

Item Title: Public Hearing to Consider Text Amendment OA-01-18 to the Wake County Unified Development Ordinance

Specific Action Requested:
That the Board of Commissioners:

1. **Finds that Text Amendment OA-01-18 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-01-18.**

Item Summary:

Purpose: State Statute requires the Board of Commissioners approve amendments to the Unified Development Ordinance (UDO).

Background: The UDO was adopted by the Board of Commissioners in 2006, and is periodically amended. This package of minor amendments was prompted by a change in state law that exempts additional low hazard and intermediate hazard dams from the Article 21, Chapter 143 of the North Carolina General Statutes also known as the Dam Safety Law. Staff identified the need to bring forward an amendment to Article 8 of the UDO in order to be consistent with the change to State law.

Given the minor nature of the Article 8 text amendment, staff reviewed the UDO for other minor amendment needs that could be completed at the same time. Staff identified three additional sections of the UDO in which a minor text change is recommended to clarify regulation and/or to make the text consistent with current practice. Planning staff recommends that the Board of Commissioners approve Text Amendment OA-01-18. The Planning Board recommended by unanimous vote that the Board of Commissioners approve Text Amendment OA-01-18.

Board Goal: This action reflects routine County operations.

Fiscal Impact: This action has no fiscal impact.

Additional Information:

Text Amendment #1: Article 8-42-3 Lakes and Dams

This amendment raises the regulatory threshold for lakes and dams that are permitted through the state, reducing the number of projects that will be reviewed. The North Carolina Legislature passed HB 119, which changed the Dam Safety Law, effective July 1, 2011. HB 119 amended the Dam Safety Law to exempt additional low hazard and medium hazard dams from state regulation. HB 119 raised the regulatory threshold for a dam from 15 feet to 25 feet in height and changed the lake capacity from 10 to 50-acre feet. North Carolina's Dam Safety Program continues to regulate high hazard dams regardless of size.

Statewide, HB 119 reduced the number of regulated low hazard and intermediate hazard dams by 75%. The change reduces County staff time for development review. To date, staff has facilitated two residential developments in which a proposed dam and lake falls under the new criteria for an exemption. Developers have indicated that the state permitting process can take two to three months, therefore the new exemptions reduce the development timeline.

Article 8-42 of the UDO sets forth regulations for the construction of lakes and dams and references the Dam Safety Law. The proposed text amendment changes the height from 15 to 25 feet and the capacity from 10 to 50-acre feet.

Text Amendment #2: Article 19-23-5 Special Use Staff Review

This amendment deletes text that states staff provide a recommendation. Article 19-23 of the UDO outlines the steps to process a special use request; section 19-23-5 describes staff review. The text amendment proposes to delete part of section 19-23-5 (E) which states the Planning Director "recommends approval or denial of the application". Staff recommends deleting the language because staff do not provide a recommendation to the Board of Adjustment. Special use requests are an evidentiary hearing in which the Board of Adjustment makes its decision based on evidence presented at the hearing.

Text Amendment #3: Article 21-11 Definitions and Measurement – Floor Area

This amendment adds garages to the definition of floor area. Under the current floor area definition in Article 21 of the UDO, garages are being incorrectly excluded from floor area calculations. Staff has determined that because attached garages are typically enclosed with exterior walls, they should be counted toward the total floor area of a building or structure. The proposed ordinance modifies the existing definition of floor area to include garages in floor area calculations.

Staff identified inconsistent development impacts that can arise due to the exclusion of the garage from the floor area definition. In current code, the total square footage of accessory structures may not exceed the total square footage of the principal dwelling unit. Because the garage is excluded from the floor area definition, a property owner could construct a detached garage that is larger than the principal structure.

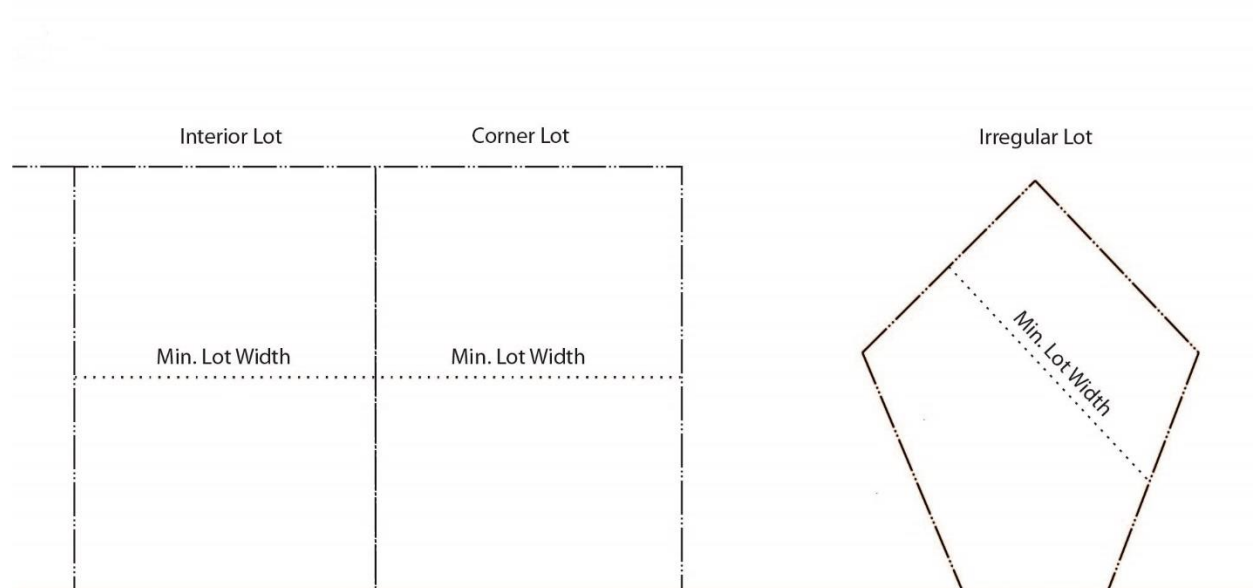
Staff believe the proposed change is minor in nature. Garages have always been included in the calculation of Maximum Impervious Coverage (% of lot) as outlined in Article 5 of

the UDO, which restricts the percent of impervious surface on a residential lot. The proposed text amendment will not change how property is assessed for tax purposes.

Text Amendment #4: Article 21-11 Definitions and Measurement – Lot Width

This amendment provides clarification on how the width of a lot is measured. Article 21 of the UDO currently defines Lot Width as “the horizontal distance between side lot lines”. There is no clear definition where the lot should be measured for the purpose of determining the minimum standard for a lot. The proposed text amendment clarifies how the minimum lot width should be measured and takes into account corner lots and irregularly shaped lots. The amendment would also include Figure 1 to show how various lot shapes are measured.

Figure 1: UDO exhibit showing Minimum Lot Width



Staff Findings

The proposed amendments:

- 1) Bring Wake County Unified Development Ordinances in line with North Carolina General Statutes.
- 2) Establish clearer guidelines for determining floor area calculations and lot width.
- 3) Reflect current practice for preparing reports to the Board of Adjustment.

Recommendations

PLANNING STAFF: Recommends that the Board of Commissioners approve text amendment OA-01-18 as presented and adopt the Statement finding the proposed text amendment consistent with the Wake County Land Use Plan.

PLANNING BOARD: Recommended at the June 6, 2018 meeting, by a unanimous vote, that the Board of Commissioners approve text amendment OA-01-18.

Attachments:

1. OA-01-18 Presentation
2. OA-01-18 Staff Report
3. OA-01-18 Statement of Consistency
4. OA-01-18 Resolution