

Item Title: Public Hearing on a Proposed Ordinance Amendment to the Unified Development Ordinance (UDO)

Specific Action Requested:

That the Board of Commissioners holds a public hearing and considers adoption of the attached amendment to the following sections of the County's Unified Development Ordinance:

OA 03-09 - Section 4-11, Use Table, and the creation of Section 4-59, specifically to create a redevelopment option for nonconforming uses in the Residential-40 Watershed (R-40W) Activity Centers and related standards.

Item Summary:

The proposed amendment seeks to create an option to redevelop sites with nonconforming uses in R-40W Activity Centers. In general terms, a new use category, Elimination and Redevelopment of Nonconforming Use, would be created in Section 4-11 of the UDO. In this section, an 'S' (Special Use Permit required) would be designated under R-40W. The redevelopment option would not be allowed in any other zoning district. A new Section, 4-59, would also be created, implementing use standards for the proposed redevelopment option.

The proposed amendment would allow existing nonconforming uses in R-40W Activity Centers to be redeveloped to a wider range of uses if the Board of Adjustment approves a Special Use Permit site plan. The proposed uses which would be permitted would differ from those currently permitted by the UDO in R-40W. For example, commercial uses such as eating and drinking establishments and banks would be options under the proposal; however any commercial use would have to be located in an Activity Center as designated on the Wake County Land Use Plan.

A summary of the proposed amendments for consideration is listed below.

Ordinance Amendment OA 03-09:

- Section 4-11 – Establish Elimination and Redevelopment of Nonconforming Use, create Special Use option for this use under R-40W in Use Table (Activity Centers only)

- Section 4-59-2 – Establishes uses allowed under this option, which broadens and includes commercial uses.
- Section 4-59-3 – Establishes development standards specific to this option, which are less restrictive relative to building size, setbacks and signs.

Planning Board Approval:

The Planning Board recommended approval of proposed ordinance amendment OA-03-09 on February 3rd, 2010, pursuant to Section 19-20 of the Wake County UDO. The vote was 8-1.

The Planning Board recommended the approval of the ordinance amendments based on the staff's findings that the amendments will:

- Further the purposes of the UDO and other County ordinances and actions designed to implement the Land Use Plan;
- Enhance the ease of use and understanding the above mentioned sections; and
- Clarify requirements and definitions.

Staff Recommendation:

The Special Use application and Board of Adjustment proceedings allow for review of development proposals on an individual basis. As part of that review, applicants must demonstrate consistency with the Land Use Plan and withstand scrutiny of the Findings of Fact. The Board of Adjustment can establish conditions more stringent than UDO requirements in order to address site specific concerns. Staff recommends Approval of OA 03 09.

Staff would further recommend updating the Land Use Plan regarding redevelopment and non-residential uses in watersheds.

Attachments:

1. PowerPoint
2. Planning Board Minutes (draft)
3. Staff Report and Proposed Ordinance
4. Comparison of Uses in R-40W versus proposed text change
5. Letter from City of Raleigh opposing the amendment
6. Watershed Protection Council Press Release