request back to the Planning Commission for additional consideration.
5. The development agreement request approved by the governing body may include changes from the request presented.

**B. Expedited Hearing**

1. The governing body, in situations in which it determines certain standards have been met, may expedite the hearing process on a proposed development agreement.
2. The governing body may consider a written request from a potential applicant, or from staff, requesting an expedited hearing process. The request shall identify and support the reasons for such expedited consideration.
3. In order to grant the request, the governing body shall find that at least one of the criteria below have been met:
  - a. Deadlines set by the local, State, or Federal government for receipt of applications for needed funding, designation, or other regulations concerning the property make expedited consideration necessary;
  - b. The prospective request results from an emergency beyond the control of the applicant, such as response to a disaster;
  - c. The prospective request addresses an urgent matter of public health or safety; or
  - d. There are special circumstances that will have a substantial negative impact on the development which could not have reasonably been anticipated and which make expedited consideration necessary.

**3.26.11 Recordation**

Pursuant to NCGS 160D-1011, an approved development agreement shall be recorded with the Register of Deeds.

- A. The approved development agreement shall be recorded within 14 days from the date the city or county, as applicable, and the applicant execute the agreement approved by the governing body.
- B. No development approvals shall be issued until the development agreement is recorded.

**PART 6**

[ Establish new Sec. 3.27, for requests for annexation]

**3.27 Annexation**

**3.27.1 Purpose**

The purpose of this section is to establish the procedures by which a property owner may request the City of Durham to annex property and thus establish the City's jurisdiction onto the subject property, pursuant to the Durham City Code and applicable state statutes. This section does not override or nullify any other local or state law regarding annexation and applicable rules or laws resulting from the establishment of the City's jurisdiction.

**3.27.2. Pre-Application Conference**

All applicants applying for annexation shall schedule a pre-application conference in accordance with paragraph 3.2.2, Pre-Application Conference.

**3.27.3 Application**

**A.** An application for annexation shall be submitted in accordance with paragraphs 3.2.4, Application Requirements.

**B. Utility Extension Agreement (UEA)**

Unless incorporated into a concurrent approval by City Council, such as a zoning map change or statutory development agreement, the applicable utility extension agreement shall be included with the annexation request.

**C. Concurrent Zoning Map Change**

An annexation application shall be submitted concurrently with any associated zoning map change application.



**3.27.4 Review of Application**

A. After receiving the application, the Planning Director or designee, and any other applicable department or agency, shall be responsible for review and comment regarding the request.

**B. Administrative Voiding of an Application**

The Planning Director or designee may consider applications withdrawn and voided due to the failure of the applicant to submit required information within 90 days of a request for such information.

**3.27.5 Action by the Governing Body**

**A. General Procedures**

1. Before taking action on an annexation request, the governing body shall consider any recommendations of the Planning Director or designee, and of staff agencies, and shall conduct a public hearing where interested parties may be heard.
2. Notice and public hearing requirements shall be in accordance with paragraph 3.2.5, Notice and Public Hearings.
3. The City Council may continue a public hearing prior to closing the hearing and taking action on the request.
4. Following the public hearing, the governing body may approve the request, deny the request, or refer the request back to the administration for additional consideration.
5. The annexation approved by the governing body may include changes from the request presented.

**B. Concurrent Approvals**

The City Council may consider concurrent requests for the subject site with the annexation request. However, separate motions for each requested action shall be required.

**3.27.6 Initial Zoning Map Change**

Pursuant to an initial zoning map change as defined in Article 17, Definitions, the City Council may establish its zoning authority by adopting the current zoning designation, or by adopting a different designation.

**3.27.7 Effective Date**

The effective date of an annexation shall be a date determined by City Council.

**PART 7**

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

**PART 8**

That this amendment of the Unified Development Ordinance shall become effective upon *December 1, 2021.*



A handwritten signature in black ink, appearing to read "Monica Wallace", is written over a horizontal line.

Monica W. Wallace  
Clerk to the Board  
Durham County