

# STAFF REPORT

## Amendments to the Unified Development Ordinance

August 18, 2020 Town Council Meeting



### Requested by Planning Staff:

1. Amendments to Sec. 6.3.1.D *Small Town Character Overlay District, Approval Criteria* in order to eliminate the requirement for building landscaping requirements for all development and eliminate the vehicular use area screening and shading requirements for public parking lots within the Central Business District.

#### 6.3.1 *Small Town Character Overlay District*

...

##### D) *Approval Criteria*

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- 6) No Resource Conservation Area (Sec. 8.1.2 Resource Conservation Area) or Buffers (Sec. 8.2.6 Buffering) are required. **Within the Central Business District, no building landscaping (Sec. 8.2.4 Building Landscaping Requirements) is required and no landscaping within vehicular use areas of public parking lots (Sec. 8.2.5.B Vehicular Use Area Screening and Sec. 8.2.5.C Vehicular Use Area Shading) is required.**

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2. Amendments to Sec. 10.3 *Nonconforming Structures* in order to correct a typographical error in Sec. 10.3.2 and to change a word in Sec. 10.3.4 in order to clarify the intent of a sentence.

#### 10.3.2 *Enlargement or Expansion*

A non-residential nonconforming structure shall not be enlarged or expanded in area occupied unless otherwise stated in 10.3.2~~(B)(1-4)~~. A residential structure may expand so long as there is no increase to the nonconformity.

#### 10.3.4 *Damage and Restoration of Nonconforming Structure*

~~No~~ **A** nonconforming structure which has been damaged by any means to an extent exceeding a percentage of its then reproducible value equal to 100 percent minus two percent per year of age of the structure, or 60 percent, whichever is greater, shall comply with the use standards of this Ordinance when it is re-constructed. Any nonconforming structure that is damaged by any means to a lesser extent may continue if it is reconstructed within two years of the damage.

**3. Amendments to Sec. 14.1.3 Parks, Recreation, and Open Space Sites; Standards for Dedication in order to verify the usability of land proposed for dedication by requiring a Phase 1 site assessment prior to land dedication to the Town.**

14.1.3 Standards for Dedication

All land dedicated for recreation and park development shall substantially meet the following standards:

- A) *Unity*  
The dedicated land shall form a single parcel of land except where the Town Council determines that two (2) or more parcels would be in the public interest and determines that a connecting path or strip of land is in the public interest, and in which case the width of the connecting property shall not be less than 30 feet wide.
- B) *Shape*  
The shape of the dedicated parcel of land shall be sufficiently square or round to be usable for recreational activities such as softball, tennis, croquet, etc.
- C) *Location*  
The dedicated land shall be located so as to reasonably serve the recreation and open space needs of the development for which the dedication was made and shall bear a reasonable relationship to the use of the area by the future inhabitants of the residential development.
- D) *Access*  
Public access to the dedicated land shall be provided either by adjoining street frontage or public access easement at least 20 feet in width.
- E) *Topography*  
Generally areas dedicated for recreation shall not exceed slopes of 5%.
- F) *Usability*  
The dedicated land shall be usable for recreation; lakes or ponds may not be included in computing dedicated land area. **In order to determine usability, a Phase 1 site assessment shall be submitted by the developer for consideration by Town Council.**
- G) *Plans*  
Municipal and county plans shall be taken into consideration when evaluating land proposals for dedication.

**PLANNING STAFF RECOMMENDATION:**

Planning staff recommends approval of the proposed UDO amendments.

**PLANNING BOARD RECOMMENDATION:**

The Planning Board heard these amendments at their August 10, 2020 meeting and unanimously recommended approval.

# PLANNING BOARD REPORT TO TOWN COUNCIL

## Unified Development Ordinance Amendments

Planning Board Meeting Date: August 10, 2020



### Report Requirements:

Per NCGS 160A-387, all proposed amendments to the zoning ordinance or zoning map shall have a written report provided from the Planning Board to the Town Council within 30 days of referral of the amendment to the Planning Board, or the Town Council may proceed in its consideration of the amendment without the Planning Board report. Furthermore, in no case is the Town Council bound by the recommendations, if any, of the Planning Board.

### Planning Board Recommendation:

Motion: Motion to approve as proposed.

Introduced by Planning Board member: Beth Godfrey

Seconded by Planning Board member: Reginald Skinner

- 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 7 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 10th day of August 2020.

Attest:

**Michael Marks** Digitally signed by Michael Marks  
Date: 2020.08.10 19:04:57 -04'00'

Michael Marks, Planning Board Chair

**Dianne Khin** Digitally signed by Dianne Khin  
Date: 2020.08.10 17:06:05 -04'00'

Dianne Khin, Planning Director



**TOWN OF APEX**  
POST OFFICE BOX 230  
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. 6.3.1.D *Small Town Character Overlay District, Approval Criteria* in order to eliminate the requirement for building landscaping requirements for all development and eliminate the vehicular use area screening and shading requirements for public parking lots within the Central Business District.
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3. Amendments to Sec. 14.1.3 *Parks, Recreation, and Open Space Sites; Standards for Dedication* in order to verify the usability of land proposed for dedication by requiring a Phase 1 site assessment prior to land dedication to the Town.

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

**Town Council Public Hearing Date and Time:** August 18, 2020 6:00 PM  
You may 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, August 17, 2020, following instructions in the [Remote Participation policy](#). The policy includes options to provide comments by email ([public\\_hearing@apexnc.org](mailto:public_hearing@apexnc.org), 350-word limit) or voicemail (919-372-7300, 3-minute limit).

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 24-August 18, 2020



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