

STAFF REPORT

Amendments to the Unified Development Ordinance

August 24, 2021 Town Council Meeting



Requested by Lara O'Brien, Tutu School Apex:

1. Amendments to Sec. 4.2.2 *Use Table* in order to allow the use “Personal service” in the Central Business District in storefront locations when the square footage of the “Personal service” first floor use is less than 10% of the square footage of the first floor of the building and no other storefront “Personal service” uses are located within the same building. Storefront locations are the first floor of all spaces abutting North Salem Street, East Chatham Street, West Chatham Street, Saunders Street, and Templeton Street, as well as along all public parking lots and garages.

4.2.2 Use Table

Use Type	Definition Section	Zoning Districts																			Standards Section(s)		
		Residential									Business						Planned Development			Other			
		R A	R R	L D	M D	H D S F	H D M F	M H	M H P	M O R R	O & I	B 1	B 2	P C	L I	T F	M E C	T N D	P U D	C B		S D	S T C
Retail sales and service	4.3.5.G																						
Personal service	4.3.5.G.24									P	%	P	P***	P		P	P	P	P		*	P*	4.4.5.G.11; 6.3

***Uses in the Central Business District designated as Permitted (P) with three asterisks are not allowed in storefront locations with the exception of “Personal service”. Only one (1) storefront “Personal service” use shall be allowed per building and shall not exceed 10% of the total square footage of the first floor of the building and no more than 20’ of storefront, provided that such use includes a retail component that is located adjacent to the storefront windows so as to be visible to the public from the outside. Storefront locations shall mean the first floor of all spaces abutting North Salem Street, East Chatham Street, West Chatham Street, Saunders Street, and Templeton Street, as well as along all public parking lots and garages.

PLANNING STAFF RECOMMENDATION:

Planning staff recommends approval of the proposed UDO amendments. Note that after the July 27, 2021 Town Council meeting, staff did discuss with the applicant the advisability of adding the words “open to the public” as shown below, but the applicant declined to make that addition.

***Uses in the Central Business District designated as Permitted (P) with three asterisks are not allowed in storefront locations with the exception of “Personal service”. Only one (1) storefront “Personal service” use shall be allowed per building and shall not exceed 10% of the total square footage of the first floor of the building and no more than 20’ of storefront, provided that such use includes a retail component that is open to the public and located adjacent to the storefront windows so as to be visible to the public from the outside. Storefront locations shall mean the first floor of all spaces abutting North Salem Street, East Chatham Street, West Chatham Street, Saunders Street, and Templeton Street, as well as along all public parking lots and garages.

PLANNING BOARD RECOMMENDATION:

The Planning Board heard this amendment at their July 12, 2021 meeting and unanimously recommended approval.

AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE

Town of Apex, North Carolina



AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE APPLICATION: Applications are due by 12:00 pm on the first business day of each month.

AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE FEE: \$600.00

An amendment to the text of the Unified Development Ordinance may be proposed by the Town Council, the Planning Board, the Board of Adjustment, the Planning Director, by the owner, or any other person having a recognized interest in the land for which a development is proposed, or their authorized agent.

Standards:

The advisability of amending the text of the Unified Development Ordinance is a matter committed to the legislative discretion of the Town Council and is not controlled by any one factor. In determining whether to adopt or disapprove proposed amendments to the text of the Unified Development Ordinance, the Town Council shall consider the following factors:

1. *Compatible with surrounding uses.* Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land.
2. *Changed conditions.* Whether and the extent to which there are changed conditions that require an amendment.
3. *Effect on natural environment.* Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.
4. *Community need.* Whether and the extent to which the proposed amendment addresses a demonstrated community need.
5. *Development patterns.* Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern and not constitute spot zoning.
6. *Public facilities.* Whether and the extent to which the proposed amendment would result in development that is adequately served by public facilities (roads, potable water and sewage, schools, parks, police, and fire and emergency medical facilities).
7. *Consistency with 2030 Land Use Map.* Consistency with the 2030 Land Use Map.

APPLICATION INFORMATION

Application #: _____
Fee Paid \$ 600

Submittal Date: 6-7-21
Check # credit card

Hard Copy Submittal Requirements:

- One (1) copy of Amendment to the Unified Development Ordinance Application
- Amendment to the Unified Development Ordinance fee

Applicant Information

Applicant: Lara O'Brien / Tutu School Apex
 Address: 709 Tucker St.
 City: Raleigh State: NC Zip: 27603
 Phone: 815-353-3280 Email: lara@tutuschoolraleigh.com

The applicant does hereby make application and does petition the Town Council to amend the Unified Development Ordinance of the Town of Apex for the following: **(Attach additional sheets as necessary)**

UDO Section(s): 4.2.2 Use Table
(Example: Section 5.2.7(D) Dimensional Standards for Accessory Structures, Corner Lot)

Proposed Change(s):

~~***Uses in the Central Business District designated as Permitted (P) with three asterisks are not allowed in storefront locations except for "Personal service" when the square footage of the "Personal service" first floor use is less than 10% of the square footage of the first floor of the building and no other storefront "Personal service" uses are located within the same building. Storefront locations shall mean the first floor of all spaces abutting North Salem Street, East Chatham Street, West Chatham Street, Saunders Street, and Templeton Street, as well as along all public parking lots and garages.~~

Describe how the proposed amendment(s) is compatible with existing uses surrounding the subject land.

Tutu School brings 200+ families into both our downtown Cary & Raleigh locations on a weekly basis though our classes, parties, camps, and parent events. We are a destination for children, parents, grandparents, and caregivers that also leads to their visiting downtown and other businesses regularly all year. Tutu School also partners with neighboring local businesses as much as possible and values the synergy of being part of a downtown business community.

What changed or changing conditions justify the passage of the UDO amendment(s)?

The Highline building is proposed to have approx. 15,000 sq. ft. on the first floor with Tutu School Apex at 1,118 sq. ft. being less than 8% of the building's first floor footprint; no other "Personal service" uses are proposed in the Highline building and future "Personal service" uses would be required to locate on the second floor or higher. Most buildings in downtown Apex only have one or two first floor storefronts whereas the Highline building has five first floor storefronts. Having a "Personal service" use in one first floor storefront will not be detrimental to the overall synergy of the building or downtown and will actually increase foot traffic for both.

How will the proposed change(s) effect the natural environment?

Tutu School will not have an effect on the natural environment outside of The Highline building.

APPLICATION INFORMATION

Application #: _____ Submittal Date: 6-7-21

Will the proposed amendment(s) provide a community need? yes no

If yes, please describe _____

We provide a service to children ages 1-8 years old as an outlet and activity for dance, music, and movement. We are also a gathering place for caregivers, families, and parent groups.

Will the proposed amendments provide an orderly development pattern?

In addition to ballet services (classes, parties, camps, events) that provide an activity and gathering place for children and families, and which take place 7 days a week at up 6-8 hours per day, we will also offer a retail component of ballet dancewear, stuffed animals, books, and other related merchandise.

Describe whether the proposed amendment(s) will be adequately served by public facilities.

The Tutu School business model philosophy and curriculum serves small groups at a time; classes of 10 students or camps & events of 15-20 children. The bathrooms of our space and the parking available at both The Highline and pulic parking lots would be adequate to meet needs and not create added need.

Describe how the amendment is consistent with the 2030 Land Use Map.

The amendment would allow "Personal service" in an area shown as "Commercial services, Office Employment, and Medium Density Residential". Personal service is an allowed use in this mixed use district so it is consistent with the 2045 Land Use Map.

I hereby acknowledge that proposed amendments to the Unified Development Ordinance is a matter of legislative discretion of the Town Council. As the applicant, I am responsible for presenting the proposed amendments to the Planning Board and Town Council respectively.


Signature

6/7/21
Date

PLANNING BOARD REPORT TO TOWN COUNCIL

Unified Development Ordinance Amendments

Planning Board Meeting Date: July 12, 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 approve as presented.

Introduced by Planning Board member: Tina Sherman

Seconded by Planning Board member: Mark Steele

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

- Denial of the proposed UDO amendment(s)

With 7 Planning Board Member(s) voting "aye"

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

Reasons for dissenting votes:

This report reflects the recommendation of the Planning Board, this the 12th day of July 2021.

Attest:



 Reginald Skinner, Planning Board Vice Chair

Dianne Khin

Digitally signed by Dianne Khin
Date: 2021.07.13 12:18:35
-04'00'

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)

Pursuant to the provisions of North Carolina General Statutes §160D-601 and to the Town of Apex Unified Development Ordinance (UDO) Sec. 2.2.11, 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 Lara O'Brien (Tutu School Apex):

Amendment to Sec. 4.2.2 *Use Table* in order to allow the use "Personal service" in the Central Business District in storefront locations when the square footage of the "Personal service" first floor use is less than 10% of the square footage of the first floor of the building and no other storefront "Personal service" uses are located within the same building. Storefront locations are the first floor of all spaces abutting North Salem Street, East Chatham Street, West Chatham Street, Saunders Street, and Templeton Street, as well as along all public parking lots and garages.

Public Hearing Location: Apex Town Hall
Council Chamber, 2nd Floor
73 Hunter Street, Apex, North Carolina

Town Council Public Hearing Date and Time: July 27, 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 provide a written statement by email to public.hearing@apexnc.org, or submit it to the Deputy Town Clerk, Tesa Silver (73 Hunter Street or USPS mail - P.O. Box 250, Apex, NC 27502), at least two business days prior to the Town Council vote. You must provide your name and address for the record. The written statements will be delivered to the Town Council members prior to their vote. Please include the Public Hearing name in the subject line.

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

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

Published Dates: July 6-July 27, 2021



TOWN OF APEX

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

NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS

modificación de la Ordenanza de Desarrollo Unificado (UDO)

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante el Consejo Municipal del ayuntamiento de Apex a fin de solicitar comentarios relativos a la siguiente modificación de la Ordenanza de Desarrollo Unificado:

Solicitado por Lara O'Brien (Tutu School Apex):

Modificación de la Sección 4.2.2 ("*Use Table*") para permitir que el uso de los locales con escaparate en el distrito comercial central se califique como "servicio personal" cuando los metros cuadrados que ocupa dicho "servicio personal" en la planta baja del edificio representen menos del 10% de la totalidad de metros cuadrados de la planta baja y no haya otros usos calificados como "servicio personal" con escaparate en el mismo edificio. Los locales con escaparate son todos aquellos en la planta baja de todos los espacios que colindan con North Salem Street, East Chatham Street, West Chatham Street, Saunders Street y Templeton Street, así como aquellos que se encuentran alrededor de todos los garajes y estacionamientos públicos.

Lugar de la audiencia pública: Ayuntamiento de Apex
Cámara del Consejo, 2º piso
73 Hunter Street, Apex, Carolina del Norte

Fecha y hora de la audiencia pública del Consejo Municipal: 27 de julio, 2021 6:00 PM

Puede asistir a la reunión de manera presencial o seguir la transmisión en directo por YouTube a través del siguiente enlace: <https://www.youtube.com/c/townofapexgov>.

Si no puede asistir, puede enviar una declaración escrita por correo electrónico a public.hearing@apexnc.org, o presentarla a la secretaria municipal adjunta, Tesa Silver (73 Hunter Street o por correo USPS a P.O. Box 250, Apex, NC 27502), al menos dos días hábiles antes de la votación del Consejo Municipal. Debe proporcionar su nombre y dirección para que conste en el registro. Las declaraciones escritas se entregarán al Consejo Municipal antes de la votación. No olvide incluir el nombre de la audiencia pública en el asunto.

Se puede acceder a la UDO en línea en: <http://www.apexnc.org/233>.

Dianne F. Khin, AICP
Directora de Planificación y Desarrollo Comunitario

Fechas de publicación: 6 de julio – 27 de julio, 2021



TOWN OF APEX

POST OFFICE BOX 250
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NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS modificación de la Ordenanza de Desarrollo Unificado (UDO)

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Fechas de publicación: 6 de julio – 27 de julio, 2021



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PUBLIC NOTIFICATION OF PUBLIC HEARING

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Requested by Lara O'Brien (Tutu School Apex):

Amendment to Sec. 4.2.2 *Use Table* in order to allow the use "Personal service" in the Central Business District in storefront locations when the square footage of the "Personal service" first floor use is less than 10% of the square footage of the first floor of the building and no other storefront "Personal service" uses are located within the same building. Storefront locations are the first floor of all spaces abutting North Salem Street, East Chatham Street, West Chatham Street, Saunders Street, and Templeton Street, as well as along all public parking lots and garages.

Public Hearing Location: Apex Town Hall
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73 Hunter Street, Apex, North Carolina

Town Council Public Hearing Date and Time: July 27, 2021 6:00 PM

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

Published Dates: July 6-July 27, 2021



TOWN OF APEX

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VOTE CONTINUED PUBLIC NOTIFICATION OF PUBLIC HEARING

AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE (UDO)

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Town Council Public Hearing Date and Time: ~~July 27, 2021~~ **vote continued to August 24, 2021 6:00 PM**

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

Published Dates: July 6 - ~~July 27~~ **August 24, 2021**



TOWN OF APEX

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CONTINUACIÓN DE LA VOTACIÓN NOTIFICACIÓN PÚBLICA DE AUDIENCIAS PÚBLICAS modificación de la Ordenanza de Desarrollo Unificado (UDO)

De conformidad con las disposiciones de los Estatutos Generales de Carolina del Norte §160D-602 y con la Sección 2.2.11 de la Ordenanza de Desarrollo Unificado (UDO) del ayuntamiento de Apex, por la presente se notifican las audiencias públicas ante el Consejo Municipal del ayuntamiento de Apex a fin de solicitar comentarios relativos a la siguiente modificación de la Ordenanza de Desarrollo Unificado:

Solicitado por Lara O'Brien (Tutu School Apex):

Modificación de la Sección 4.2.2 ("*Use Table*") para permitir que el uso de los locales con escaparate en el distrito comercial central se califique como "servicio personal" cuando los metros cuadrados que ocupa dicho "servicio personal" en la planta baja del edificio representen menos del 10% de la totalidad de metros cuadrados de la planta baja y no haya otros usos calificados como "servicio personal" con escaparate en el mismo edificio. Los locales con escaparate son todos aquellos en la planta baja de todos los espacios que colindan con North Salem Street, East Chatham Street, West Chatham Street, Saunders Street y Templeton Street, así como aquellos que se encuentran alrededor de todos los garajes y estacionamientos públicos.

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Fecha y hora de la audiencia pública del Consejo Municipal: ~~27 de julio, 2021~~ **la votación continuó hasta el 24 de agosto de 2021 6:00 PM**

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Dianne F. Khin, AICP
Directora de Planificación y Desarrollo Comunitario

Fechas de publicación: 6 de julio – ~~27 de julio~~ **24 de agosto, 2021**



TOWN OF APEX

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VOTE CONTINUED PUBLIC NOTIFICATION OF PUBLIC HEARING

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



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APEX, NORTH CAROLINA 27502
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CONTINUACIÓN DE LA VOTACIÓN
NOTIFICACIÓN PÚBLICA DE
AUDIENCIAS PÚBLICAS
modificación de la
Ordenanza de Desarrollo Unificado (UDO)

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Solicitado por Lara O'Brien (Tutu School Apex):

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Cámara del Consejo, 2º piso
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Dianne F. Khin, AICP
Directora de Planificación y Desarrollo Comunitario