

Proposed Revisions of the Wake County Unified Development Ordinance

(1) **Section 4-11 Use Table.**

Add this land use under “Other Use Group,”

“Elimination and Redevelopment of Nonconforming Use” and

Designate an “S” under R-40W and “- - -” under all other Zoning Districts to indicate that the new use is allowed only as a Special Use and only in the R-40W Zoning District.

(2) **Part 5 Use Standards**

Add a new Section 4-59, and subsequent subsections, as follows,

4-59 Elimination and Redevelopment of Nonconforming Use

4-59-1 Intent

It is the intent of this subsection to facilitate elimination and redevelopment of certain nonconforming uses (as defined in subsection 7-12-1 of this ordinance) and associated nonconforming development features within the R-40W Zoning District under conditions that result in conformity with the provisions of this UDO, reduce nutrients in runoff, and otherwise improve water quality.

4-59-2 Uses Allowed

- (A) Those uses included in the Residential Use Group (as defined in subsection 4-21 et seq of this ordinance) with the exception of Condominium or apartment, Mobile home subdivision/park, and Upper-story residence.
- (B) Those uses included in the Public and Civic Use Group (as defined in subsection 4-22 et seq of this ordinance) with the exception of Colleges and Universities, Detention and Correctional Facilities, Hospitals, and Lodge or Private Club.
- (C) Those uses included in the Commercial Use Group (as defined in subsection 4-23 et seq of this ordinance) with the exception of Bars and Nightclubs; Pawn Shop, currency exchange or payday loan; Kennel, commercial; Kennel, private; Body Art Service; Funeral and Interment Service; Gas Station, or any other business engaged in the sale of gasoline; Hotel/motel; Mobile home sales; Sexually Oriented Business; and Vehicle Sales and Service. A use within the Commercial Use Group shall not be allowed, however, unless a use within the Commercial or Industrial Use Groups existed prior to redevelopment within the area subject to the special use permit authorizing redevelopment.

4-59-3 Standards

All uses authorized under this Section 4-59 must comply with the following standards:

(A) Location of Commercial Uses Limited

All uses included within the Commercial Use Group (as defined in subsection 4-23 et seq of this ordinance) authorized under this Section 4-59 must be located within an Activity Center designated in the Wake County Land Use Plan. Subject to approval by the Board of Adjustment, open space, utility lines, wastewater systems, and stormwater detention, retention and treatment facilities associated with any such use may extend beyond the boundaries of an Activity Center.

(B) Compliance with Watershed and Stormwater Regulations

Following redevelopment, the property subject to the special use permit authorizing redevelopment under this Section shall meet or exceed the impervious surface and other standards of the Wake County Watershed and Stormwater Regulations applicable to the watershed in which such property is located.

Commentary: By way of example, redevelopment pursuant to this Section 4-59 in the Falls Lake Watershed must provide stormwater management devices if impervious surface exceeds 12% of the area subject to the special use permit, and impervious surface cannot exceed 24% of such area.

(C) Stormwater Management

~~Until such time as the North Carolina Environmental Management Commission adopts permanent rules implementing a nutrient management strategy for the watershed in which development under this Section 4-59 occurs and such rules become effective, any~~Any nonresidential development under this Section shall provide stormwater controls that obtain a minimum of 60% reduction in post-construction nitrogen loading rate and 60% reduction in post-construction phosphorous loading rate on-site. This requirement shall remain effective until permanent rules adopted by the North Carolina Environmental Management Commission take effect that apply to the watershed in which development under this Section 4-59 occurs and impose an equivalent or more restrictive nutrient management strategy with respect to redevelopment.

Commentary: These requirements reflect the on-site standards for the reduction of nitrogen and phosphorous set forth in the Draft Rules for the Falls Lake Watershed issued on March 1, 2010 by the Division of Water Quality of the North Carolina Department of the Environment and Natural Resources. The nutrient reduction standards of this subsection (C) apply to the redevelopment of nonconforming uses pursuant to this Section 4-59 in R-40W Districts throughout the County. They remain in effect for each respective watershed until EMC approved rules for redevelopment that are equivalent or more restrictive take

[effect for that watershed.](#)

(D) **Floor Area; Area Subject to Special Use Permit**

The gross floor area of any building or buildings and the area subject to the special use permit authorizing redevelopment under this Section 4-59 shall be determined by the Board of Adjustment in its approval of the special use permit. The gross floor area of the building or buildings approved in such special use permit shall not exceed the gross floor area of all buildings existing prior to redevelopment upon the property subject to the special use permit.

[This provision is offered for consideration by the Commissioners in order to address any concern that the approval of the Amendment would unreasonably increase building square footage in the watersheds. The provision below is offered as an alternate provision that would serve a similar purpose.]

Elimination and redevelopment of a nonconforming use and associated nonconforming development features hereunder must result in a reduction of at least ten percent (10%) in the area of impervious surface which existed prior to redevelopment.

(E) **Road Access**

- (1) Access to the site must be designated and constructed in accordance with sound engineering principles and applicable standards of the North Carolina Department of Transportation.
- (2) All buildings must be located on a lot that abuts a road that is included in one or more of the following classifications:
 - (a) NC-numbered highways classified as “Major Collectors” on the Functional Classification System of Highways, as amended from time to time by the North Carolina Department of Transportation;
 - (b) US-numbered highways classified as “Major Collectors,” “Minor Arterials,” or “Principal Arterials” (except “Freeways”) on the Functional Classification System of Highways, as amended from time to time by the North Carolina Department of Transportation; or
 - (c) State-maintained secondary roads (S.R.) that have a daily traffic volume of one thousand (1,000) vehicle trips per day according to the most recent traffic counts by North Carolina Department of Transportation, or are classified as “Major Collectors” on the Functional Classification System of Highways, as amended from

time to time by the North Carolina Department of Transportation.

(F) Parking

All parking associated with the proposed use must be on the parcel, and all parking areas must be paved with an all-weather surface. When approved by the Board of Adjustment as part of a development with commonly utilized parking areas, parking associated with the proposed use also may be on an adjacent parcel or lot. All vehicles parked at any use must be officially registered and licensed for operation at all times.

(G) Setbacks

The minimum required building setbacks are as follows:

- (a) Front 30 feet
- (b) Corner 30 feet
- (c) Side 15 feet
- (d) Rear 30 feet

If approved by the Board of Adjustment, sidewalks and signage may be allowed in a setback.

(H) Outside Storage

In addition to the primary facility, outside storage may be permitted on a lot when it is determined by the Board of Adjustment to be necessary to the use permitted, provided that:

- (1) Type A screening/bufferyard (See 16-10-2) is established and maintained along the perimeter of the outside storage facility;
- (2) Landscaping and bufferyards are provided in accordance with Sec. 16-10; and
- (3) Refuse containers may be stored outside of the building, but they must be screened from view from any adjacent lot as provided in Sec. 16-11 and maintained in a sanitary and litter-free condition.

(I) Exterior Lighting

All exterior lighting must be shielded or directed away from any adjacent use or lot or any adjacent public street. No exterior lighting may cause illumination in

excess of one foot candle at any lot line. After closing hours, all lighting, including signs, must be turned off except as necessary to illuminate the premises for security purposes.

(J) Landscaping and Buffers

Landscaping and bufferyards must be provided in accordance with Sec. 16-10. The Board of Adjustment is authorized to require additional landscaping and screening during the review and approval process if deemed necessary to ensure compatibility with surrounding uses and development.

(K) Performance Standards; Regulations

The use must comply with all applicable operational performance standards. The regulations and standards provided in this Section 4-59 shall be applicable to redevelopments and uses subject thereto notwithstanding any other provision of this UDO, including, but not limited to, subsection 1-19-2.

(L) Site Maintenance

All parts of the site including parking area and setbacks must be kept free of trash and litter and maintained in good appearance and condition.

(M) Certificates of Occupancy

No building may be occupied until a certificate of occupancy has been issued bearing the name of the chief building inspector certifying that all buildings and site improvements are in conformance with the approved site plan. In order to assure continued compliance with the terms of the special use permit, the certificate must be reviewed and an inspection of the site must be made no less frequently than once every 2 years.

(N) Signs

The number, type, height, and size of signs upon a site redeveloped pursuant to this Section 4-59 shall be determined by the Board of Adjustment in its approval of the special use permit authorizing redevelopment of the site.

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