

# STAFF REPORT

## Amendments to the Unified Development Ordinance

May 5, 2020 Town Council Meeting



### Requested by the Planning Committee:

1. **Amendments to Sec. 2.1.2.B *Planning Board, Membership* and Sec. 2.1.2.D *Quorum* in order to increase the number of members to nine (9), provide new criteria for the composition of the Board, add a non-voting member from the Apex Historical Society, reduce the length of terms to two (2) years, increase the number of terms allowed to four (4), and remove the requirement for a public hearing when removing a Planning Board member.**

#### 2.1.2 Planning Board

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##### B) *Membership*

- 1) ***Number.* The Planning Board shall consist of ~~eight~~ nine (9) voting members and one (1) non-voting member.**
- 2) ***Composition of the Members ~~between Town and ETJ.~~***
  - a) **Composition between Town and ETJ.** The composition of membership between the Town and ETJ shall be as follows:
    - ~~a)(i)~~ **(i)** The composition of the members shall reflect proportional representation between the Town's corporate limits and the ETJ.
    - ~~b)(ii)~~ **(ii)** ETJ membership shall be based on the proportionality of population between the Town and the ETJ. This shall be determined by estimating the total population in the ETJ as a percentage of the population in the Town's corporate limits and the ETJ and multiplying this percentage by ~~eight~~ **nine (9)** (the total required **voting** membership), rounding up to the next whole number. Members appointed from the ETJ shall be residents of the ETJ and citizens of Wake County.
    - ~~c)(iii)~~ **(iii)** The balance of the Planning Board's membership shall reside within the Town's corporate limits, **with the exception of the members referenced in Secs. 2.1.2.B.2.b and 2.1.2.B.2.c, whose residency requirements shall be determined by those Sections.**
    - ~~d)(iv)~~ **(iv)** Membership composition shall be adjusted to reflect changes in the population between the Town and the ETJ every ~~three~~ **two (2)** years.
    - ~~e)~~ **(v)** ~~All members of the Planning Board shall have voting power on all matters of business.~~

- b) One (1) member of the Planning Board shall reside outside the corporate limits and ETJ, but within the area covered by the Town's 2045 Land Use Map.
  - c) One (1) non-voting member of the Planning Board shall be a member of the Apex Historical Society and may reside either within or outside the Town's corporate limits. However, the Town Council is not authorizing the Planning Board to operate as a historic preservation commission pursuant to NCGS 160A-400.7.
  - d) All members of the Planning Board, except the non-voting member from the Apex Historical Society, shall have voting power on all matters of business.
- 3) *No elected official or Town employees.* No member of the Town Council or a Town employee shall serve on the Planning Board. To the greatest extent possible, a ~~majority~~ half of the membership on the Planning Board should consist of persons with special training or experience in planning, real estate and development, architecture, landscape architecture, and the law.
- 4) *Appointment.* Members shall be appointed as follows:
- a) Regular members of the Planning Board from the ETJ shall be appointed by the ~~Board of County Commissioners of Wake County~~ Board of Commissioners.
  - b) Regular members of the Planning Board from the Town shall be recommended by the ~~m~~Mayor and appointed by the Town Council.
  - c) The regular member of the Planning Board who resides outside the corporate limits and ETJ, but within the area covered by the Town's 2045 Land Use Map shall be recommended by the Mayor and appointed by the Town Council.
  - d) The non-voting member of the Planning Board shall be recommended by the Mayor and appointed by the Town Council.
- 5) ~~*Initial establishment Terms.* At the initial establishment of the Planning Board, three members shall be appointed for a term of three years, three members shall be appointed for a term of two years, and two members shall be appointed for a term of one year. Thereafter, new appointments~~ Members shall be appointed for terms of ~~three~~ two (2) years shall be made. No member of the Planning Board may serve more than ~~three~~ four (4) consecutive ~~three~~ two (2) year terms.
- 6) *Removal.* Any member of the Planning Board shall be removed for cause (neglect of duty, malfeasance, misconduct, or failure to faithfully attend meetings) by the Town Council upon written charge ~~and after a public hearing.~~

- 7) *Filling of vacancy.* Vacancies occurring for reasons other than expiration of terms shall be filled for the period of the unexpired term by the same method as the original appointment.

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D) Quorum

No meeting of the Planning Board shall be called to order, nor may any business be transacted by the Planning Board, without a quorum consisting of the majority of the Planning Board's membership excluding vacant seats **and the non-voting member** being present.

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2. **Amendments to Secs. 2.1.2.I *Planning Board, Compensation*; 2.1.3.H *Board of Adjustment, Compensation*; and 2.1.4.I *Transit Advisory Committee, Compensation* and the addition of Secs. 2.1.5.C *Parks, Recreation, and Cultural Resources Advisory Commission, Compensation* and 2.1.9.C *Apex Environmental Advisory Board, Compensation* in order to add language to allow said bodies to receive compensation as authorized by Town Council in the annual budget.**

2.1.2.I Planning Board, Compensation

The members of the Planning Board shall serve without compensation **as authorized by Town Council in the annual budget.**

2.1.3.H Board of Adjustment, Compensation

The members of the Board of Adjustment shall serve without compensation **as authorized by Town Council in the annual budget.**

2.1.4.I Transit Advisory Committee, Compensation

The members of the Transit Advisory Committee shall serve without compensation **as authorized by Town Council in the annual budget.**

2.1.5 Parks, Recreation, and Cultural Resources Advisory Commission

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**C) Compensation**

**The members of the Parks, Recreation, and Cultural Resources Advisory Commission shall serve with compensation as authorized by Town Council in the annual budget.**

2.1.9.C Apex Environmental Advisory Board

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**C) Compensation**

**The members of the Apex Environmental Advisory Board shall serve with compensation as authorized by Town Council in the annual budget.**

**Requested by Planning Staff:**

3. Amendments to Sec. 4.2.2 Use Table and Sec. 4.4.5.F Supplemental Standards, Commercial Uses, Public Accommodation in order to permit the use “Hotel or motel” in the B1 zoning district and to amend the supplemental standards for the use.

4.2.2 Use Table

Use Type	Definition Section	Zoning Districts																							Standards
		Residential									Business						Planned Development			Other			Section(s)		
		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			
Public Accommodation																									
Bed and breakfast	4.3.5.F.1	S	S						S	P		P	P				P	P				**	P*	4.4.5.F.1; 6.3	
Hotel or motel	4.3.5.F.2										<u>P</u>	<u>P</u>	<u>P</u>				P	P	P				**	P*	4.4.5.F.2; 6.3

4.4.5 Supplemental Standards, Commercial Uses

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F) Public Accommodation

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2) Hotel or motel. A hotel or motel shall comply with the following standards:

- a) ~~The minimum lot area shall be one acre or the minimum required by the district, whichever is greater;~~
- b) ~~The minimum lot width shall be at least 100 feet or the minimum required by the district, whichever is greater; and~~
- c) ~~The number of sleeping units shall not exceed one per 1,000 square feet of lot area.~~

**a) In the B1 and B2 districts the following standards shall apply:**

- i. **No more than 75 guest rooms for lodging shall be provided.**
- ii. **Guest units shall be reached from an interior corridor.**

4. Amendments to Sec. 7.1.7 Substitution of Fees in Lieu of Public Improvements in order to remove references to the Planning Board based on recent amendments to the subdivision process.

7.1.7 Substitution of Fees in Lieu of Public Improvements

- A) Where, because of topographical features or other conditions peculiar to the site, strict adherence to the provisions of this ~~a~~Article requiring public improvements would cause an unnecessary hardship or provide an unwarranted or unrealistic result, the ~~Planning Board may recommend and the Town Council~~ may authorize that the reasonable cost of

such improvement if made be paid into the Town treasury in lieu of the improvement so long as same can be done without materially altering the intent of this ~~a~~Article; provided, however, the amount of such fee paid in substitution of the public improvement shall reasonably relate to the applicant's fair share of the cost of such public improvements as determined by the Public Works and Transportation Director and the Water Resources Director or some other professional engineer approved by the Town; and provided, further, that the Town Council may in its discretion, use said fee to construct some other public improvement calculated to be of significant benefit to the said property of the applicant either directly or indirectly. Any such ~~recommendation for substitution or~~ substitution authorized as aforesaid shall be recorded in the minutes of ~~both the Planning Board and~~ the Town Council with a statement of the reasoning justifying the substitution.

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**PLANNING STAFF RECOMMENDATION:**

Planning staff recommends approval of the proposed UDO amendments.

**PLANNING BOARD RECOMMENDATION:**

The Planning Board heard these amendments at their March 9, 2020 meeting and unanimously recommended approval with the following exceptions:

1. For amendments to Sec. 2.1.2.B *Planning Board, Membership*, recommendation is to keep the Planning Board term length at three years and number of terms at three consecutive terms; and
2. For amendments to the multiple sections in Amendment #2, recommendation is for an up to \$50 per meeting reimbursement rather than compensation.

# PLANNING BOARD REPORT TO TOWN COUNCIL

## Unified Development Ordinance Amendments

March 9, 2020 Planning Board Meeting



### 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: Recommend approval with exception  
of 2.1.2.B.5 Planning Board membership\* and  
Introduced by Planning Board member: Mark Steele Amendment #2 in  
Seconded by Planning Board member: Reginald Skinner Staff report\*\*

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

\* Recommendation is to keep the terms at  
3 years and number of terms at 3  
consecutive terms.

\*\* Recommendation is for an up to \$50 per  
meeting reimbursement rather than  
compensation.

- 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 9<sup>th</sup> day of March 2020.

Attest:

Michael Marks  
Michael Marks, Planning Board Chair

Dianne F. Khin  
Dianne Khin, Planning Director



## TOWN OF APEX

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

## **CONTINUED** **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 Committee:**

1. Amendments to Sec. 2.1.2.B *Planning Board, Membership* and Sec. 2.1.2.D *Quorum* in order to increase the number of members to nine (9), provide new criteria for the composition of the Board, add a non-voting member from the Apex Historical Society, reduce the length of term to two (2) years, increase the number of terms allowed to four (4), and remove the requirement for a public hearing when removing a Planning Board member.
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#### **Requested by Planning Staff:**

3. Amendments to Sec. 4.2.2 *Use Table* and Sec. 4.4.5.F *Supplemental Standards, Commercial Uses, Public Accommodation* in order to permit the use "Hotel or motel" in the B1 Neighborhood Business zoning district and to amend the supplemental standards for the use.
4. Amendments to Sec. 7.1.7 *Substitution of Fees in Lieu of Public Improvements* in order to remove references to the Planning Board based on recent amendments to the subdivision process.

**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:** ~~March 17, 2020~~ **May 5, 2020** 6:00 PM

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

Dianne F. Khin, AICP  
Planning Director

Published Dates: February 25-~~March 17, 2020~~ **May 5, 2020**



**TOWN OF APEX**  
POST OFFICE BOX 220  
APEX, NORTH CAROLINA 27702  
PHONE 919-249-3426

**CONTINUED**  
**PUBLIC NOTIFICATION**  
**OF PUBLIC HEARING**

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

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Dianne F. Khin, AICP  
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