

PLANNING COMMISSION AGENDA

Tuesday, June 9, 2020, 5:30 p.m.

Virtual Meeting

1. Call To Order
2. Roll Call
 - Akram Al-Turk
 - Nathaniel Baker
 - George Brine
 - Brian Buzby, Vice Chair
 - Erin Durkin
 - Elaine Hyman, Chair
 - Cedric Johnson
 - Armeer Kenchen
 - David Lowe
 - Scot MacIver
 - Tom Miller
 - David Morgan
 - Cristian Santiago
 - Carmen Williams
3. Approval Of The Minutes And Consistency Statements
 - None
4. Adjustments To The Agenda
5. Public Hearing: Comprehensive Plan Future Land Use Map Amendments
 - None
6. Public Hearings: Comprehensive Plan Future Land Use Map Amendments With Concurrent Zoning Map Changes
 - None
7. Public Hearing: Zoning Map Changes
 - None
8. Public Hearings: Text Amendments To The Unified Development Ordinance
 - a. TC1900004 Various Amendments related to Affordable Housing and Falls/Jordan District A Watershed (continued from February 11, 2020)

Documents:

[TC1900004.PDF](#)

9. Public Hearings: Text Amendments To The Durham Comprehensive Plan
 - None
10. Public Hearings: Text Amendments With Rezoning
 - None
11. Old Business
 - None
12. New Business
 - None
13. Adjournment

How to Access the Virtual Meeting

- Planning Commission members will receive a special email link to access the virtual meeting.
- Members of the public can access the meeting by registering at https://zoom.us/webinar/register/WN_VUnAc2wjTrWpU0Q7FhahIA or by calling 1-312-626-6799 (Webinar ID: 973 2545 7620). Standard calling charges may apply.
- The meeting will also be live streamed on YouTube at <http://YouTube.com/cityofdurhamnc>.

Cómo acceder a la reunión virtual

- Los miembros de la Comisión recibirán un enlace especial por correo electrónico para acceder a la reunión virtual.
- Los miembros del público pueden acceder a la reunión registrándose en https://zoom.us/webinar/register/WN_VUnAc2wjTrWpU0Q7FhahIA o llamando al 1-312-626-6799 (ID del seminario web: 973 2545 7620). Se pueden aplicar cargos de llamadas estándar.
- La reunión también se transmitirá en vivo en YouTube en <http://YouTube.com/cityofdurhamnc>.

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Aviso bajo el Plan de Acceso al Idioma

Personas que requieran asistencia lingüística para participar efectivamente en este evento pueden comunicarse con el Departamento de Planificación de la Ciudad y el Condado al 919-560-4137 o Sara.Young@durhamnc.gov para solicitar los servicios de interpretación y / o traducción tan pronto como sea posible pero no menos de 48 horas antes del evento o fecha límite.

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Persons with disabilities may receive an auxiliary aid or service to effectively participate in city government activities by contacting the ADA Coordinator, voice 919-560-4197, fax 560-4196 or ADA@durhamnc.gov, as soon as possible but no later than 48 hours before the event or deadline date.

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Date: June 9, 2020

To: Members of the Durham Planning Commission

Through: Patrick O. Young, AICP, Planning Director

From: Michael Stock, AICP, Senior Planner

Subject: *Unified Development Ordinance* Text Amendment, Various Amendments related to Affordable Housing and the Falls/Jordan District A Watershed (TC1900004)

Note: *This request was continued on February 11, 2020, for two cycles. In the interim, a Planning Commission subcommittee was formed to develop a recommendation to the whole Planning Commission. However, the subcommittee has not met since the COVID-19 outbreak. Therefore, no recommendation or changes to the request have been provided at this time. However, two sets of comments submitted after the Planning Commission hearing are attached..*

Summary

Text amendment TC1900004 is a privately-initiated request to amend provisions of the *Unified Development Ordinance* (UDO) regarding the Affordable Housing Bonus, Planned Development Residential (PDR) zoning requirements, open space and tree coverage requirements, parking standards, the definition of “family,” and uses within the Falls/Jordan District A (F/J-A) watershed overlay. The applicant indicates that the proposed UDO amendments are primarily intended to increase the viability of private-market-created affordable housing dwelling units and the utilization of the Affordable Housing Bonus in Sec. 6.6 of the UDO. The proposed amendment to uses within the F/J-A watershed are to specifically allow nonresidential uses allowed in residential districts, in addition to the current allowance of nonresidential uses in the Commercial Neighborhood (CN) district (see Attachment A for the application).

Recommendation

The staff recommends approval.

Background

The applicant for the proposed amendments is James Anthony of the Anthony Property Group. Most of the proposed amendments are directly related to providing private-market-financed dwelling units what will be more affordable than most newly constructed housing options and/or associated with utilizing the Affordable Housing Bonus in Sec. 6.6 of the UDO. Staff has met with the applicant prior to his submittal, where staff discussed the proposed amendments and the overall process. The application (Attachment A) includes additional requests made by the applicant subsequent to the original submittal.

The Affordable Housing Bonus was first introduced through the Merged Zoning Ordinance (MZO) in 1994 as the Affordable Housing Density Bonus, and has been amended over the years. The most recent amendments include establishing the 75 dwelling unit/acre interim density bonus for Compact Neighborhood Tiers, and increasing the bonus for the Suburban and Urban Tiers from one to two additional units per every one affordable unit. To this date the bonus program has been used only once¹.

Planned Development Residential (PDR) districts are a type of planned districts that generally provide development flexibility over standard residential districts, and require approval of a development plan by the applicable governing body. In the County ordinances prior to the MZO, which was established in 1994, these types of districts were called Planned Unit Developments (PUD).

Tree coverage and protection standards were first adopted within the MZO and have remained relatively consistent through the years. In 2008, tree coverage requirements were added to residential development in the Urban Tier (3%), and in October 2019, the City Council and Board of County Commissioners approved increased tree coverage requirements for the Urban Tier, among other additional tree coverage and landscaping changes (case TC1800005).

Parking requirements related to affordable housing dwelling units were first amended through TC1500003, where minimum parking requirements were removed for the Compact Neighborhood Tier. Subsequent amendments removed minimum requirements for the Urban Tier, and for overall projects in the Compact Neighborhood Tier that included affordable housing units.

With the exception of Reasonable Accommodations², the current definition of “Family” was established in the City Zoning Ordinance in the late 1980s. Reasonable Accommodations was added to the definition in 2016 (case TC1500006).

The Joint City-County Planning Committee (JCCPC) reviewed the applicant’s proposal and staff comments at its December 2019 meeting. The JCCPC recommended staff suggestions, but also indicated hesitancy towards the amount of reduction (50%) for open space and tree coverage requested by the applicant when using the Affordable Housing bonus, which was consistent with staff’s concerns.

Issues

The following is a discussion of each proposed amendment:

- 1. Amendment to Sec. 6.6, Affordable Housing Bonus**

Discussion: The applicant’s proposed amendment to paragraph 6.6.1, General Requirements, makes two changes: 1) it adds multifamily developments to the list of

¹ Approved site plan D1700388, North Duke Street Mixed Use Development. This project uses the Affordable Housing Bonus to gain an additional 11 dwelling units for a total of 40 dwelling units (8 affordable and 32 market rate)

² Reasonable Accommodations is a quasi-judicial procedure to seek relief from ordinance requirements if determined they inhibit disabled persons an equal opportunity to housing, based upon requirements of the federal Fair Housing Amendment Act (FHA) of 1988 and the American with Disabilities Act (ADA).

housing types that can have reduced dimensional standards, and 2) it increases the allowed dimensional standard reductions to 50%. Staff supports the proposed changes, except for street yards, as it adds more opportunities and flexibility to apply the bonus. Allowing a substantial change in street yard requirements could allow for infill development that may be demonstrably out of context with neighboring properties. Limiting the street yard flexibility should not hamper the production of affordable units.

Therefore, as proposed in Attachment B, staff has presented a revised version that maintains the current 20% reduction for street yards, and adds an additional limit on the reduction if infill standards apply.

The proposed changes are consistent with the recommendation from the JCCPC.

2. Amendments to Paragraph 6.11.3, Planned Development Residential (PDR)

- Amend paragraph 6.11.3B.1, Site Area
Discussion: Staff has identified no concerns with the proposed change. Currently, no minimum acreage is required in the Urban Tier. Since any initial establishment of a PDR requires governing body approval, removing the minimum initial site acreage for the Suburban Tier appears reasonable and is consistent with proposals within the Urban Tier.

The proposed changes are consistent with the direction received from the JCCPC.

- Amend paragraph 6.11.3D.2, Building Separation
Discussion: Staff supports the intent of the proposed change. Building separation has served as a proxy for side and rear yard setbacks. The current separation requirements encourage more sprawling developments as the density increases. The proposal also maintains the ability of the governing body to approve any alternative separation requirement as part of the development plan. Staff added the term “increase” to paragraph c to reflect the ability to reduce or increase building separations.

The proposed building separation reductions are consistent with the recommendation from the JCCPC.

- Amend paragraph 6.11.3E.1, Street Yards
Discussion: The applicant proposes amending the street yards to 10 feet for densities up to 16 dwelling units per acre, with a cross reference to allowed street yard reductions when using the Affordable Housing bonus. Staff supports the intent of the proposed change. The current yard requirements are based upon density and encourage more sprawling developments as the density increases. As mentioned above, since any PDR requires governing body approval, a basic minimum street yard similar to the one proposed by the applicant may make more sense and provide more design flexibility.

Staff has not identified any need to differentiate setbacks based upon density. Staff has therefore presented an alternative revision to a minimum eight feet, regardless of the density. Eight feet is consistent with the minimum street yard for a conservation subdivision and the current minimum for a PDR for densities ranging from one to eight units/acre.

The proposed changes are consistent with the recommendation from the JCCPC.

- Amend paragraph 6.11.3F, Open Space
Discussion: As understood by staff, a primary reason for suggesting a reduction in open space, among other suggested reductions, is to allow for more land to accommodate additional units allowed through the Affordable Housing Bonus program. As the current standards are prescribed for a PDR, the higher the density the more open space is required. Thus more land is needed to achieve higher densities.

Therefore, staff agrees that modifying the required open space is reasonable. The *Comprehensive Plan* establishes the following open space level of service standards:

Objective 7.2.1. Open Space Level of Service Standards

Establish and maintain appropriate level of service standards for open space in the City and County.

Table 7-1, Open Space Level Of Service Standards		
	Minimum Open Space Required	
	Residential	Nonresidential
Rural Tier	40%	--
Suburban Tier	15%	10%
Urban Tier	5%	3%

For context, the following are minimum open space requirements for in other districts:

RR, RS-20	None required
RS-10, RS-8	15%
RS-M	18%
RU-5, RU-5(2)	5%
RU-M	6%
RC	Core: 2%; Support: 5%
MU	Suburban Tier: 10%; Urban tier: 5%, Compact Neighborhood Tier: 2%
Residential development in	Rural/Suburban tier: 18% Urban tier: 6%

nonresidential districts	Compact Neighborhood: Core- 2%; Support- 5%
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Within the previous MZO, the PDR District had the following open space requirements:

Residential Density in PDR Tract (dwelling units per acre)	Percent of Gross Site Area Required as Open Space
0 – 3	5
3.01 –6	10
6.01 to 10	12
10.01 -16.0	15
16.01 - 25.0	18

The request focuses on reducing open space when utilizing the Affordable Housing Bonus. A supportive rationale would be that affordable housing is a primary need for Durham, and that facilitating the production of affordable housing by reducing, but not eliminating, certain standard requirements such as open space, is a worthwhile trade-off. The argument against the request is that residents, whether living in affordable housing units or market rate units, deserve the same amenities, and that historically underserved communities have experienced lack of quality-of-life investments that other neighborhoods and communities have typically enjoyed.

Based upon feedback from JCCPC, the proposed amendment to this section allows for:

1. A 30%, instead of 50%, reduction if specified on the development plan; and
2. Requirements for the applicant to demonstrate the need for the reduction and specify how the open space is provided throughout the development and the types proposed.

These changes address concerns about the amount of the requested reduction, maintains the condition that it must be part of the development plan (and not a by-right allowance), and adds additional requirements for the reduction for consideration by the governing body. Additionally, changes to the actual open space requirements are presented to reflect, and be consistent with, open space requirements of other zoning districts, differences based upon tier, and the policy of the *Comprehensive Plan*.

3. Paragraph 8.3.1, Tree Coverage Standards

Amend paragraph 8.3.1B, Applicability, to allow a 50% by-right reduction of tree coverage if using the Affordable Housing bonus.

Discussion: The City Council and Board of County Commissioners approved additional tree coverage and landscaping requirements through text amendment case TC1800005 in October. A proposal to reduce tree coverage has the same issues raised regarding

open space. Furthermore, there is the current City initiative to maintain at least 50% tree canopy, and with recognition that historically underserved parts of the community generally maintain less tree canopy, additional trees are currently being planted by the City at a rate of 1,500 a year.

Staff was not supportive of the proposal to the extent requested by the applicant, which would allow any development utilizing the Affordable Housing Bonus to get an automatic tree coverage reduction of 50%, and the JCCPC had similar concerns. Staff was supportive of a reduction request only through approval through a development plan, requiring governing body approval, for the same reason as indicated for open space; that is, there may be unique design proposals that may warrant reduced tree coverage if the Affordable Housing Bonus is utilized.

Therefore, the amendment presented reflects text similar to amendments to PDR open space requirements, where:

1. A 30%, instead of 50%, reduction is allowed only if using the Affordable housing bonus and demonstrated on a development plan (thus *not* by-right); and
2. The applicant must demonstrate need and specify location throughout the proposed development to the governing body.

4. Paragraph 10.3.1, Required Motorized Vehicle and Bicycle Parking

Amend paragraph 10.3.1B, Required Parking

Discussion: Staff supports the intent of the proposed change. Over the past several years, the governing bodies have approved text amendments that reduced or eliminated minimum parking requirements for units that qualify as “affordable housing dwelling units” as defined by the UDO. The proposal would continue that policy by eliminating minimum parking required in the suburban tier for “affordable housing dwelling units” currently available to units in the Compact Neighborhood and Urban tiers, while not preventing the ability to provide parking spaces. The Downtown Tier is not considered because no minimum parking is required for any use.

The proposed changes are consistent with the recommendation from the JCCPC.

5. Sec. 17.3, Defined Terms

Amend the definition of “family” to allow six unrelated individuals, instead of three, to be considered a “family”

Discussion: As indicated above, currently a maximum of three unrelated persons qualifies as a “family.” The following shows how other jurisdictions or agencies define unrelated individuals as a “family”.

Raleigh	4 persons
Greensboro	4 persons
Wilmington	2 persons
Greenville	3 persons
Boone	No limit indicated

Charlotte	6 persons
Chapel Hill	No limit indicated, but specifies other uses that do not qualify
Asheville	5 persons
NC Residential Building Code	5 persons
Family Care home, required by-right by state statute	6 persons

For context, historical Durham zoning ordinances and the current Minimum Housing Code are as follows:

City of Durham, 1940	Not defined
City of Durham, 1969	4 unrelated persons
Durham County, 1990	No limit indicated
City of Durham, 1990	Same as UDO
Merged Zoning Ordinance, 1994	Same as UDO
Current Durham Minimum Housing code	No limit indicated

As indicated above, Durham’s limit of three unrelated individuals is low in comparison to many other jurisdictions and the State Building Code, and became more restrictive over the years. Practically, enforcement is difficult due to the inability to require proof of relation status, or the lease indicates an allowable number of individuals. Limiting individuals also precludes opportunities for lower cost housing arrangements. Thus, staff has no concern with the requested change, and is consistent with the direction provided by the JCCPC.

6. Paragraph 4.11.4 Nonresidential Land Use Restrictions

Amend the uses allowed for the F/J-A Watershed Overlay to included nonresidential uses in residential districts, in addition to those currently allowed in the Commercial Neighborhood (CN) district.

Discussion: Staff supports the requested change. The applicant is considering a campground on a site zoned RR and in the F/J-A watershed overlay. The proposed change would allow for nonresidential uses in residential districts, allowed by right or with a special use permit. Other uses that could also be allowed per the base zoning district, but are currently prohibited, would be other outdoor activities, certain wireless communication facilities (WCFs), cemeteries, vet clinics, antique shops, and retreat houses. These uses are no more intense than those allowed in the CN district.

The proposed changes are consistent with the recommendation from the JCCPC.

Consistency with the Comprehensive Plan; Reasonableness and in the Public Interest

The proposed changes appear consistent with the *Comprehensive Plan*, specifically considering the following objectives and policies:

- **Objective 3.1.1, Affordable Housing Enhancements:** Facilitate the provision of affordable housing by regulatory and incentive-based means.
- **Objective 7.2.1, Open Space Level of Service Standards (as specifically described above):** Establish and maintain appropriate level of service standards for open space in the City and County.
- **Policy 9.1.4b, Watershed Critical Areas and Land Use:** The City-County Planning Department shall use the Unified Development Ordinance to prohibit industrial land uses and maintain zoning that permits only low density land uses in the Watershed Critical Areas, the most sensitive land near water supply reservoirs.

Based upon conformance to the *Comprehensive Plan*, consistency with the intent by the governing bodies to explore methods to encourage the private sector to provide affordable housing, and for the F/J-A, modifying land use allowances that do not provide for more intense land uses, the requested changes appear reasonable and in the public interest.

Contact. Michael Stock, AICP, Senior Planner, 919-560-4137 ext. 28227;
Michael.Stock@DurhamNC.gov.

Attachment:

Attachment A: TC1900004 Application

Attachment B: AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE REGARDING REVISIONS PRIMARILY RELATED TO AFFORDABLE HOUSING AND USES IN THE F/J-A WATERSHED OVERLAY (TC1900004)- PC Draft

Attachment C: Audubon comments

Attachment D: Johnson Service Corps comments



Durham City-County Planning Department

UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT APPLICATION

Planning

Applicant Information

Name: James I. Anthony	Telephone: 919-832-1110
Company/Organization: Anthony Property Group	Email: janthony@aacre
Address: 1201 Edwards Mill Rd, Suite 300	City/State/Zip: Raleigh, NC 27607

Proposed Amendment(s)

In the space below, provide details of the proposed amendment(s), including:

1. Current UDO Reference: (List Articles, Sections, and paragraphs affected to the best of your knowledge);
2. Current and proposed text (with strike-out of deleted text and underline of proposed text), diagram, and/or illustration; OR detailed description of desired change; and
3. Justification for the amendment(s), including to the best of your knowledge:
 - a. How the proposal is consistent with the *Comprehensive Plan* citing applicable goals, objectives, and/or policies;
 - b. How the proposal is reasonable and in the public interest; and
 - c. How the proposal may affect other portions of the UDO, as applicable.

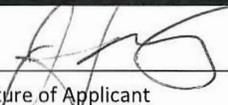
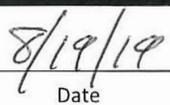
See attached sheets

(attach additional sheets as needed)

Contact Information: For questions regarding text amendment applications, please contact Michael Stock, Senior Planner at 919-560-4137 ext.28227 or Michael.Stock@DurhamNC.gov.

Submit To: Durham City-County Planning Department, 101 City Hall Plaza, Durham, NC 27701.

Signature of Applicant (Required)

	
Signature of Applicant	Date

Tracking Information (Staff Only)

Assigned Case #: JC1900004	Date Received: 8/28/19
Received By: 	Fees Paid: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Anthony Property Group – Requested UDO Text Amendments

Section 4.11.4 – Nonresidential Land Use Restrictions

Except in the Rural Tier, nonresidential uses shall be prohibited, except that public and civic uses listed in paragraph 5.2.4, Public and Civic Use Categories, commercial uses listed in paragraph 5.2.5, Commercial Use Categories, office uses listed in paragraph 5.2.5J, Office Use Categories, and light industrial uses listed in paragraph 5.2.6A, Light Industrial Service, shall be permitted on land zoned for such uses (see Sec. 5.1, Use Table) as of September 28, 1992, provided that they do not manufacture, distribute or warehouse for distribution nuclear materials or substantial quantities of hazardous materials. Such uses may be permitted to store for on-site use or produce as a waste product nuclear materials or substantial quantities of hazardous materials, subject to the requirements of paragraph 8.7.2G, Hazardous and Nuclear Materials, provided that they maintain a 1000-foot natural vegetated buffer from the normal pool of the reservoir except when located in a special flood hazard area.

Land already zoned for one of the above uses may be rezoned to permit one of the above nonresidential uses, except for commercial uses, in accordance with the procedures of Sec. 3.5, Zoning Map Change.

Within the Rural Tier, nonresidential uses shall be prohibited except that uses allowed in the CN District may be permitted. The sale of fuel for motor vehicles shall be prohibited.

Amend to:** Except in the Rural Tier, nonresidential uses shall be prohibited, except that public and civic ***and outdoor recreation uses listed in paragraph 5.2.4, Public and Civic Use Categories, commercial uses listed in paragraph 5.2.5, Commercial Use Categories, office uses listed in paragraph 5.2.5J, Office Use Categories, and light industrial uses listed in paragraph 5.2.6A, Light Industrial Service, shall be permitted on land zoned for such uses (see Sec. 5.1, Use Table) as of September 28, 1992, provided that they do not manufacture, distribute or warehouse for distribution nuclear materials or substantial quantities of hazardous materials. Such uses may be permitted to store for on-site use or produce as a waste product nuclear materials or substantial quantities of hazardous materials, subject to the requirements of paragraph 8.7.2G, Hazardous and Nuclear Materials, provided that they maintain a 1000-foot natural vegetated buffer from the normal pool of the reservoir except when located in a special flood hazard area.

Land already zoned for one of the above uses may be rezoned to permit one of the above nonresidential uses, except for commercial uses, in accordance with the procedures of Sec. 3.5, Zoning Map Change.

~~Within the Rural Tier, nonresidential uses shall be prohibited except that uses allowed in the CN District may be permitted. The sale of fuel for motor vehicles shall be prohibited.~~

Section 6.6 – Affordable Housing Bonus

Existing: 6.6.1 D In single-family and duplex developments, required minimum lot area, lot width, and yard requirements can be reduced up to 20% in order to incorporate the additional units.

***Amend to:** In single-family, duplex and multifamily developments, required minimum lot area, lot width, and yard requirements can be reduced up to 50% in order to incorporate the additional units.

Section 6.11 Planned Districts

Existing: 6.11.3B. Dimensional Requirements

1. Site Area

B. Dimensional Requirements

1. Site Area

a. The area required for the initial approval of the zoning district shall be as follows:

(1) Within the Urban Tier, no minimum acreage shall be required.

(2) Within the Suburban Tier, a minimum of four contiguous acres shall be required.

b. Additions to an existing approved PDR can be made in increments of any size.

***Amend to include the Suburban Tier in the land area where no minimum acreage shall be required**

Section 6.11 Planned Districts

Existing: 6.11.3B. Dimensional Requirements

D2. Building Separation

a. Unless alternative building separation standards are established in Article 7, Design Standards, the minimum building separation shall be as follows:

Height of Taller Building	Distance Between Vertical Projections
<i>Under 35 feet</i>	<i>10 feet</i>
<i>35.1 to 40.0 feet</i>	<i>30 feet</i>
<i>40.1 to 50.0 feet</i>	<i>60 feet</i>
<i>50.1 to 85.0 feet</i>	<i>70 feet</i>
<i>85.1 to 90.0 feet</i>	<i>80 feet</i>

To determine the separation required, the vertical projections for each building shall be drawn from that point on each building that is horizontally closest to the other building.

***Amend to:**

Height of Taller Building	Distance Between Vertical Projections
<i>Under 35 feet</i>	<i>10 feet</i>
<i>35.1 to 40.0 feet</i>	<i>15 feet</i>
<i>40.1 to 50.0 feet</i>	<i>30 feet</i>
<i>50.1 to 85.0 feet</i>	<i>35 feet</i>
<i>85.1 to 90.0 feet</i>	<i>40 feet</i>

Section 6.11 Planned Districts

Existing: 6.11.3B. Dimensional Requirements

E. Yards

1. Street Yards

No building shall be erected, reconstructed, altered or moved nearer to the property line along the street on which such building faces than is indicated in the following table.

Residential Density	Minimum Street Yard
<i>1.0 to 8.0 units per acre</i>	<i>8 feet</i>
<i>8.1 to 16.0 units per acre</i>	<i>15 feet</i>
<i>More than 16.0 units per acre</i>	<i>25 feet</i>

***Amend to:**

Residential Density	Minimum Street Yard
<i>8.1 to 16.0 units per acre</i>	<i>10 feet</i>

*** Exceptions made for projects utilizing the Affordable Housing Bonus, otherwise the minimum street yard shall be 10 (ten) feet**

Section 6.11 Planned Districts

Existing: 6.11.3B. Dimensional Requirements

F. Open Space

1. Required open space shall be provided based upon the density of the project as follows:

Residential Density	Percent of Gross Area
<i>0 to 3.00 units per acre</i>	<i>15</i>
<i>3.01 to 6.00 units per acre</i>	<i>16</i>
<i>6.01 to 10.00 units per acre</i>	<i>17</i>
<i>10.01 to 16.00 units per acre</i>	<i>18</i>
<i>16.01 to 25.00 units per acre</i>	<i>20</i>

2. Uses of open space shall be as defined in Sec. 7.2, Open Space.

***Amend to: Required Open Space shall be reduced by 50% when the Affordable Housing Bonus is utilized**

Existing: Article 8.3 Tree Protection and Tree Coverage

8.3.1 Tree Coverage Standards

A. Purpose

The primary purpose of the tree coverage standards is the preservation and maintenance of undisturbed tree cover and the provision of replacement tree cover on development sites in the Urban and Suburban Tiers. Tree coverage serves to reduce glare, noise, air pollution, and soil erosion; to moderate temperatures; to reduce stormwater runoff; to preserve remnants of Durham's native ecology; to provide habitat for native plants and wildlife; to provide a healthy living environment; and to make Durham County a more attractive place to live.

B. Applicability

1. Tree coverage standards shall only be applied in the Urban and Suburban Tiers.

2. Developments in the RR and RS-20 Districts, and developments of less than four acres in size in the Urban Tier, shall be exempt from tree coverage requirements if enforceable assurances are provided that no mass grading as defined in Sec. 17.3, Defined Terms, or clear-cutting as defined in paragraph 8.3.4, Clear-Cutting, will be utilized during the development process.
3. No tree coverage is required in non-residential districts in the Urban Tier.
4. Additions to existing residential structures, excluding multiplexes and apartments, are exempt from tree coverage requirements.

***Amend to: 5. Within the Urban and Suburban tiers and PDR, required tree coverage shall be reduced by 50% when the Affordable Housing Bonus is being utilized**

Existing: Article 10 – Parking and Loading

10.3.1B.7 In the following tiers, the motor vehicle parking rates for household living dwelling units shall be as follows:

	Minimum	Maximum
Compact Neighborhood Tier:		
Household Living, except as Listed Below	1 space/unit	2 spaces/unit
<u>Affordable Housing Dwelling Units</u>	None	None
Urban Tier:		
<u>Affordable Housing Dwelling Units</u>	None	None

***Amend to include all tiers.**

Existing: Section 17.3 Definitions

4. Amend the definition of family per Sec. 17.3:

Family: One or more individuals residing in a dwelling unit, living as a single housekeeping unit, and complying with the following rules:

A. Any number of individuals related by blood, marriage, or adoption may occupy a dwelling unit;

B. Where some or all of the occupants are unrelated by blood, marriage, or adoption, the total number of occupants that are unrelated, shall not exceed three. In applying this provision, children who are under the age of 23 and who are children of the owner or a person renting an entire dwelling unit from the owner shall be counted as a single occupant. In addition, in all cases, the limitation set out in subsection C. below shall apply.

C. Where a reasonable accommodation has been approved.

D. The presence of household employees or children in foster care shall not disqualify any premises otherwise satisfying the above rules.

*** Amend to 17.3.4B B. Where some or all of the occupants are unrelated by blood, marriage, or adoption, the total number of occupants that are unrelated, shall not exceed six. In applying this provision, children who are under the age of 22 and who are children of the owner or a person renting an entire dwelling unit from the owner shall be counted as a single occupant. In addition, in all cases, the limitation set out in subsection C. below shall apply.**

These revisions are in the best interest of the City in promoting the use of the Affordable Housing Bonus with no burden to the taxpayer and encourages locating projects near and resident use of public and alternative methods of transportation.

Since there is an abundance of job opportunities in the Suburban Tier, many of which are accessible by bus or bicycle, it makes no sense to limit the Affordable Housing Bonus to the Urban Tier. Durham needs to encourage and support the creation of new, infill, naturally occurring affordable housing in the Suburban Tier for the next generation of workers and families.

Consistent with the Comprehensive Plan:

Ensure an adequate supply of affordable housing to meet the needs of all Durham County residents. Objective 3.1.1. Affordable Housing Enhancements Facilitate the provision of affordable housing by regulatory and incentive-based means.

Policy 3.1.1a. Density Bonus. Evaluate the density bonus allowed in the Unified Development Ordinance for enhancements or modifications to encourage greater utilization of this affordable housing tool in order to provide a workable density bonus as an incentive for provision of affordable housing units.

3.1.1b. Policy Impacts on Housing Affordability. Evaluate the net impact on housing affordability and housing supply in all received applications for neighborhood protection overlays and local historic districts.

This revision is in the best interest of the City in promoting the use of the affordable housing bonus with no burden to the taxpayer

We do not anticipate any effect on other parts of the Comprehensive Plan

**AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE
REGARDING REVISIONS PRIMARILY RELATED TO AFFORDABLE HOUSING AND USES IN THE
F/J-A WATERSHED OVERLAY (TC1900004)**

WHEREAS, the [Durham City Council/Board of County Commissioners] wishes to amend certain provisions in the Unified Development Ordinance primarily related to affordable housing and uses in the F/J-A watershed overlay; and

WHEREAS, the City and County of Durham are continuing to explore ways for the provision of affordable housing; and

WHEREAS, it is the objective of the [Durham City Council/Board of County Commissioners] to have the UDO promote regulatory efficiency and consistency and the health, safety, and general welfare of the community;

NOW, THEREFORE, be it ordained that Article 4, Zoning Districts; Article 6, District Intensity Standards; Article 8, Environmental Protection; Article 10; and Article 17, Definitions, of the *Unified Development Ordinance* is amended to make the following changes set forth in the deletions (strikethroughs) and additions (underlining) below:

PART 1

Sec. 6.6 Affordable Housing Bonus

[Paragraphs not listed remain unchanged]

6.6.1 General Requirements

D. Dimensional Standards

- 1.** In ~~single family and duplex~~single-family, duplex, and multifamily developments, required minimum lot area, ~~and~~ lot width, ~~and yard requirements~~ can be reduced up to ~~20%~~50% in order to incorporate the additional units.
- 2.** For required yards the following can apply:
 - a.** Side and rear yards can be reduced up to 50%.
 - b.** Street yards can be reduced up to 20%, unless street yard infill standards apply per Sec. 6.8 Infill Development in Residential Districts.

Sec. 6.11 Planned Districts

[Paragraphs not listed remain unchanged]

6.11.3 Planned Development Residential (PDR)

B. Dimensional Requirements

1. Site Area

No minimum site area for the initial approval of the zoning district is required.

- ~~a. The area required for the initial approval of the zoning district shall be as follows:~~
 - ~~(1) Within the Urban Tier, no minimum acreage shall be required.~~
 - ~~(2) Within the Suburban Tier, a minimum of four contiguous acres shall be required.~~

~~b. Additions to an existing approved PDR can be made in increments of any size.~~

D. Building Orientation

2. Building Separation

a. Unless alternative building separation standards are established in Article 7, Design Standards, the minimum building separation shall be as follows:

Height of Taller Building	Distance Between Vertical Projections
Under 35 feet	10 feet
35.1 to 40.0 feet	30 <u>15</u> feet
40.1 to 50.0 feet	60 <u>30</u> feet
50.1 to 85.0 feet	70 <u>35</u> feet
85.1 to 90.0 feet	80 <u>40</u> feet

To determine the separation required, the vertical projections for each building shall be drawn from that point on each building that is horizontally closest to the other building.

- b. Manufactured homes in parks shall maintain a distance of at least 16 feet between other manufactured homes. Added on rooms, porches, and other structures attached to the manufactured home shall be considered part of the manufactured home.
- c. The governing body can reduce or increase separations after consideration of the general bulk and scale in comparison with nearby development. Such modification shall only occur in conjunction with the approval of the development plan.

E. Yards

1. Street Yards

The minimum street yard shall be eight feet.

~~No building shall be erected, reconstructed, altered or moved nearer to the property line along the street on which such building faces than is indicated in the following table.~~

Residential Density	Minimum Street Yard
1.0 to 8.0 units per acre	8 feet
8.1 to 16.0 units per acre	15 feet
More than 16.0 units per acre	25 feet

F. Open Space

1. Required open space shall be provided based upon the ~~density of the project as follows~~following:

Residential Density	Percent of Gross Area
0 to 3.00 units per acre	15
3.01 to 6.00 units per acre	16
6.01 to 10.00 units per acre	17

<u>Residential Density</u>	<u>Percent of Gross Area</u>
<u>10.01 to 16.00 units per acre</u>	<u>18</u>
<u>16.01 to 25.00 units per acre</u>	<u>20</u>

<u>Tier</u>	<u>Percent of Gross Area</u>
<u>Urban</u>	<u>6%</u>
<u>Suburban</u>	<u>18%</u>

2. Uses of open space shall be as defined in Sec. 7.2, Open Space.
3. In the Suburban Tier, required open space may be reduced by 30% when the Affordable Housing Bonus is utilized only if shown on the development plan.
 - a. Applicants shall demonstrate to the governing body the need for the reduction; and
 - b. The development plan shall specify, graphically and/or by text, open space type(s) and layout.

Sec. 8.3 Tree Protection and Tree Coverage

[Paragraphs not listed remain unchanged]

8.3.1 Tree Coverage Standards

B. Applicability

1. Tree coverage standards shall only be applied in the Urban and Suburban Tiers.
2. Developments of less than two acres in size in the Urban Tier shall be exempt from tree coverage requirements if enforceable assurances are provided that no mass grading as defined in Sec. 17.3, Defined Terms, or clear-cutting as defined in paragraph 8.3.4, Clear-Cutting, will be utilized during the development process.
3. Additions to existing residential structures, excluding multiplexes and apartments, are exempt from tree coverage requirements.
4. Required tree coverage may be reduced by 30% when the Affordable Housing Bonus is utilized only if specified on a development plan.
 - a. The applicant shall demonstrate to the governing body the need for the reduction; and
 - b. On the development plan, tree coverage areas shall be specified and dispersed internally throughout the development.

Sec. 10.3 Required Parking

[Paragraphs not listed remain unchanged]

10.3.1 Required Motorized Vehicle and Bicycle Parking

B. Required Parking

7. In the following tiers, the motor vehicle parking rates for household living dwelling units shall be as follows:

	Minimum	Maximum
Compact Neighborhood Tier:		
Household Living, except as Listed Below	1 space/unit	2 spaces/unit
Affordable Housing Dwelling Units	None	2 spaces/unit
Urban Tier: Urban and Suburban Tiers		
Affordable Housing Dwelling Units	None	2 spaces/unit

Sec. 17.3 Defined Terms

Family: One or more individuals residing in a dwelling unit, living as a single housekeeping unit, and complying with the following rules:

- A. Any number of individuals related by blood, marriage, or adoption may occupy a dwelling unit;
- B. Where some or all of the occupants are unrelated by blood, marriage, or adoption, the total number of occupants that are unrelated, shall not exceed ~~three~~ **six**. In applying this provision, children who are under the age of 23 and who are children of the owner or a person renting an entire dwelling unit from the owner shall be counted as a single occupant. In addition, in all cases, the limitation set out in subsection C. below shall apply.
- C. Where a reasonable accommodation has been approved.
- D. The presence of household employees or children in foster care shall not disqualify any premises otherwise satisfying the above rules.

PART 2

Sec. 4.11 Watershed Protection Overlay

[Portions of the table, and paragraphs not listed, remain unchanged]

4.11.4 Nonresidential Land Use Restrictions

Nonresidential land uses shall be restricted in accordance with the following table and Sec. 8.7, Watershed Protection Overlay Standards.

Overlay	Development Restrictions
F/J-A	<p>Except in the Rural Tier, nonresidential uses shall be prohibited, except that public and civic uses listed in paragraph 5.2.4, Public and Civic Use Categories, commercial uses listed in paragraph 5.2.5, Commercial Use Categories, office uses listed in paragraph 5.2.5J, Office Use Categories, and light industrial uses listed in paragraph 5.2.6A, Light Industrial Service, shall be permitted on land zoned for such uses (see Sec. 5.1, Use Table) as of September 28, 1992, provided that they do not manufacture, distribute or warehouse for distribution nuclear materials or substantial quantities of hazardous materials. Such uses may be permitted to store for on-site use or produce as a waste product nuclear materials or substantial quantities of hazardous materials, subject to the requirements of paragraph 8.7.2G, Hazardous and Nuclear Materials, provided that they maintain a 1000-foot natural vegetated buffer from the normal pool of the reservoir except when located in a special flood hazard area.</p> <p>Land already zoned for one of the above uses may be rezoned to permit one of the above nonresidential uses, except for commercial uses, in accordance with the procedures of Sec. 3.5, Zoning Map Change.</p>

Overlay	Development Restrictions
	Within the Rural Tier, nonresidential uses shall be prohibited except <u>that those</u> uses allowed <u>in residential districts and</u> in the CN District may be permitted. The sale of fuel for motor vehicles shall be prohibited.

PART 3

That the Unified Development Ordinance shall be renumbered, including references, as necessary to accommodate these changes.

PART 4

That this amendment of the Unified Development Ordinance shall become effective upon adoption.

Stock, Michael

Subject: RE: Comments on proposed changes to UDO for Affordable Housing - hearing March 5, 9-11am

From: Barbara Driscoll [<mailto:btdriscoll@bellsouth.net>]

Sent: Wednesday, March 04, 2020 2:08 PM

To: Durham Planning Commission <DurhamPlanningCommission@durhamnc.gov>

Subject: Comments on proposed changes to UDO for Affordable Housing - hearing March 5, 9-11am

On behalf of New Hope Audubon, I am submitting comments on the proposed changes to Durham's UDO for the hearing on March 5.

Specific comments are attached. In general, New Hope Audubon recommends no changes to the current UDO as Durham is in the process of updating the Comprehensive plan based on public comments. Many of the comments already submitted are requesting more not less open space and green areas and more attention to native plantings including trees. These proposed changes would run counter-intuitive to what the public is requesting and needs.

Thank you for the opportunity to provide comments.

Barbara Driscoll,
President, New Hope Audubon

Edward L. Embree III
26 Old Oak Court
Durham, NC 27705

April 15, 2020

Patrick O. Young, AICP
Planning Director
Durham City/County Planning Department
101 City Hall Plaza
Durham, NC 27701

Re: Part 1, Section 17.3 Unified Development Ordinance

Dear Sir:

I write concerning the proposed modification to Paragraph B of the above-cited ordinance. I am specifically addressing the proposed increase in the permitted number of unrelated residents of a single family home from three to six. I support that change as does the organization that I refer to below.

I am a life-long resident of Durham and member of St. Philip's Episcopal Church. I am now on the Board of Johnson Service Corps ("JSC"). JSC is a member of the Episcopal Service Corps ("ESC"). JSC is a diverse ecumenical community of young adults committed to social justice, spiritual growth and community living in Chapel Hill and Durham. During normal times our eleven (current) participants or "Corps Members" reside together appropriately in houses located in Carrboro and Durham. For four days a week each Corps Member works as an intern for a local non-profit working, primarily in the areas of social and economic justice. Durham Children's Initiative/Partners for Youth Opportunity and Pauli Murray Center are examples of the placements

of our Durham Corps Members. On Fridays, all Corps Members meet together for sessions involving religion, social justice, financial management and personal development. More information about JSC can be found at johnsonservicecorps.org.

An essential aspect of the JSC experience is community living. Corps members live together in a house which has an appropriate number of bedrooms and bathroom; some of which are ADA accessible. Each house has a kitchen and dining area along with a living room or other meeting space. Corps Members plan and prepare their own meals and establish “ground rules” to govern their common living. They also have to work through the usual conflicts that arise from any living together arrangement whether the parties are related to each other or not. We believe that this is a vital part of the JSC experience which helps prepare our Corps Members for “life in the real world.” Corps members do receive some guidance and other help from the JSC paid staff which assures that the houses are well cared for and the Corps Members are good neighbors.

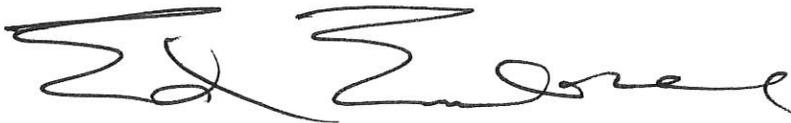
Our experience is that it is very difficult financially to provide for a house for only three Corps Members. While JSC does receive some payments from our partner organizations where Corps Members are placed, JSC pays for the house rental, all its utilities, health insurance for Corps Members who don't otherwise have access to such insurance and provides an amount of money each month for Corps Members to use in preparing meals at the house and performing general housekeeping activities. JSC is a non-profit corporation. While it receives contributions from churches and individuals and grants for the support of specific projects, it is, nevertheless dependent on partner organization payments for our support of the Corps Members. The amount of money realized from partner organizations for use at the house is directly related to the number of Corps Members living at that house.

While we're not asking for blanket approval of dormitory or commune type of housing, we do believe that limiting the number of unrelated occupants to three is detrimental to our program and that raising that limit to six would be appropriate and advance the purposes of JSC and extend our reach into the community.

We understand that the interests of JSC may be different from the interests of the original proponent of the proposed modifications. However adopting those proposed changes will have a beneficial affect on our program.

Thanks for your attention to this. If I can provide more complete information on JSC, please feel free to contact me at the above address or at 919.489.7703.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ed Embree', written in a cursive style.

Edward L. Embree, III

Cc: DeDreana Freeman
Jim Anthony
Johnson Service Corps