

# STAFF REPORT

## Amendments to the Unified Development Ordinance

March 23, 2021 Town Council Meeting



### Requested by Planning Staff:

1. **Amendments to Sec. 6.1.13.E.2 *Watershed Protection Overlay Districts, Modifications by Variance, Standards* in order to allow property owners to request a variance from the standards of the Watershed Protection Overlay Districts regardless of when the property was purchased. The current standard requires the Board of Adjustment to find that the property owner did not purchase the property after Sec. 6.1 was added to the Unified Development Ordinance.**

#### 6.1.13 *Watershed Protection Overlay Districts, Modifications by Variance*

...

##### E) Standards

...

- 2) The Board of Adjustment shall make a finding of fact as to whether there are practical difficulties or unnecessary hardships that prevent compliance with the requirements at issue. A finding of practical difficulties or unnecessary hardships shall require that the following conditions are met:

...

- d) The applicant did not cause the practical difficulties or unnecessary hardships by knowingly or unknowingly violating Sec. 6.1; **and**
- ~~e) The applicant did not purchase the property after the effective date of Sec. 6.1, and then request a variance; and~~
- f)e)** The practical difficulties or unnecessary hardships are rare or unique to the applicant's property.

#### **PLANNING STAFF RECOMMENDATION:**

Planning staff recommends approval of the proposed UDO amendments.

#### **PLANNING BOARD RECOMMENDATION:**

The Planning Board heard this amendment at their March 8, 2021 meeting and unanimously recommended approval.

PLANNING BOARD REPORT TO TOWN COUNCIL  
Unified Development Ordinance Amendments

Planning Board Meeting Date: March 8, 2021



**Report Requirements:**

Per NCGS §160D-604, all proposed amendments to the zoning ordinance or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to the Planning Board, the Town Council may act on the amendment without the Planning Board report. The Town Council is not bound by the recommendations, if any, of the Planning Board.

**Planning Board Recommendation:**

Motion: To recommend approval as presented

Introduced by Planning Board member: Mark Steele

Seconded by Planning Board member: Tina Sherman

- Approval of the proposed UDO amendment(s)
- Approval of the proposed UDO amendment(s) with the following conditions:

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- Denial of the proposed UDO amendment(s)

With 6 Planning Board Member(s) voting "aye"

With 0 Planning Board Member(s) voting "no"

Reasons for dissenting votes:

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This report reflects the recommendation of the Planning Board, this the 8th day of March 2021.

Attest:

**Michael Marks** Digitally signed by Michael Marks  
Date: 2021.03.09 14:51:44 -05'00'

Michael Marks, Planning Board Chair

**Dianne Khin** Digitally signed by Dianne Khin  
Date: 2021.03.08 20:07:25 -05'00'

Dianne Khin, Director of Planning and  
Community Development



## TOWN OF APEX

POST OFFICE BOX 250  
APEX, NORTH CAROLINA 27502  
PHONE 919-249-3426

## PUBLIC NOTIFICATION OF PUBLIC HEARING

### AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE (UDO)

Notice is hereby given of a public hearing before the Town Council of the Town of Apex for the purpose of soliciting comments relative to the following amendment(s) to the Unified Development Ordinance:

#### Requested by Planning Staff:

1. Amendments to Sec. 6.1.13.E.2 *Watershed Protection Overlay Districts, Modifications by Variance, Standards* in order to allow property owners to request a variance from the standards of the Watershed Protection Overlay Districts regardless of when the property was purchased. The current standard requires the Board of Adjustment to find that the property owner did not purchase the property after Sec. 6.1 was added to the Unified Development Ordinance.

**Public Hearing Location:** Apex Town Hall  
Council Chambers, 2<sup>nd</sup> Floor  
73 Hunter Street, Apex, North Carolina

#### Town Council Public Hearing Date and Time: March 23, 2021 6:00 PM

You may attend the meeting in person or view the meeting through the Town's YouTube livestream at: <https://www.youtube.com/c/townofapexgov>.

If you are unable to attend, you may share comments by noon on Monday, March 22, 2021, following instructions in the <http://www.apexnc.org/DocumentCenter/View/31397>. The policy includes options to provide comments by email ([public.hearing@apexnc.org](mailto:public.hearing@apexnc.org), 350-word limit) or voicemail (919-362-7300, 3-minute limit). You must provide your name and address for the record. These comments will be read during the Town Council meeting.

If the Council meeting is held with at least one member attending virtually, the vote on the subject of this public hearing will be delayed per State law to allow for comments to be submitted between publication of any required notice and 24 hours after the public hearing. Comments must be provided according to the means specified above. This item will be then be scheduled for the next Town Council meeting. Please note that at this subsequent meeting, Town Council may choose to vote on the item, table the discussion to a later date, or take other action which would delay Council action to another time.

The UDO can be accessed online at: <http://www.apexnc.org/233>.

Dianne F. Khin, AICP  
Director of Planning and Community Development

Published Dates: March 2-March 23, 2021



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#### Town Council **Remote** Public Hearing Date and Time: **March 23, 2021 6:00 PM**

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Director of Planning and Community Development

Published Dates: ~~March 2-March 15~~-March 23, 2021



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