

Item Title: Text Amendment OA-01-20 to the Wake County Unified Development Ordinance regarding the Tree and Vegetation Protection Zone

Specific Action Requested:
That the Board of Commissioners:

- 1. Receives all public hearing comments submitted up to August 18, 2020 at 5:00PM**
- 2. Finds that Text Amendment OA-01-20 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***
- 3. Adopts the attached resolution to approve the proposed amendment to the Wake County Unified Development Ordinance as presented in Text Amendment OA-01-20.**

Item Summary:

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

Background: Article 16-12 of the Wake County UDO currently provides standards and requirements to protect existing trees and vegetation around the outer perimeter of development sites. The purpose is to enhance the visual character of the County, control surface water runoff, and increase absorption.

Over the past year, the County has received several inquiries from concerned residents about the requirements of the Tree and Vegetation Protection Zone, resulting in enforcement actions on developers/builders who have violated the requirements.

For this reason, staff has prepared a draft text amendment that helps clarify the requirements and simplifies enforcement of the standards of the Tree and Vegetation Protection Zone.

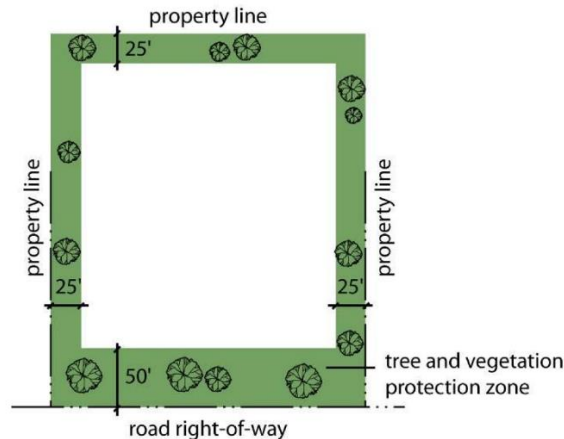
Planning staff recommends that the Board of Commissioners approve Text Amendment OA-01-20. The Planning Board recommended by unanimous vote that the Board of Commissioners approve Text Amendment OA-01-20.

Board Goal: This action is consistent with routine County operations.

Fiscal Impact: This item has no fiscal impact.

Additional Information:

The UDO requires existing trees and vegetation within a 25' zone be protected around the outer perimeter of the parent tract proposed for development. The zone is 50' along public road rights-of-way. Encroachments into the zone are allowed, which includes public utilities, driveways, entrances and construction access when no other means of access exists on the site. Septic fields for residential homes are also allowed to encroach into the zone if a qualified soil scientist determines that such location is the only feasible and safe alternative.



Over the past year, the County has received several inquiries from concerned residents about the requirements of the Tree and Vegetation Protection Zone. This has resulted in enforcement actions on developers/builders who have violated the requirements. These concerns and enforcement actions have been centered around residential septic systems encroaching into the zone. Although septic systems can encroach into the zone, it must be the only safe and feasible alternative. The problem is, the UDO does not require any documentation from the developer/builder signifying that locating the septic system in the zone is the only safe and feasible alternative, nor any indication as to the limits of tree and vegetation removal prior to the work.

Staff is also proposing to simplify the process to remediate the unauthorized removal of trees and vegetation in the zone. In this case, it is proposed that the developer/builder be required to replace the trees and vegetation with a standard buffer as described in the UDO.

The following is an overview of the UDO changes:

1. Amend UDO Section 16-12 *Tree Protection* to require the Soil Scientist to submit documentation indicating the encroachment into the zone is the only feasible and safe alternative, and identify the limits of disturbance into the zone.
2. Amend UDO Section 16-12 *Tree Protection* that specifies trees and vegetation removed from the zone without authorization from the County must be replaced with a standard buffer planting as described in the proposed amendment.
3. Amend UDO Section 21-11 Definitions by removing the reference and definition of *Protected Tree*.

Staff Findings

The proposed amendment:

- 1) Provides a record, from the design professional, that encroachment of the on-site septic system into the Tree and Vegetation Protection Zone is the only safe and feasible alternative.
- 2) Requires the soil scientist to identify the septic system's limits of disturbance into the Tree and Vegetation Protection Zone
- 3) Simplifies remediation for unauthorized removal of trees and vegetation.
- 4) Provides clarity in enforcement of the Tree and Vegetation Protection Zone

Recommendations

PLANNING STAFF: Recommends that the Board of Commissioners approve text amendment OA-01-20 as presented and adopt the Statement finding the proposed text amendment consistent with the Wake County Land Use Plan.

PLANNING BOARD: Recommended at the May 6, 2020 meeting, by a unanimous vote, that the Board of Commissioners approve text amendment OA-01-20.

Attachments:

1. Presentation
2. Staff Report
3. Text Changes
4. Planning Board Minutes
5. Statement of Consistency
6. Resolution