



## City of Raleigh Planning Commission Text Change Committee Agenda

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Agenda for **Tuesday, March 20, 2018 at 9 am.**

**Location:** Raleigh Municipal Building, 222 W. Hargett Street - Room 303, Raleigh, North Carolina. For information call 919-996-2626

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**These items will be discussed during the meeting:**

**TC-17-16**

**Attics & Basements**

This item was last discussed at the Planning Commission on March 13, 2018. This text change was previously reviewed by the Planning Commission and recommended for approval. The City Council requested modifications and referred the item back for additional review and recommendation.

**TC-12-17**

**Historic Alley Transition**

This item was last discussed by the Committee on June 20, 2017. This text change is the result of a petition of citizens, which would provide an allowance for residential uses within a transition area when located within or adjacent to an NCOD. During the last discussion, staff raised questions regarding a few of the proposed development standards.

**ORDINANCE NO. XXX- (2016)  
TC-17-16**

**AN ORDINANCE TO AMEND SECTION 1.5.7 OF THE PART 10 RALEIGH UNIFIED DEVELOPMENT ORDINANCE TO REVISE THE BASEMENT AND ATTIC REGULATIONS**

**WHEREAS**, the intent of the Unified Development Ordinance for the City of Raleigh was to create more predictable development;

**WHEREAS**, the existing regulations in Article 1.5 provide for an allowance for attics and basements which do not count as a story;

**WHEREAS**, building heights in the mixed use zoning districts were intended to be predictable by establishing maximum height in feet and number of stories;

**WHEREAS**, the Unified Development Ordinance does not regulate residential density in the mixed use districts in exchange for this more predictable form;

**WHEREAS**, the City of Raleigh has determined it appropriate to preserve this predictability related to building height in the mixed use districts;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH THAT:**

**Section 1.** Sec. 1.5.7.A.2 of the Part 10 Raleigh Unified Development Ordinance, Building Height, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

2. Average grade is determined by calculating the average of the highest and lowest elevation along pre-development grade or improved grade (whichever is more restrictive) along the front of the building parallel to the primary street setback. When a site slopes in multiple directions, the average grade shall be computed on each exterior building facade. In this instance, the figure shall be derived by averaging all average elevations. Where mass grading has been approved by the City, average grade shall be considered the improved grade following such mass grading.

**Section 2.** Sec. 1.5.7.A.3 of the Part 10 Raleigh Unified Development Ordinance, Building Height, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

3. For a detached or attached building type only, for any building type located within the Downtown Mixed Use District, or for any building that is zoned for a maximum of three stories, where a lot slopes downward from any primary street property line, one story that is additional to the specified maximum number of stories may be built on the lower

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portion of the lot. This provision shall not be applicable for any structure that includes a basement.

**Section 2.** Section 1.5.7.A.5 of the Part 10 Raleigh Unified Development Ordinance, Building Height, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

5. For a detached or attached building type only, An attic does not count as a story where 50% or more of the attic floor area has a clear height of less than 7.5 feet; measured from the finished floor to the finished ceiling. To be classified as an attic, the space must also meet the specifications as provided in the defined term in Article 12.2.

**Section 3.** Section 1.5.7.A.6 of the Part 10 Raleigh Unified Development Ordinance, Building Height, is hereby amended by insertion of the following underlined language and deletion of the following strikethrough language:

6. When 50% or more of the perimeter wall area of a detached or attached building are located below grade, the building contains a basement. The floor of this level must be located entirely below finished grade. This provision can be utilized in other building types; however, the entirety of the floor area may only be used for storage, mechanical equipment, parking, laundry or waste collection.

**Section 4.** Section 1.5.7.B of the Part 10 Raleigh Unified Development Ordinance, Building Height, is hereby amended by insertion of the following underlined language:

Ground floor elevation is measured from the average curb level of the adjoining street(s), or if no curb exists, the average level of the center crown of the street to the top of the finished ground floor. The floor of the basement meeting the specifications of Article 12.2 is not the ground floor.

**Section 5.** Section 7.2.8.D of the Part 10 Raleigh Unified Development Ordinance, Retaining Walls, is hereby amended by insertion of the following underlined language:

D. Retaining Walls

Retaining walls that are located within 30 feet of a public sidewalk shall be required to adhere to the following.

1. A freestanding retaining wall may not exceed a continuous, uninterrupted height of 10 feet. Additional height above ten feet may be permitted, provided the wall contains a minimum 2-foot step back for each additional 10 feet of wall height. A type C2 Street Protective Yard shall be required for any free standing retaining wall of at least ten feet in height. Where the retaining wall gains addition height with a step back, the step back area shall provide the quantity of shrubs equal to a type C3 Street Protective Yard.

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2. This regulation shall not apply to walls associated with culverts or stream crossings or to transportation improvements, such as bridge overpass structures for streets or railroads.
3. A retaining wall that is integrated into an apartment, general, civic or mixed use building type and facing any primary street must meet the following standards:
  - a. The transparency and blank wall standards enumerated for the building type shall apply to the integrated retaining wall.
  - b. When the integrated retaining wall is located within 30 feet of any primary street, it shall have a maximum height of five feet. Average grade shall not be applied in determining the maximum height in this instance.
  - c. The integrated retaining wall shall be constructed of the same primary materials as the building.

**Section 6.** Section 12.2 of the Part 10 Raleigh Unified Development Ordinance, Definitions, is hereby amended to include the following defined terms, listed in alphabetical order:

**Attic**

An unfinished space between roof framing and the ceiling of rooms below that is accessed by ladder or permanent stairs. This area is used for storage or mechanical equipment and cannot be used as habitable space. If an attic is converted to a habitable space such conversion shall cause the area to be deemed as an additional story.

**Mezzanine**

An internal space above and open to the first floor below. When a mezzanine comprises less than 33% of the footprint area of the building, it is not considered a story. When a mezzanine comprises 33% or more of the footprint area of the building, it is considered a story. Only one mezzanine is permitted per building.

**Section 7.** All laws and clauses of laws in conflict herewith are repealed to the extent of such conflict.

**Section 8.** If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to this end the provisions of this ordinance are declared to be severable.

**Section 9.** This text change has been reviewed by the Raleigh City Planning Commission.

**Section 10.** This ordinance has been adopted following a duly advertised public hearing of the Raleigh City Council.

**Section 11.** This ordinance has been provided to the North Carolina Capital Commission as required by law.

**Section 12.** This ordinance shall be enforced as provided in N.C.G.S. 160A-175 or as provided in the Raleigh City Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty dollar limit in N.C.G.S. §14-4(a) or similar limitations.

**Section 13.** This ordinance is effective 5 days after adoption.

**ADOPTED:**

**EFFECTIVE:**

**DISTRIBUTION:**

*Prepared by the Department of City Planning*



# Certified Recommendation

Raleigh Planning Commission

CR#

## Case Information: TC-17-16 / Attics & Basements

### Comprehensive Plan Guidance

<i>Applicable Policy Statements</i>	<p><b>Policy LU 5.2 Managing Commercial Development Impacts</b> Manage new commercial development using zoning regulations and through the conditional use zoning and development review processes so that it does not result in unreasonable and unexpected traffic, parking, litter, shadow, view obstruction, odor noise and vibration impacts on surrounding residential areas.</p> <p><b>Policy LU 5.5 Transitional and Buffer Zone Districts</b> Maintain and enhance zoning districts which serve as transitional or buffer areas between residential and commercial districts and which also may contain institutional, non-profit and office type uses. Zoning regulations and conditions for these areas should ensure that development achieves appropriate height and density transitions and protects neighborhood character.</p> <p><b>Policy LU 7.4 Scale and Design of Commercial Uses</b> New uses within commercial districts should be developed at a height, mass, scale and design that is appropriate and compatible with surrounding areas.</p>
<i>Action Items</i>	<b>N/A</b>

### Summary of Text Change

<i>Summary</i>	Amends the Part 10 Raleigh Unified Development Ordinance to clarify the regulations related to attics and basements. As currently written, the UDO permits a basement or an attic, or both to add to the building massing without counting as a story. The Development Services Department has received several site plan submittals for what can only be considered a four or five story building within a three story zoning district.
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### Summary of Impacts

<i>Impacts Identified</i>	<p><u>Adoption of TC-17-16:</u></p> <ol style="list-style-type: none"> <li>1. The adoption of the text change would reflect the original intent of the UDO related to basements and attics.</li> <li>2. If adopted, only certain building types/zoning districts would be permitted to construct on story in addition to the specified maximum.</li> </ol>
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	<p><u>No Action:</u></p> <ol style="list-style-type: none"> <li>The existing regulations would remain and developers could submit site plans for taller buildings than what might otherwise be expected in the zoning district.</li> </ol>
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**Public Meetings**

<i>Submitted</i>	<i>Committee</i>	<i>Planning Commission</i>
	Committee of the Whole	10/25/16
		11/8/16
		12/13/16
		1/10/17
12/6/16		3/13/18
		Deferred 2 weeks
		Referred to COW
		Deferred
		Request for Time Ext.
		Referred back from CC

Attachments

- Draft Ordinance

**Planning Commission Recommendation**

<i>Recommendation</i>	
<i>Findings &amp; Reasons</i>	
<i>Motion and Vote</i>	Motion: Second: Approval:

This document is a true and accurate statement of the findings and recommendations of the Planning Commission. Approval of this document incorporates all of the findings of the attached Staff Report.

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 Planning Director                                      Date                                      Planning Commission Chairperson                                      Date  
 Staff Coordinator:                      Travis Crane: [travis.crane@raleighnc.gov](mailto:travis.crane@raleighnc.gov)



# Zoning Staff Report – TC-17-16

## Attics and Basements

### Request

<i>Section Reference</i>	<b>Part 10 Unified Development Ordinance §1.5.7 Building Height</b>
<i>Basic Information</i>	Amends the Part 10 Raleigh Unified Development Ordinance to clarify the regulations related to attics and basements. As currently written, the UDO permits a basement or an attic, or both to add to the building massing without counting as a story. The Development Services Department has received several site plan submittals for what can only be considered a four or five story building within a three story zoning district.
<i>PC Recommendation Deadline</i>	June 11, 2018

### Comprehensive Plan Guidance

<i>Applicable Policies</i>	<p><b>Policy LU 5.2 Managing Commercial Development Impacts</b> Manage new commercial development using zoning regulations and through the conditional use zoning and development review processes so that it does not result in unreasonable and unexpected traffic, parking, litter, shadow, view obstruction, odor noise and vibration impacts on surrounding residential areas.</p> <p><b>Policy LU 5.5 Transitional and Buffer Zone Districts</b> Maintain and enhance zoning districts which serve as transitional or buffer areas between residential and commercial districts and which also may contain institutional, non-profit and office type uses. Zoning regulations and conditions for these areas should ensure that development achieves appropriate height and density transitions and protects neighborhood character.</p> <p><b>Policy LU 7.4 Scale and Design of Commercial Uses</b> New uses within commercial districts should be developed at a height, mass, scale and design that is appropriate and compatible with surrounding areas.</p>
<i>Action Items</i>	<b>N/A</b>

### Contact Information

<i>Staff Coordinator</i>	Travis Crane: <a href="mailto:travis.crane@raleighnc.gov">travis.crane@raleighnc.gov</a> ; 919.996.2656
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## History/Overview

This text change was requested by staff in the Department of City Planning. The Unified Development Ordinance contains regulations related to building height. The UDO includes regulations for calculating height, calculating height on a sloped lot, and provisions for basement and attic space. When the language in section 1.5.7 was drafted, the initial intention was that the attic and basement provisions would be used on single family structures.

The previous Planning Commission recommendation was delivered to the City Council in January 2017. The City Council referred the item to a subcommittee, where discussion continued. Through this additional discussion, the committee recommended some alterations to the language. These alterations include an allowance for an “extra” story in a zoning district that contains a maximum height allowance of three stories; standards for retaining walls; and an alteration to the method for calculating building height.

## Purpose and Need

This text change would alter the language related to height to reflect the original intent. Staff has received several site plan submittals that propose very large multi-story apartment or mixed use buildings that claim to have an attic, a basement, or both. The intent of the mixed use zoning districts was to remove density caps in favor of predictable building heights. Very simply, three story zoning should produce three story buildings. Recent submittals have proposed very large five story buildings in three story zoning.

## Alternatives Considered

There were no other alternatives considered.

## Scoping of Impacts

Potential adverse impacts of the proposed text change have been identified as follows:

Adoption of the text change would narrow the scope where an “extra” story would be permitted.

The adverse impacts of taking no action (retaining the existing regulations) have been identified as follows:

If this text change is not adopted, the City will continue to receive site plan applications that propose buildings that contain more stories than might otherwise be expected in the zoning district. The predictability of building height would be lost.

## Impacts Summary

### Adoption of Proposed Text Change

The adoption of the text change would prevent a basement or attic in any building type other than a detached or attached building type, a building in the DX district or a building in a zoning district with a maximum height of three stories.

### No action

The City will continue to receive site plan submittals that propose buildings that are taller than what would be expected in the zoning district.

## Proposed Amendment to UDO Section 3.5 (Residential Transition)

First: Amend Section 3.5.1 of the UDO (Applicability) to add a new paragraph E:

- E. In addition to the alley transition described in paragraph D, the Historic Alley Transition described in Section 3.5.6 is available where an alley lies between a residential district and a mixed use district and the following conditions are met:
1. the alley abuts or lies within the Cameron Park Neighborhood Conservation District; and
  2. the mixed use parcel has not within the last two years contained a structure that is, or was, individually designated as a local, State, or national historic landmark.

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Second: Add a new Section 3.5.6 as follows:

### 3.5.6 Historic Alley Transition

#### A. Intent

The Historic Alley Transition is intended to insure a graduated height transition between the Neighborhood Conservation District and nearby mixed use development; to avoid abrupt contrasts of scale between the residential properties in a Neighborhood Conservation District and mixed use structures; to avoid incompatible uses facing the residential properties in a Neighborhood Conservation District; and to improve historic alleys with active frontages and uses more beneficial to the Neighborhood Conservation District.

#### B. Extent

The Historic Alley Transition extends from the residential parcel property line across the intervening alley and into the mixed use parcel for a distance of 50 feet from the residential parcel property line.

#### C. Restrictions

In addition to the other restrictions imposed by this Unified Development Ordinance, the following additional restrictions apply to construction within the Historic Alley Transition:

##### 1. Content

This Historic Alley Transition Area may contain vegetative landscaping, walls, fences, gardens, paths, walkways, sidewalks, surface parking, parks, playgrounds, stormwater detention, outdoor dining areas associated with residential uses, accessory structures compliant with the limits set forth in Paragraph 3.5.4.B, service areas compliant with the limits set forth in Paragraph 3.5.4.C, detached houses, attached houses, townhouses, apartments, general buildings, mixed use buildings, and open lots.

##### 2. Height

No portion of a detached house, attached house, townhouse, apartment, general building, mixed use building, or other structure that lies within the Historic Alley

Transition shall exceed the maximum building height applicable to the residential parcel across the alley from the mixed use parcel, as specified in the Neighborhood Conservation Overlay or otherwise. For this purpose only, height shall be measured from the elevation of the alley.

### 3. Uses

Any use extending into the Historic Alley Transition must be one of the residential uses permitted in R-10 Districts.

### 4. Setback

Notwithstanding any base dimensional standards or frontage requirements that might otherwise apply, construction in the Historic Alley Transition shall be set back at least 10 feet from the alley-facing property line of the mixed use parcel. This setback must contain a sidewalk of at least 5-foot width immediately adjacent to the alley right of way, over which a permanent public access easement must be granted. This immediately adjacent sidewalk will be unambiguously separated from the street by sharply contrasting materials but will not have a curb height in excess of one inch unless it is a mountable curb. No building element or other item or obstruction may extend into or be placed in this sidewalk portion of the setback. The remainder of the setback shall meet the requirements of Section 3.5.2.A and 3.5.3.A, except:

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- a. if the remainder of the setback is less than 10 feet in width, the protective yard need not contain shade trees;
- b. if the remainder of the setback is less than 6 feet in width, the protective yard need not contain understory trees; and
- c. no wall is required when a building fronts the protective yard.

### 5. Design Requirements

- a. Structured parking is permitted in the Historic Alley Transition, but residential uses must lie between the alley and the structured parking and conceal the structured parking (other than an entrance with no visible point source lighting).
- b. An alley-facing entrance is required at least every 100 feet, regardless of building type. There must be direct pedestrian access to that entrance from the adjoining sidewalk.
- c. The alley-facing facade is subject to a maximum blank wall area of 30 feet as calculated in Sec. 1.5.10. The blank wall area provisions are not subject to an Administrative Alternate.
- d. Private residential garage parking that satisfies the requirements of Section 1.5.12 is permitted along the alley as part of a detached house, attached house, or townhouse within the Historic Alley Transition. Such parking must be concealed behind a garage door of not more than 12-foot width.
- e. Entrances to structured parking and private residential garage parking shall not occupy more than 50% of the parcel's linear alley frontage.
- f. The requirements of Section 3.5.4.C apply, though residential trash and recycling bins may be collected from the alley if placed according to the applicable rules. Ground-mounted mechanical equipment other than individual residential HVAC units must be placed according to Section 3.5.4.C.