

STAFF REPORT

Amendments to the Unified Development Ordinance

March 28, 2023 Town Council Meeting



Requested by Planning Committee of Town Council:

- 1. Amendments to Secs. 2.1.9.A *Apex Environmental Advisory Board* and 2.2.7.B *Neighborhood Meetings* in order to change the timing of Environmental Advisory Board review to after application submittal and add an additional neighborhood meeting after application submittal in the month prior to the anticipated public hearing dates.**

Background: The Planning Committee of Town Council suggested the following changes to the rezoning process that require UDO amendments:

- a) Move the Environmental Advisory Board (EAB) meeting from a pre-application requirement to post-application submittal so that the EAB has a complete picture of the proposed rezoning application.
- b) Add a requirement for an additional neighborhood meeting after submittal in the month prior to the anticipated public hearing dates. This will allow adjacent property owners to review an updated version of the proposal and increase opportunities to provide input to the applicant. If adopted, the Neighborhood Meeting instructions will be revised to decrease the minimum meeting time from two hours to one hour.

The Committee also discussed changing the timing of votes on rezonings to allow for the public hearing to be held at one meeting as the first reading and the vote to be held at a subsequent meeting as the second reading. With changes to NCGS 160D, state law no longer requires a supermajority (4/5 vote) to approve a rezoning on the first reading, which means that a second reading is no longer necessary. The UDO already grants the Town Council the ability to continue the public hearing or vote on a rezoning at a subsequent meeting, so no UDO amendment is required to change the standard practice from how it is done today. However, staff would like direction on whether Council would prefer we change the rezoning schedule to note the ability to vote at a subsequent meeting or at the same meeting as the public hearing, to be determined at the Council's discretion.

2.1.9 Apex Environmental Advisory Board

A) *Powers and Duties*

The Environmental Advisory Board shall have the following powers and duties under the provisions of this Ordinance:

...

- 2) Review, with applicants, during the ~~pre-application~~ **staff review** phase of a proposal, certain requests for conditional rezoning and recommend zoning conditions to the applicant and Town Council that will mitigate anticipated impact to the natural environment as a result of the project under consideration. The following conditional rezoning requests shall be exempt from review by this Board:

...

2.2.7 Neighborhood Notice

...
B)

Neighborhood Meetings

Neighborhood meetings are required for all applications for Rezoning; Major Site Plans; residential subdivisions, excluding exempt subdivisions; Special Use Permits; and Minor Site Plans for the following uses: Day care facility; Government service; School, public or private; Restaurant, drive-through; and Convenience store with gas sales. Upon submittal of an application for one or more of these applications, the petitioner must file in the office of the Planning Director a written report of at least one (1) neighborhood meeting held by the petitioner. **For Rezoning, the petitioner must file a written report of an additional neighborhood meeting according to subsection 1) below.** The neighborhood meeting shall comply with the following procedures.

1) *General*

The pre-application meeting with the Technical Review Committee shall be held prior to the applicant mailing a notice of a neighborhood meeting. The purpose of the neighborhood meeting is to educate neighbors about the proposed development and application and any associated long range plan amendments, to receive neighborhood comments, and to address concerns about the development proposal. At least one (1) neighborhood meeting shall be scheduled and held by the applicant or applicant's agent prior to submission of the initial application. The **initial** neighborhood meeting shall take place within six (6) months of submittal of the application; if more than six (6) months have passed at the time of application, the applicant shall hold a subsequent neighborhood meeting. **For Rezoning, an additional neighborhood meeting shall be held in the month prior to the anticipated Planning Board public hearing date.**

2) *Time and Place*

The neighborhood meeting shall be held either:

- a) At a place that is generally accessible to neighbors that reside in close proximity to the land subject to the application; or
- b) Virtually with both internet and dial-in options per the guidelines in the Neighborhood Meeting Packet.

3) *Notification*

The applicant shall provide notification of the neighborhood meeting a minimum of 14 calendar days in advance of the meeting by mail, to all property owners and tenants abutting and located within 300 feet of the land subject to the application, to any neighborhood association that represents citizens within that notification area, and to the Town of Apex Planning Department. The applicant shall request this notification list from Town GIS staff per the guidelines in the Neighborhood Meeting Packet. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 300-foot notification area shall be measured from the property line of that entire parcel.

...

Requested by Planning Staff:

- 2. Amendments to Sec. 4.4.1.J.2 Supplemental Standards; Residential Uses; Townhouse, detached; Alleys and Driveways** in order to remove the requirement that no more than 10 lots be on a single alleyway without an intervening alleyway and to require that alleys for such use follow the standards for residential alleys in Sec. 7.2.1.H.2.

Background: The standard proposed to be removed was enacted prior to the development of a certain subdivision. Detached townhomes are very rare and staff believes it is more appropriate for the same alley standards to apply to all housing types.

4.4.1 Supplemental Standards; Residential Uses

...

J) Townhouse, detached

...

2) *Alleys and Driveways.* Each detached townhouse lot shall be required to either be rear loaded from an alleyway, or in the absence of an alley, garages must be placed in the rear with a shared driveway from the front. **Alleys shall comply with the standards found in Sec. 7.2.1.H.2.**

~~a) There shall be no more than 10 lots on a single alleyway without an intervening alleyway.~~

~~b) The alley shall consist of a 26' wide dedicated right of way with 16' asphalt strip located entirely outside of the lots.~~

PLANNING STAFF RECOMMENDATION:

Planning staff recommends approval of the proposed UDO amendments.

PLANNING BOARD RECOMMENDATION:

The Planning Board heard these amendments at their March 13, 2023 meeting and unanimously recommended approval.

PLANNING BOARD REPORT TO TOWN COUNCIL
Unified Development Ordinance Amendments

Planning Board Meeting Date: March 13, 2023



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: Akers
Seconded by Planning Board member: Rhodes

- 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)

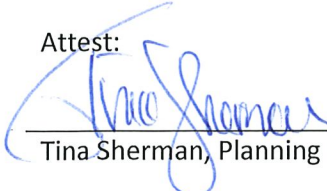
With 7 Planning Board Member(s) voting "aye"

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

Reasons for dissenting votes:

This report reflects the recommendation of the Planning Board, this the 13th day of March 2023.

Attest:


Tina Sherman, Planning Board Vice-Chair

Amanda Bunce Digitally signed by Amanda Bunce
Date: 2023.03.13 18:24:00 -04'00'
Amanda Bunce, Current Planning Manager



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 that are applicable Town-wide:

Requested by Planning Committee of Town Council:

1. Amendments to Secs. 2.1.9.A *Apex Environmental Advisory Board* and 2.2.7.B *Neighborhood Meetings* in order to change the timing of Environmental Advisory Board review to after application submittal and add an additional neighborhood meeting after application submittal in the month prior to the anticipated public hearing dates.

Requested by Planning Staff:

2. Amendments to Sec. 4.4.1.J.2 *Supplemental Standards; Residential Uses; Townhouse, detached; Alleys and Driveways* in order to remove the requirement that no more than 10 lots be on a single alleyway without an intervening alleyway and to require that alleys for such use follow the standards for residential alleys in Sec. 7.2.1.H.2.

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

Town Council Public Hearing Date and Time: March 28, 2023 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 Office of the Town Clerk (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
Planning Director

Published Dates: March 9-28, 2023



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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-601 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 que se aplican a toda la ciudad:

Solicitado por el Comité de Planificación del Consejo Municipal:

1. Enmiendas a las Secc. 2.1.9.A *Consejo Asesor Ambiental de Apex* y 2.2.7.B *Asambleas Vecinales* para cambiar la fecha de la revisión del Consejo Asesor Ambiental a una fecha posterior a la presentación de la solicitud y agregar una asamblea vecinal adicional después de la presentación de la solicitud en el mes anterior a las fechas previstas de las audiencias públicas.

Solicitado por el personal de planificación:

2. Enmiendas a la Secc. 4.4.1.J.2 *Normas complementarias; Usos residenciales; Casa, no adosada; Callejones y entradas para automóvil* con el fin de eliminar el requisito de que no haya más de 10 lotes en un mismo callejón o pasaje sin un pasaje intermedio y para que sea requerido que los callejones con tal uso sigan las normas para callejones residenciales de la Secc. 7.2.1.H.2.

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: 28 de marzo de 2023 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 oficina del Secretario Municipal (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

Fechas de publicación: 9 de marzo-28 de marzo de 2023



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