

Item Title: Public Hearing to Consider Text Amendment OA-01-17 to the Wake County Unified Development Ordinance to Allow for all Quasi-Judicial Proceedings to be Heard by the Wake County Board of Adjustment

Specific Action Requested:
That the Board of Commissioners:

- 1. Finds that Text Amendment OA-01-17 is consistent with the Wake County Land Use Plan and the Wake County Unified Development Ordinance and is reasonable and in the public interest; and adopts the attached resolution; *and by a separate motion***
- 2. Adopts the attached resolution to approve the proposed amendment to the Wake County Unified Development Ordinance as presented in Text Amendment OA-01-17.**

Item Summary:

This item is an amendment to the Wake County Unified Development Ordinance. The Unified Development Ordinance (UDO) is a document that governs land use and development standards throughout Wake County. It is intended to promote the health, safety and general welfare of the citizens of Wake County; provide a guide for the physical development of the county; and implement and ensure consistency with officially adopted plans. Amendments to the UDO require approval by the Board of Commissioners. Prior to taking such action, the Board is presented with a staff analysis and report relative to the proposed amendment, along with a recommendation of approval (or not) from the Planning Board, and a written recommendation that addresses consistency.

BACKGROUND:

Currently the UDO splits quasi-judicial proceedings between the Planning Board and Board of Adjustment. The Planning Board is the decision-making authority on modifications and waivers of subdivision standards and planned compliance permits. The Board of Adjustment is the decision-making authority for special use permits, zoning variances, interpretations of flood boundaries, and appeals of administrative decisions.

The proposed amendment will consolidate all quasi-judicial reviews to the Board of Adjustment instead of splitting quasi-judicial cases between the Planning Board and Board of Adjustment. The Board of Adjustment undergoes specific training for quasi-judicial proceedings and is structured with regular and alternate members which makes it much easier for the Board to ensure that a quorum will be reached for quasi-judicial procedures. Often quasi-judicial procedures require a four-fifths super majority of the members of the board to take action on a case.

The consolidation of quasi-judicial review to the Board of Adjustment will result in changes to several sections of the UDO with the bulk of the changes taking place in the review and approval procedures of Article 19. In order to shift quasi-judicial reviews to the Board

of Adjustment, Article 19 will be updated to remove the planned compliance permit section. Projects that previously required a planned compliance permit will now follow the commercial permit review process. All variance requests and appeals of administrative decisions will now be handled by the Board of Adjustment. Sections of the UDO that allowed for either Planning Board or Planning Director approval will be updated to allow for Planning Director approval with appeals of the Planning Director's decisions heard by the Board of Adjustment.

AMENDMENT SUMMARY:

1. Section 2-10 – updates responsibilities of the Planning Board
2. Section 9-41 – updates process for stormwater management variances
3. Section 19-16 – changes the review and decision-making authority summary table
4. Section 19-22 – removes planned compliance permit section
5. Section 19-26 – updates variance review and approval procedures
6. Section 19-33-5 – updates staff action on variance processes
7. Section 19-33-6-9 – removes Planning Board review and action for variances
8. Section 19-36 – removes modification and waivers of subdivision standards section
9. Section 19-37 – removes appeals of decisions on subdivision matters section
10. Section 19-41-1 – updates appeals of administrative decisions
11. Section 8, 12, & 16 – changes Planning Board to Planning Director

RECOMMENDATIONS:

PLANNING STAFF: Recommends that the Board of Commissioners approve text amendment OA-01-17 as presented and adopt the Statement finding the proposed text amendment consistent with the Wake County Land Use Plan.

PLANNING BOARD: Recommended at the January 3, 2018 meeting, by a unanimous vote, that the Board of Commissioners approve text amendment OA-01-17.

Attachments:

1. OA-01-17 PowerPoint Presentation
2. OA-01-17 Staff Report
3. Planning Board Minutes
4. OA-01-17 Statement of Consistency Resolution
5. OA-01-17 Amendment Approval Resolution