

Quick Guide: Preliminary Development Plan Review and the Comprehensive Plan

Note Regarding Development Plan Transition to the Unified Development Ordinance:

The Unified Development Ordinance became effective on September 1, 2013. The UDO applies to zoning districts contained within the UDO. The previous zoning code, known as Part 10, will eventually be retired. Development plans filed for properties with UDO zoning are not subject to the preliminary site plan approval process or Comprehensive Plan analysis. The new UDO districts are not effective until they are mapped on the Official Zoning Map by the Raleigh City Council. Development plans with “legacy” zoning may still require preliminary site plan approval. The Planning Commission will use the eight site plan standards, including the applicable Comprehensive plan policies, to review preliminary site plans. The webpage at the following address contains a list of preliminary site plans to which this transition applies:

<http://www.raleighnc.gov/business/content/PlanDev/Articles/DevServ/PreliminaryPCSitePlans.html>

Development plans that undergo review by the Planning Commission—including preliminary site plans and mixed-use master development plans—are required by City code to be reviewed for accordance with the policies of the City’s Comprehensive Plan. This quick guide provides an overview of the scope of this review for site plans and mixed-use master development plans.

REVIEW STANDARDS

Preliminary development plans differ from administratively-approved plans in that they are subject to a special set of standards in addition to other applicable code requirements. These eight standards are identified in the Code as “Standards for the Approval of a Mixed-Use Master Plan and a Preliminary Site Plan by the City Council and the Planning Commission.” Developments requiring this extra level of scrutiny include projects larger than a certain size, or likely to impact residential neighborhoods.

The eight standards differ from other provisions of the zoning code in that they are more generally stated and therefore entail discretion in their application, which is why compliance is determined by elected or appointed officials rather than by City staff. For example, a typical zoning standard such as a front yard setback is numerical and precise, and can be easily verified on a site plan by staff. A standard such as “the plan contains adequate measures to mitigate the impact of the development on nearby residential neighborhoods” requires judgment as to whether proposed mitigation measures are “adequate.” Applicants have the burden of demonstrating that their project conforms to the applicable standards.

The second of the eight standards requires a conclusion that **“the plan is in accordance with the general plans for the physical development of the City as embodied in the Comprehensive Plan, Redevelopment Plans, Streetscape Plans, manuals, handbooks or other City Council-adopted plans and standards.”** This standard gives the Comprehensive Plan an important role in the review of development plans by the Planning Commission and City Council.

PRESCRIPTIVE AND GUIDING POLICIES

The Comprehensive Plan contains nearly 950 policy statements: about 600 in Citywide elements, about 90 that apply only in the Downtown Element boundaries, and roughly 230 located in the 22 area-specific plans. However, only a subset of these policies is relevant to the review of development plans.

The Comprehensive Plan draws a distinction between “guiding” policies, intended to guide City decisions; and “prescriptive” policies, which are intended to influence private sector actions and are typically worded as “should” statements. While both kinds play a part in an analysis of accordance, a finding that a plan is not in accordance with the Comprehensive Plan will only be made when a proposed amendment fails to abide by one or more prescriptive policies. When a prescriptive policy cannot easily be met due to some site-specific factor(s), the extent to which a plan implements one or several guiding policies can serve as a mitigating consideration.

Occasions may arise when doing more of what one policy asks requires doing less of what another policy recommends. Decisions makers must exercise judgment when weighing such tradeoffs. The Comprehensive Plan provides the following guidance for such situations: “When weighing competing objectives, greater weight should be given to achieving overall policy objectives on an area- and city-wide scale rather than a site-specific scale, and decision-makers should consider the cumulative impacts of making a number of similar decisions over time.”

A summary list of prescriptive policies has been prepared. A link to the document, entitled “Zoning and Development Plan Policy Guide,” is on the Comprehensive Plan web page at: <http://www.raleighnc.gov/cp>.

SCOPE OF ACCORDANCE

The eight site plan standards call for “accordance” with the Comprehensive Plan. The Plan is a policy document, and its prescriptive policies use the word “should” in place of “shall,” implying discretion in their application. Courts in North Carolina have ruled that Comprehensive Plans are general goals, standards and guidelines for the implementation of zoning policy. The meaning of accordance, as applied in development review, is essentially the same as consistency, as applied to rezoning cases. As stated in Raleigh’s Comprehensive Plan: “Projects and proposals that implement one or more Plan policies and are not in conflict with the overall goals of the Plan and key [prescriptive] policies as highlighted above will be judged to be consistent. Projects and proposals that are in conflict with the overall goals of the plan and contradict key policies will be judged to be inconsistent.”

RELATIONSHIP TO THE CODE

The Comprehensive Plan recommends land uses for specific parcels that sometimes differ from or exclude uses permitted under current zoning. In the past, such conflicts created difficulties in reviewing development plans containing uses permitted under zoning but specifically recommended against in the Comprehensive Plan. Language in the new 2030 Comprehensive Plan resolves any conflict between the Plan and Code regarding permitted land uses, height and density in favor of the Code. The Plan also explicitly states that the Future Land Use Map is not to be invoked when reviewing development plans that do not involve a zoning map amendment or text change.

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