



City Of Raleigh

NORTH CAROLINA

DATE: September 12, 2014
MEMO TO: Mayor and Council Members
SUBJECT: Council Work Session

The City Council will meet in work session 8:30 a.m. on Tuesday, September 16, 2014, in the Council Chamber, Raleigh Municipal Building, 222 West Hargett Street, Avery C. Upchurch Government Complex, Raleigh, North Carolina.

8:30 a.m. -12:30 p.m.

UDO Work Session

Staff Resource: Ken Bowers, Interim Planning & Development Director

12:30 p.m. Lunch – Pick up in Room 209

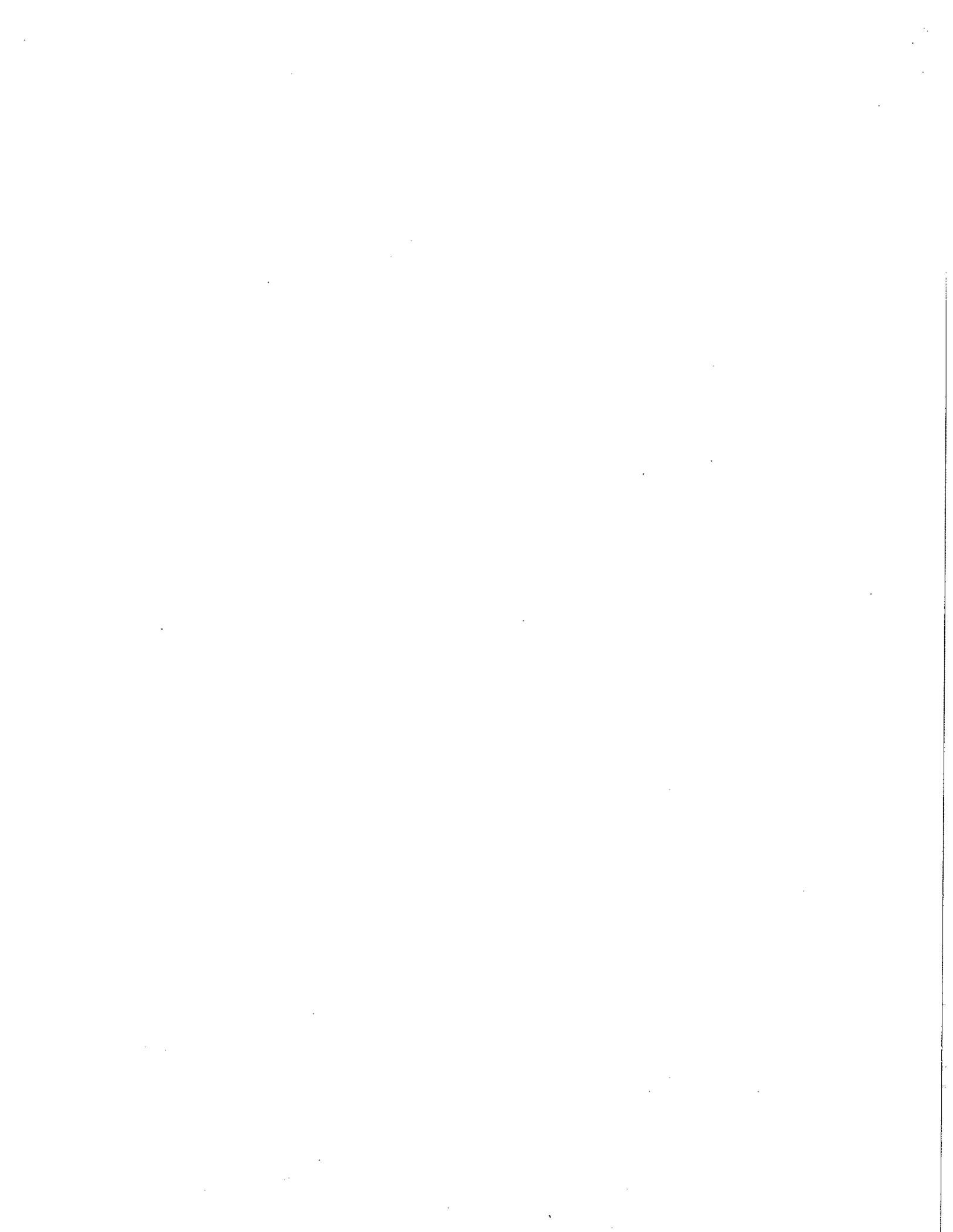
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City Council Work Session

September 16, 2014: UDO and Comprehensive Plan items

The Comprehensive Planning Committee has discussed multiple items related to the Unified Development Ordinance and Comprehensive Plan. These items are related to recent petitions of citizens delivered to the City Council, combined with a long-standing committee item that predates the adoption of the UDO. Below is a summary of these items as discussed in Committee. Each item contains a summary of the issue, Committee discussion and a staff recommendation.

If the City Council chooses to alter the language on the Comprehensive Plan or Unified Development Ordinance, a public process with a public hearing will be required.

1. Issue 1: Table LU-2 does not provide specific guidance for consistency between the edge, core and general conditions.

This is related to the Comprehensive Plan. Table LU-2 was included in the Comprehensive Plan in advance of adoption of the UDO. This table provides guidance for the appropriate height range in particular zoning districts, based on context. The guidance in this table is used solely during review of rezoning requests. During rezoning cases, staff offers an analysis of consistency based on policy language in the Comprehensive Plan. Table LU-2 is part of this policy analysis. The analysis of consistency performed by staff can be accepted by the Planning Commission and City Council. Conversely, either body can substitute their own policy analysis.

Table LU-2 (included as Attachment 1) includes three contexts: edge, general and core/transit. The edge context would envision less building height, while core/transit envisions greater building height.

Committee Discussion: The Committee discussed how the policy language in Table LU-2 was applied. During discussion, staff offered three recommendations:

- Option 1: Remove the edge context from table LU-2 and insert a policy into the Comprehensive Plan that provides guidance for building height near residential
- Option 2: Consider any building in excess of the general context inconsistent with the Comprehensive Plan, unless specific area plan guidance exists.

The Committee discussed option 1 and did not favor option 2. Staff drafted a new policy for the Committee to review. Policy LU 5.7 states:

Policy LU 5.7 Building Height Transitions

When a mixed-use or nonresidential area contemplated for building heights in excess of seven stories abuts an area designated for low- or moderate-density on the future land use map, building heights should not exceed a 45-degree plane starting 10' from the

adjoining lower density area. When any mixed-use or non-residential area is separated from an area of low- or moderate-density by an intervening street other than a Major Street, building faces along the frontage facing the residential area should not exceed three stories.

The addition of this policy will provide greater specificity for how mixed use development interacts with adjacent residential. This policy would be more stringent than the transition regulations in the UDO. The UDO would permit a seven story (or taller) building within 100 feet of a residential zone with a residential use. This policy would suggest that buildings taller than seven stories would need additional setback beyond 100 feet. This policy language would be used during the rezoning process.

Committee Recommendation: The Committee initially agreed with Staff's recommendation; however, at a subsequent meeting the Committee asked to revisit the topic at the work session. The Committee expressed a desire to retain Table LU-2 as-is and include the new policy LU 5.7

Staff Recommendation: Staff recommends that the new policy LU 5.7 be included in the Comprehensive Plan. Staff also suggests that the edge context be removed from Table LU-2. This will require an amendment to the Comprehensive Plan.

2. Issue 2: The Neighborhood Mixed Use and Community Mixed Use future land use categories contain undefined terms.

This is related to the Comprehensive Plan, and was presented with a petition of citizens. The petitioners requested clarification of language in the Neighborhood Mixed Use and Community Mixed Use future land use categories. These two land use categories envision residential, office, and retail uses. The land use categories were written in a broad manner to accommodate a wide range of development options in different contexts. A suburban neighborhood mixed use area will be developed in a different manner from an urban one.

Committee Discussion: The land use category descriptions use terms such as "supermarket" and "super-store/center," among others. The Committee discussed the following terms contained in the land use categories: supermarket, supercenter, large format store and larger drug store.

The Committee asked staff to suggest a definition for each of those terms, as included below:

Supermarket: A retail grocer principally devoted to the sale of food. Can be a stand-alone use or may anchor a convenience-related shopping area containing other retail uses. Typically vary in size between 20,000 and 50,000 square feet.

Supercenter: A retailer that sells combines food and grocery items, soft goods, convenience items and household items in the same store with a significant selection of non-food items. Typically vary in size between 50,000 square feet and 100,000 square feet average more than 170,000 square feet in size.

Large Format Store: A retail use, also known as "big-box retail." Can be located on a single parcel as a single use, or be the anchor of a power center or community center. Typical products include food, soft goods, home improvement items, appliances,

building or construction material, and retail sold in bulk. Large format stores are typically larger than 75,000 square feet, often substantially.

Larger Drug Store: A retail store that sells some grocery and convenience items. Includes a pharmacy and the sale of prescription and over-the-counter medicine. Typically in excess of 20,000 square feet.

Each of these terms has meaning in the retail development industry, with some variation between retail trade groups. The Committee discussion was largely focused on the size of these varied retail uses. Staff used information from the Urban Land Institute and American Planning Association, along with local data to define these four terms. To date, staff has relied upon the general meaning of these terms.

Committee Recommendation: Staff was asked to explore the issue and offer a solution. Staff was also asked to consider adding the terms “large-format supermarket” and “superstore” to the land use categories and provide a definition of each.

Staff Recommendation: Staff recommends that the four terms stated above (supermarket, supercenter, large format store and drug store) be added as defined terms in the glossary of the Comprehensive Plan. This will require a Comprehensive Plan amendment.

Staff recommends that “superstore” be defined as “large format retail,” and that “large format supermarket” be defined as a supermarket greater than 50,000 square feet, consistent with the definition of “supermarket” provided above.

3. Issue 3: The Neighborhood Mixed Use and Community Mixed Use land use categories contain language that is not implemented in the Unified Development Ordinance.

This is related to the Comprehensive Plan, and was presented with a petition of citizens. The petitioners stated that the future land use categories in the Comprehensive Plan are not fully implemented in the UDO. As stated above, the land use categories are used during the rezoning process. Every property in the City is designated with one of 17 land use categories. When rezoning petitions are submitted, staff provides an analysis of consistency with the Comprehensive Plan. One component of this consistency analysis is the future land use map designation.

Committee Discussion: The Committee discussed the language in the Neighborhood Mixed Use and Community Mixed Use categories. These are the two primary mixed use categories on the future land use map. The Committee asked staff to refine the land use categories for Neighborhood Mixed Use and Community Mixed Use. Staff offered suggested alterations, which are included in Attachment 2.

Committee Recommendation: The Committee recommends that the Neighborhood Mixed Use and Community Mixed Use categories be amended as shown in Attachment 2.

Staff Recommendation: Staff recommends that the Neighborhood Mixed Use and Community Mixed Use categories be amended as shown in Attachment 2. This will require an amendment to the Comprehensive Plan, which could be heard by the Planning Commission in January 2015.

4. Issue 4: The Staff reports for zoning cases do not adequately or accurately determine consistency with the Comprehensive Plan.

This is related to the Comprehensive Plan, and was presented with a petition of citizens. The petitioners stated that staff's analysis of consistency related to rezoning requests is problematic. Staff provides an analysis of each zoning request, noting consistency with policy guidance and map guidance in the Comprehensive Plan.

Committee Discussion: The Comprehensive Plan contains language and a four-part test known as "Evaluating Zoning Proposals and Consistency with the Comprehensive Plan." This guiding language has not been included in staff analysis to date. Staff suggested that including a staff response in the rezoning reports would provide a further layer of analysis. The Committee asked staff to consider amendments to this language. Staff, working with the City Attorney's office, offered the following potential amendments:

- Is the proposal consistent with the vision, themes, and policies contained in the Comprehensive Plan?
- Is the use being considered specifically designated on the Future Land Use Map in the area where its location is proposed?
- If the use is not specifically designated on the Future Land Use Map in the area where its location is proposed, **would the benefits of its establishment to the owner, neighbors, surrounding community and public interest equally outweigh the detriments, and would the proposed uses under the new zoning** is it needed to service such a planned use, or could it be established without adversely **alter** altering the recommended land use and character of the area?
- Will community facilities and streets be available at City standards to serve the use proposed for the property?

The new language speaks to the test of the rezoning request being "reasonable and in the public interest." When the City approves a rezoning request, it must provide an analysis of consistency with the adopted Comprehensive Plan and state why the request is reasonable and in the public interest.

Committee Recommendation: The Committee recommends that the language in the four-part test be amended as shown above. Additionally, the Committee requested that staff consider adding language to the Comprehensive Plan that would require consistency with the future land use map as a pre-requisite to overall consistency. The Committee also asked staff to identify "key" policies in the Comprehensive Plan. These key policies could be used to signify greater importance of a particular policy.

Staff Recommendation: Staff recommends that the language in the four-part test be amended, as shown above. Staff also recommends that future zoning reports include an analysis of the four-part test. Staff recommends that the key policies in the Comprehensive Plan be identified through the five-year update process, which will begin this year.

5. Issue 5: Comprehensive Plan guidance should be utilized for all site plan reviews.

This is related to the Comprehensive Plan and Unified Development Ordinance, and was presented with a petition of citizens. The petitioner was involved in a recent preliminary site plan appeal before the City Council. The petitioner requested that policy guidance be used during all site plan reviews. When preliminary site plans are reviewed by the Planning Commission and upon appeal to the City Council, the eight site plan standards are reviewed. The approving body must find conformance to the eight site plan standards. One such standard is consistency with the Comprehensive Plan.

Committee Discussion: The Committee discussed the role of the Comprehensive Plan during site plan review. During the drafting phase of the UDO, State law was amended to clarify rules related to discretionary standards and quasi-judicial review. State law is now explicit in terms of development review procedures, providing only two options: an administrative review process utilizing objective standards, or a quasi-judicial review process which can utilize more generally-stated standards.

In recognition of this change to the law, the City altered the preliminary site plan review process to align with the legal requirements. The discretionary site plan review process was not included in the UDO, drawing a clear line between administrative review and discretionary review. Language in the Comprehensive Plan would be considered generally stated. The only mechanism by which the Comprehensive Plan can be referenced in a development plan review is when the development plan is tied to the issuance of a Special Use Permit, which can be granted by the Board of Adjustment following a quasi-judicial hearing.

Committee Recommendation: The Committee recommends no change to either document.

Staff Recommendation: Staff recommends no change to either document.

6. Issue 6: Provide guidance to the Planning Commission regarding the meaning of height limits that are already in the UDO.

This is related to the UDO and was presented with a petition of citizens. The petitioner was active in a recent rezoning where height was a key issue. In this case, the applicant requested a height category of seven stories, but reduced the overall building height to a measurement consistent with a five story building. The conditional use zoning process allows a property owner to offer conditions that are more stringent than the zoning district.

The confusion surrounding this item is related to language contained in the UDO which specifies height is expressed in stories and feet. The Comprehensive Plan only speaks to number of stories. Staff has issued an official interpretation that states from a regulatory standpoint, height is measured in both number of stories and measurement in feet.

Committee Discussion: The Committee discussed the distinction between consistency with the Comprehensive Plan related to number of stories and measurement in feet.

Committee Recommendation: The Committee recommends that the UDO be amended to make clear that height is measured in stories and feet. One section of the UDO does provide an example and uses the word "or" instead of "and."

Staff Recommendation: Staff recommends that the language in the UDO should be clarified. Staff has acknowledged the UDO inconsistency and will correct the language in the first round of UDO amendments.

7. Issue 7: The Neighborhood Mixed Use zoning district is too similar in nature to the Commercial Mixed Use zoning district. The permitted uses contained within each zoning district do not adequately reflect the corresponding future land use categories.

8. Issue 8: The NX zoning district permits intensities beyond what the corresponding future land use categories envision. The language contained in the land use categories is not implemented in the NX district.

These issues are related to the UDO and were presented with a petition of citizens. The UDO introduced a new set of mixed use zoning districts. These zoning districts are a departure from the previous Part 10 zoning code districts. The NX and CX districts are the primary retail zoning districts in the UDO. They replace Buffer Commercial (along with RX and OX), Neighborhood Business, Shopping Center, and Thoroughfare District (along with IX).

From the standpoint of form, all of the mixed-use districts are quite similar. Each can be paired with a frontage to produce a specific built form. The primary differences lie in the permitted uses. In addition, the NX district only permits a maximum development size of 10 acres. This 10 acre cap, along with the refined use palette, creates a distinction between the NX and CX districts, and means that very large retail establishment could not be developed under NX zoning.

The UDO introduces new tools and districts that establish a more desirable built form. These districts and tools go much further than any other previous City of Raleigh zoning code with regards to street connectivity, pedestrian amenities, and building placement and massing. While not a traditional form-based code, the UDO contains form-centric elements. The foundational idea of form-based zoning is that the use matters much less than the built form, as uses change over time.

Committee Discussion: The Committee explored a number of options related to this item. Staff presented a comparison between some of the Part 10 zoning districts and the UDO districts. The Committee asked staff to consider options related to the NX district, including a maximum square footage cap. Staff offered another option that would place a maximum cap on the amount of parking allowed in the NX zoning district. The discussion included potential alterations to the permitted uses in the NX and CX districts. These alterations were:

- Permit an allowance for bars in the NX district
- Remove the allowance for pawn shops in the CX district

The City Council has previously requested that staff explore standards for gasoline sales in the NX district. This will be a part of the first package of amendments to the UDO.

Committee Recommendation: At the final Committee meeting, staff was asked to explore the possibility of a new UDO zoning district. The new district would be a replacement for the Buffer Commercial district from the Part 10 zoning code. In addition, while not a formal

recommendation of the Committee, there was also discussion of a new future land use category that corresponds with the zoning district.

Staff Recommendation: Staff has not had adequate time to explore the inclusion of a new zoning district in the UDO. Staff recommends that a district similar to Buffer Commercial not be included in the UDO. The BC district was not a successful zoning district. Where NX zoning is considered too intense for a BC area in the remapping, OX or RX may be selected. If the Council chooses to direct staff to explore a new district, staff requests guidance as to the undesirable uses or impacts that require mitigation. The City is on the cusp of adopting a new zoning map. The Planning Commission will receive this map on October 16th and begin the review process. The City Council will ultimately receive a recommendation from the Planning Commission regarding the new zoning map. The introduction of a new zoning district at this point in the remapping process could be detrimental.

Staff suggests that the permitted uses in the NX district be fully explored with the first package of UDO amendments. Certain use categories, such as “outdoor recreation” and “retail sales” could be refined. The inclusion of bars, nightclubs and lounges as a limited use could be explored. Based on the outcome, some areas on the zoning map currently proposed for CX could be changed to NX without creating a use-based nonconformity.

Issue 9: The transition standards in section 3.5 of the UDO should recognize development adjacent to an alley.

This item is related to the UDO and was presented with a petition of citizens. The UDO contains landscaping, use and setback requirements for mixed use developments directly adjacent to residential uses and zoning. When a mixed use district immediately abuts a residential use and district, a 50 foot building setback is required. At the 50 foot setback, the mixed use building is constrained to a height of 40 feet. The mixed use building can increase in height as the setback increases. The petitioner requests that these standards be applied when an intervening alley is present between the residential and mixed use development.

Committee Discussion: The Committee discussed the impact of transition standards when adjacent to an alley. The purpose of an alley is to provide an alternate point of access away from a more heavily-travelled street. The typical width of an alley is between 20 and 24 feet.

The Committee asked staff to draft language for the UDO that would require a transition between a mixed use building and residential zoning district when an alley is present. Staff suggested the following language:

Section 3.5.1 Applicability

A. The following neighborhood transition standards apply in the Mixed Use and Campus Districts when the following occurs:

- 1. The site immediately abuts a district boundary of an R-1, R-2, R-4 or R-6 district, except where the abutting property contains a civic use.*
- 2. The site immediately abuts a district boundary of an R-10 district where the abutting property is vacant or contains an existing detached house or attached house used for residential purposes.*

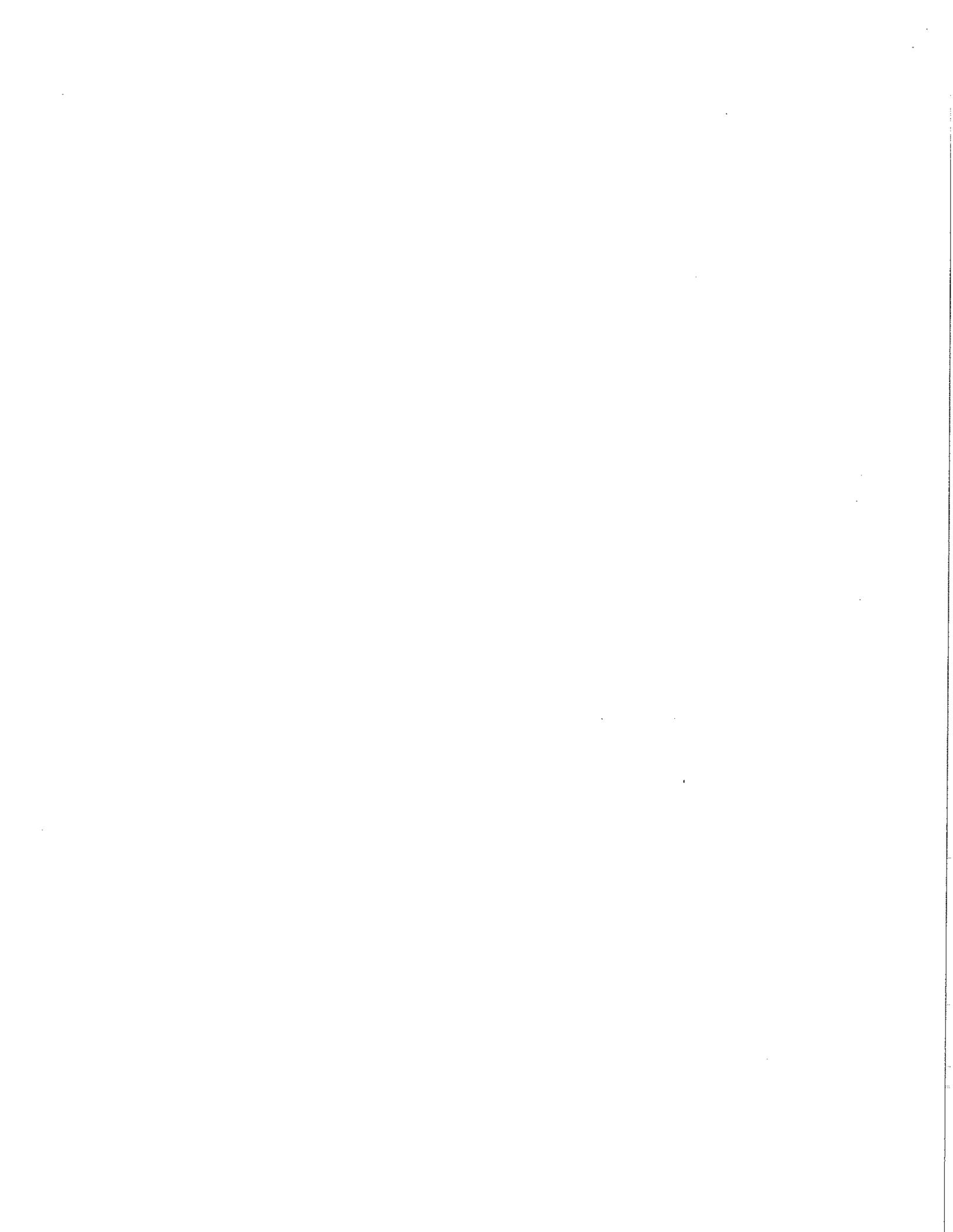
- B. Zone B does not apply to sites 50 feet or less in depth. In such cases, Zone C starts immediately adjacent to the Zone A protective yard.*
- C. Zones B and C do not apply to detached house, attached house, townhouse or apartment building types in RX- where 3 stories is the maximum height.*
- D. Where an intervening alley is located between the residential property and the mixed use district, the transition regulations apply. One-half of the width of the alley shall be included in the required transition yard measurement and shall be applied to the required width of Zones A and B.*

Committee Recommendation: The Committee recommends that the language stated above be included in the UDO. The Committee also discussed including language that would require a transition across a local street. The Committee asked that the application of the transition regulations across a street be discussed at the work session.

Staff Recommendation: Staff recommends the alteration to the UDO as described above. Staff does not recommend that the transition regulations be applied across a street. The discussion at the Committee was related only to the local streets, which typically have a width between 55 and 64 feet. The requirement to apply a transition across a street would conflict with other UDO regulations. For instance, if a frontage were applied to a mixed use property, a building would be required to locate within a certain distance of the street. The transition regulation would require a physical separation away from the street or reduce building height adjacent to the street.

Table LU-2 Recommended Height Designations

Category	Core/Transit	General	Edge
Medium Density Residential	Min. of 2 stories Max. of 5 stories	Max. of 4 stories	3 stories
High Density Residential	Min. of 2 stories Max. of 12 stories	Max. of 5 stories	Max. of 4 stories
Neighborhood Mixed Use	Min. of 2 stories Max. of 5 stories	Max. of 4 stories	3 stories
Community Mixed Use	Min. of 2 stories Max. of 12 stories	Max. of 5 stories	Max. of 4 stories
Regional Mixed Use	Min. of 2 stories Max. of 20 stories	Max. of 7 stories	Max. of 4 stories
Central Business District	Min. of 3 stories Max. of 40 stories	Max. of 12 stories	Max. of 4 stories
Office & Residential Mixed Use	Min. of 2 stories Max. of 7 stories	Max. of 5 stories for office; max. of 4 stories residential and/or mixed use	Max. of 4 stories
Office/Research Development	Min. of 2 stories Max. of 12 stories	Max. of 7 stories	Max. of 4 stories



Neighborhood Mixed Use

This category applies to both drivable neighborhood shopping centers and as well as pedestrian-oriented retail districts such as Hillsborough and North Person Streets. The service area of these districts is generally about a one-mile radius or less. Typical uses would include corner stores or convenience stores, restaurants, bakeries, grocery stores and supermarkets (other than super-stores/centers up to approximately 50,000 square feet in size), drug stores, dry cleaners, video stores, small professional offices, retail banking, and similar uses that patrons may visit one or more times a week, and where proximity and convenience are major factors in decisions regarding where to shop. serve the immediately surrounding neighborhood. Residential and mixed use projects with upper story housing are also supported by in these areas. Retail centers greater than 150,000 square feet in size, or concentrated urban nightlife districts, are not contemplated appropriate in for this designation. Where residential development complements commercial uses, it would generally be in the Medium density range.

NX is the most appropriate zoning district for these areas. Heights would generally be limited to three stories, but four or five stories could be appropriate in along frequent service transit corridors, and walkable areas with pedestrian-oriented businesses when the retail is arranged into a traditional "main street" format with upper floor uses and an urban approach to frontage.

Community Mixed Use

This category applies to medium-sized shopping centers that include a focus on comparison goods (for which consideration of quality and price trump convenience), such as Cameron Village; and larger pedestrian-oriented retail districts such as Cameron Village as well as more intensely developed mixed-use areas served by transit, that may combine higher density several stories of upper floor housing with a restaurant row or entertainment district (such as Glenwood South) or an urban "high street" (comparison shopping in a main street format, such as Main and Lassiter in North Hills). Typical commercial uses include large format supermarkets, larger drug stores, department stores and variety stores, clothing stores, home furnishings, banks, offices, restaurants, movie theaters, hotels, and similar uses that draw from multiple neighborhoods. Development intensities could be higher than in Neighborhood Center Mixed Use areas, including shopping centers up to 250,000 to 500,000 square feet in size, and mixed use buildings of five or more stories, with mid-rise buildings as well as low-rise buildings. Where residential development occurs, ground floor retail would be encouraged and minimum building heights might be applied in transit-rich areas. Heights would generally be in the three to five story range, although additional height up to 7 or 12.42 stories would be appropriate when indicated in a TOD plan or other small area plan in TOD areas and at the core of mixed-use centers.

CX is the primary corresponding zoning district for these areas. Appropriate urban form standards for frontage should be applied, recognizing that some of the designated areas are established neighborhood "main streets" and others are suburban auto-oriented shopping plazas or strip centers fronting on high-volume arterial roadways. For both this category and Neighborhood Mixed Use, greater height should include appropriate transitions be consistent with applicable transition policies and be accompanied by a pedestrian-friendly relationship to the public realm.

