



Certified Recommendation

Raleigh Planning Commission

CR# 11648

Case Information: TC-4-15 / Development Standards & Nonconformities

Comprehensive Plan Guidance

<i>Applicable Policy Statements</i>	Not applicable
<i>Action Items</i>	Not applicable

Summary of Text Change

<i>Summary</i>	<p>Amends Sections 1.5.2.C., 1.5.4.D.1, 1.5.6.C, 1.5.11.B., 1.5.12.E.1., 2.2.3.E, 2.2.4.D, 2.3.4.E., 2.3.5.D., 3.2.3.E., 3.2.4.D., 3.4.2, 5.2.2., 5.4.3.A., 5.5.1., Article 10.3, and Article 12.2 of the Part 10A Raleigh Unified Development Ordinance to modify the measurement, exceptions and general rules of applicability, frontage requirements and the nonconforming principal sections of the regulations to reflect issues and concerns raised during the initial utilization period of the Unified Development Ordinance and during the UDO Citywide Zoning Map Amendment review process.</p>
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Summary of Impacts

<i>Impacts Identified</i>	<p><u>Adoption of TC-4-15:</u></p> <ol style="list-style-type: none"> 1. The adoption of the text change would allow land uses otherwise allowed in a zoning district to occupy a civic building in a nonresidential zoning district. 2. The adoption of the text change would require minimum lot widths to be met for the entire depth of the parcel except for cul-de-sac lots. 3. The adoption of the text change would require all setback encroachments to be at least 3 feet from the vertical plane of any lot line consistent with the Building Code. 4. The adoption of the text change exempts riparian buffers, floodways, areas of steep slopes, recorded tree conservation areas, high voltage electric transmission lines, City utility easements and portions of second driveways required by the code from the calculations used for determining the build-to percentage. 5. The adoption of the text change would eliminate the prescriptive dimensional requirements for Building Features such as porches and stoops. 6. The adoption of the text change would allow rear-loaded garages to be located 4 feet from access
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	<p>easements just as the City allows them to be located 4 feet from alley rights-of-way or rear access drives.</p> <ol style="list-style-type: none"> 7. The adoption of the text change would exempt buildings, structures, parking areas, vehicular surface areas, pedestrian access, streetscape and landscape buffers located between the roadway and the development existing at the time a Frontage is applied to a property from being deemed a nonconformity solely because of the Frontage and sets parameters for their expansion if not in conformance with the Code. 8. The adoption of the text change would remove the Parking-Limited (PL) Frontage from the list of frontages defined as a “Urban Frontage”. 9. The adoption of the text change would allow for expansions of preexisting buildings that fail to meet Frontage requirements under certain circumstances. 10. The adoption of the text change would allow for expansions and changes to preexisting structures and impervious surfaces in the Metro-Park Overlay District, Neighborhood Conservation Overlay Districts and Transit Overlay Districts under certain circumstances if approved for a Special Use Permit by the Board of Adjustment. 11. The adoption of the text change would allow for expansions in excess of 25% of the floor area gross to nonconforming structures, without a variance, if the enlargement or alteration complies with all regulations of the UDO. 12. The adoption of the text change clarifies that Public acquisition of right-of-way does not render a property non-conforming. <p><u>No Action:</u></p> <ol style="list-style-type: none"> 1. The Part 10A Raleigh Unified Development Ordinance would remain as originally adopted in 2013. 2. There are conflicts between the setback encroachments authorized by the Part 10A Unified Development Ordinance and what the Building Code requires. 3. Existing developments could be rendered nonconforming by the application of a Frontage. 4. The City is in the process of remapping the legacy districts. Certain decisions were based upon the mutually-understood premise that the frontage regulations would be amended to address pre-existing developments in regards to expansions.
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Public Meetings

<i>Submitted</i>	<i>Committee</i>		<i>Planning Commission</i>	
3-24-15	4-21-15	TCC – Deferred	3-24-15	Referred to Text Change Request Time Extension Approval
	5-19-15	Deferred	6-9-15	
	6-16-15	Deferred	7-14-15	
	6-30-15	Approval		

Attachments

1. Draft Ordinance

Planning Commission Recommendation

<i>Recommendation</i>	Approve the text change.
<i>Findings & Reasons</i>	That the Use Regulation issues and concerns raised during the UDO Citywide Zoning Map Amendment process and during the initial utilization period were significant enough to warrant the changes reflected herein. Additional clarity was warranted regarding minimum lot configurations. There were differences between the UDO and the Building Code that weren't intended and this would bring the UDO more into alignment with certain aspects of the Building Code in terms of building separation requirements. This text change would also remedy concerns regarding preexisting developments being overlaid with a Frontage. The text change would also clean up a discrepancy in the UDO regarding which Frontages are considered "Urban" and which are not.
<i>Motion and Vote</i>	Motion: Braun Second: Lyle In favor: Alcine, Braun, Fluhrer, Lyle, Schuster, Swink, Terando and Whitsett

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.

_____	7/14/15
Planning Director	Date
_____	7/14/15
Planning Commission Chairperson	Date

Staff Coordinator: Eric Hodge: eric.hodge@raleighnc.gov



Zoning Staff Report – TC-4-15

Development Standards & Nonconformities

Request

<i>Section Reference</i>	Part 10A §1.5.2.C. Lot Width Part 10A §1.5.4.D.1. Building Features Part 10A §1.5.11.B. Porch Part 10A §1.5.12.E.1. Townhouse – Rear-Loaded Part 10A §3.4.2. General Requirements Part 10A §10.3.3.G.6. Damage or Destruction Part 10A Article 12.2 Defined Terms
<i>Basic Information</i>	Amends the Part 10A Raleigh Unified Development Ordinance's Allowed Principal Use Table and certain use regulations to reflect Use Regulation issues and concerns raised during the initial utilization period of the Unified Development Ordinance and during the UDO Citywide Zoning Map Amendment review process.
<i>PC Recommendation Deadline</i>	

Comprehensive Plan Guidance

<i>Applicable Policies</i>	Not applicable
<i>Action Items</i>	Not applicable

Contact Information

<i>Staff Coordinator</i>	Eric Hodge: eric.hodge@raleighnc.gov ; 919.996.2639
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History/Overview

This text change was initiated by the City Staff, the City of Raleigh Planning Commission and The City of Raleigh City Council to address several issues and concerns that came about during the initial utilization period of the Unified Development Ordinance as well as those discussed during the UDO Citywide Zoning Map Amendment review process.

Purpose and Need

This text change would bring the UDO more into alignment with certain aspects of the Building Code regarding building separation requirements. Additional clarity was warranted regarding minimum lot configurations, particularly lot width expectations. This text change would also address concerns over preexisting developments being overlaid with a Frontage. Lastly, this text change would also eliminate a discrepancy in the UDO regarding which Frontages are considered "Urban" and which are not clarifying that "Parking-Limited" is not an Urban Frontage.

Alternatives Considered

None

Scoping of Impacts

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

None.

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

The issues and concerns regarding the Use Regulations raised during the initial utilization period as well as those expressed during the UDO Citywide Zoning Map Amendment process wouldn't be addressed.

Impacts Summary

Adoption of Proposed Text Change

The adoption of this text change will result in Use Regulations that address some of the issues and concerns raised during the UDO Citywide Zoning Map Amendment process and those that City Staff became aware of during the initial utilization period of the Part 10A Raleigh Unified Development Ordinance.

No action

The status quo will be maintained and the Part 10A Raleigh Unified Development Ordinance will remain unchanged from what was originally adopted in 2013. The Frontage component of the proposed UDO zoning map would need to be revisited so non-conforming developments are not established.

**ORDINANCE NO. (2015) 508 TC 373
TC-4-15**

AN ORDINANCE TO MODIFY THE MEASUREMENT, EXCEPTIONS & GENERAL RULES OF APPLICABILITY, FRONTAGE REQUIREMENTS, TO ADD A SPECIAL USE PROVISION FOR METRO-PARK NEIGHBORHOOD CONSERVATION AND TRANSIT OVERLAY DISTRICTS TO AMEND ARTICLE 10.3 RELATING TO NONCONFORMITIES AND AMEND THE DEFINITION OF URBAN FRONTAGE IN THE CITY OF RALEIGH UNIFIED DEVELOPMENT ORDINANCE PART 10A OF THE CITY CODE

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

Section 1. Section 1.4.1.G. of the Part 10A Raleigh Unified Development Ordinance, civic building types, is hereby amended by the insertion of the following underlined provisions.

G. Civic Building

“A building that in residential zoning districts exclusively accommodates civic uses, as well as rest homes, day care centers, life care, congregate care, special care facilities and accessory uses. Land uses otherwise allowed in the applicable zoning district are allowed in civic buildings in nonresidential zoning districts.”

Section 2. Section 1.5.2.C. of the Part 10A Raleigh Unified Development Ordinance, Lot Width, is hereby amended by the insertion of the following underlined provisions:

“Lot width is the distance between the side lot lines (generally running perpendicular to a street) measured at the primary street property line along a straight line or along the chord of the property line. A lot must meet the minimum lot width for the entire minimum required depth of the parcel except for cul-de-sac lots.”

Section 3. Section 1.5.4.D.1. of the Part 10A Raleigh Unified Development Ordinance, Building Features, is hereby amended by the insertion of the following underlined provisions and deleting the language shown with a strike-through and re-lettering some of the entries:

- a. Porches (raised structures attached to a building forming a covered entrance) ~~-stoops, balconies, galleries and awnings and steps as set forth in Sec. 1.5.11~~ may extend up to 9 feet, including the steps, into a required setback, provided that such extension is at least 3 feet from the vertical plane of any lot line.
- b. Stoops (small raised platforms that serve as entrances to buildings) may extend up to 6 feet into a required setback, provided that the landing is at least 3 feet from the vertical plane of any lot line. Stoops may be covered but cannot be fully enclosed.

- c. Balconies (platforms projecting from the wall of a building with a railing along its outer edge, often accessible from a door or window) may extend up to 6 feet into a required setback, provided that the landing is at least 3 feet from the vertical plane of any lot line. Balconies can be covered but cannot be fully enclosed.
- d. Galleries (covered passages extending along the outside wall of a building supported by arches or columns that are open on 1 side), must have a clear depth from the support columns to the building's façade of at least 8 feet and a clear height above the sidewalk of at least 10 feet. A gallery may extend into a required street setback. A gallery may not extend into a required side setback.
- ~~e.b.~~ Chimneys or flues may extend up to 4 feet, provided that such extension is at least 23 feet from the vertical plane of any lot line.
- ~~f.e.~~ Building eaves, roof overhangs, awnings and light shelves may extend up to 5 feet, provided that such extension is at least 23 feet from the vertical plane of any lot line.
- ~~g.d.~~ Bay windows, oriels, vestibules and similar features that are less than 10 feet wide may extend up to 4 feet, provided that such extension is at least 23 feet from the vertical plane of any lot line.
- ~~h.e.~~ Unenclosed fire escapes or stairways may extend up to 4 feet into a required side or rear setback, provided that such extension is at least 5 feet from the vertical plane of any lot line.
- ~~i.f.~~ Unenclosed patios, decks or terraces may extend up to 4 feet into a required side setback, or up to 8 feet into a required rear setback, provided that such extension is at least 5 feet from the vertical plane of any lot line.
- ~~j.g.~~ Cornices, belt courses, sills, buttresses or other similar architectural features may project up to 1½ feet.
- ~~k.h.~~ Handicap ramps may project to the extent necessary to perform their proper function.
- l. If a variance is not required, a building feature may encroach into the right-of-way, provided a license for the use of the right-of-way is obtained from the City, which is terminable at will by the City."

Section 4. Section 1.5.6.C. of the Part 10A Raleigh Unified Development Ordinance is hereby amended by inserting the following underlined text:

“C. General Requirements

- 1. On corner lots, a building facade must be placed within the build-to for the first 30 feet along the street extending from the block corner.

2. With the exception of parking areas, all structures and uses customarily allowed on the lot are permitted in the build-to area.
3. Any common area is not required to meet the build-to requirements.
4. Riparian Buffers, Floodways, areas of steep slope (defined as slopes in excess of 25%), pre-established and recorded Tree Conservation Areas and portions of property encumbered by overhead electric transmission lines rated to transmit 230 Kv, for any second driveway required by this code that must cross the build-to area, the additional width of the driveway up to a maximum of 25', and City of Raleigh utility easements shall not be considered when calculating the build-to percentage or build-to range.

Section 5. Section 1.5.11. of the Part 10A Raleigh Unified Development Ordinance, Building Elements, is hereby amended by deleting the section entirely and holding the section number in reserve for future use. All cross-references to this section shall also be deleted and replaced with Section 1.5.4.D “Building Features.”

Section 6. Section 1.5.12.E.1. of the Part 10A Raleigh Unified Development Ordinance, Townhouse – Rear-Loaded, is hereby amended by the insertion of the following underlined provisions and deleting the language shown with a strike-through:

- “1. Rear-Loaded
- a. Garage is placed entirely to the rear of the townhouse and is rear-accessed. Garage can be attached or detached.
 - ~~b. Garage doors must face the alley or rear access drive.~~
 - b.e. The garage must either be located 4 feet from the alley right-of-way or easement or rear access drive or be a minimum of 20 feet from the alley right-of-way or easement or rear access drive.
 - ~~c.d.~~ Where the parking spaces are located between the garage and the alley or rear access drive, the garage must be located at least 20 feet from the alley or rear access drive.”

Section 7. Section 2.2.3.E. of the Part 10A Raleigh Unified Development Ordinance, Townhouse, is hereby amended by the insertion of the following underlined provisions:

“E3. Preexisting Buildings: See Sec. 3.4.2.C.2.”

Section 8. Section 2.2.4.D. of the Part 10A Raleigh Unified Development Ordinance, Apartment, is hereby amended by the insertion of the following underlined provisions:

“D5. Preexisting Buildings: See Sec. 3.4.2.C.2.”

Section 9. Section 2.3.4.E. of the Part 10A Raleigh Unified Development Ordinance, Townhouse, is hereby amended by the insertion of the following underlined provisions:

“E3. Preexisting Buildings: See Sec. 3.4.2.C.2.”

Section 10. Section 2.3.5.D. of the Part 10A Raleigh Unified Development Ordinance, Apartment, is hereby amended by the insertion of the following underlined provisions:

“D5. Preexisting Buildings: See Sec. 3.4.2.C.2.”

Section 11. Section 3.2.3.E. of the Part 10A Raleigh Unified Development Ordinance, Townhouse, is hereby amended by the insertion of the following underlined provisions:

“E3. Preexisting Buildings: See Sec. 3.4.2.C.2.”

Section 12. Section 3.2.4.D. of the Part 10A Raleigh Unified Development Ordinance, Apartment, is hereby amended by the insertion of the following underlined provisions:

“D5. Preexisting Buildings: See Sec. 3.4.2.C.2.”

Section 13. Section 3.4.2 of the Part 10A Raleigh Unified Development Ordinance, General Requirements, is hereby amended by the insertion of the following underlined provisions:

“C. Preexisting Conditions

1. All buildings, structures, pedestrian accesses, streetscapes and vehicular surface areas existing at the time that the frontage is first applied to the property shall not be deemed a zoning nonconformity solely because of frontage requirements. Replacement and repair of buildings, structures, pedestrian accesses, streetscapes and vehicular surface areas existing at the time that the frontage is first applied to the property may be made provided all of the following are met:
 - a. Replacement is like for like.
 - b. The replacement conforms to all provisions of this UDO except, frontage requirements.
 - c. The damage or destruction is caused by means other than voluntary actions.
 - d. Reconstruction and repair, not including interior work, shall not exceed 50% of the replacement cost immediately prior to the damage or destruction. Replacement cost shall be determined in accordance with Sec. 10.3.3.G.4 and 5.

- e. Reconstruction or repair is commenced with a valid building permit or zoning permit within 12 months of the date of such damage or destruction.

- 2. Lots subject to build-to requirements that contain pre-existing buildings and maintain pre-existing buildings and which add additions to existing buildings that singularly or collectively comprise no more than 25% of the gross floor area existing at the time the build-to requirements became applicable to the property, or 1,000 square feet, whichever is greater, are allowed to expand the building anywhere within their minimum setbacks, without deference to the build-to requirements. All other frontage requirements, if any, shall apply.

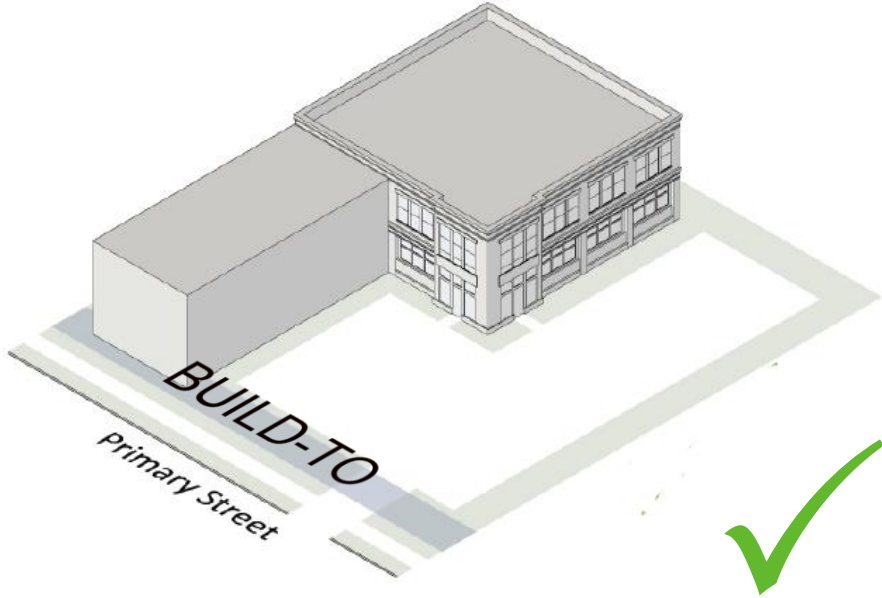
- 3. Lots subject to build-to requirements that contain pre-existing buildings and maintain pre-existing buildings and which either add additions to existing buildings in excess of those allowed by item number 2. above or construct any new additional buildings on the lot shall conform to the following build-to requirements. All other frontage requirements, if any, shall apply.

a. Additions

Expansion of an existing building that is unable to meet the required build-to percentage must comply with the following provisions:

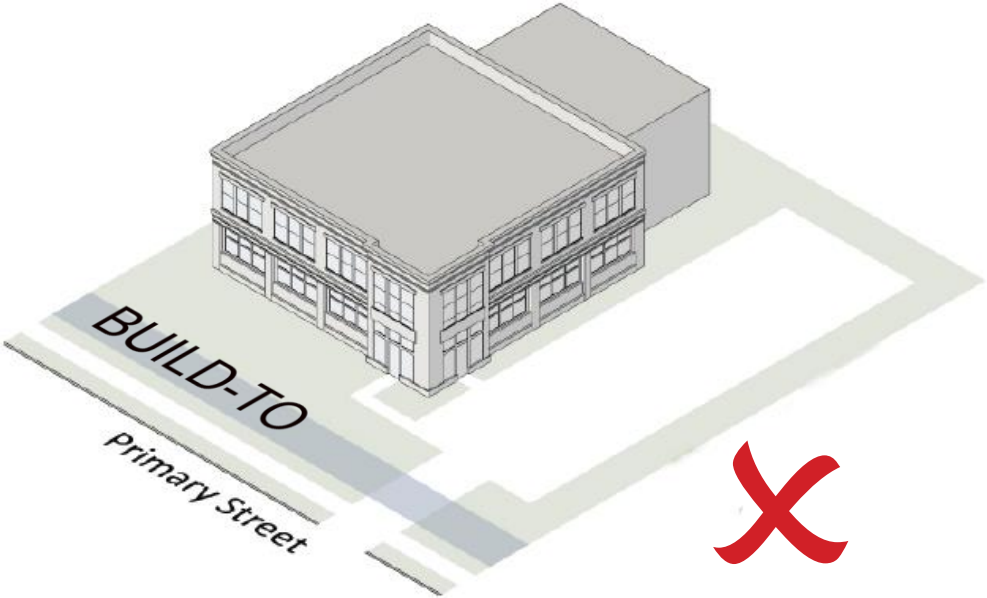
i. Street-Fronting: Addition

Additions to the front of an existing would be allowed. The addition does not have to extend into the build-to area nor does it have to meet the required build-to percentage for the lot.



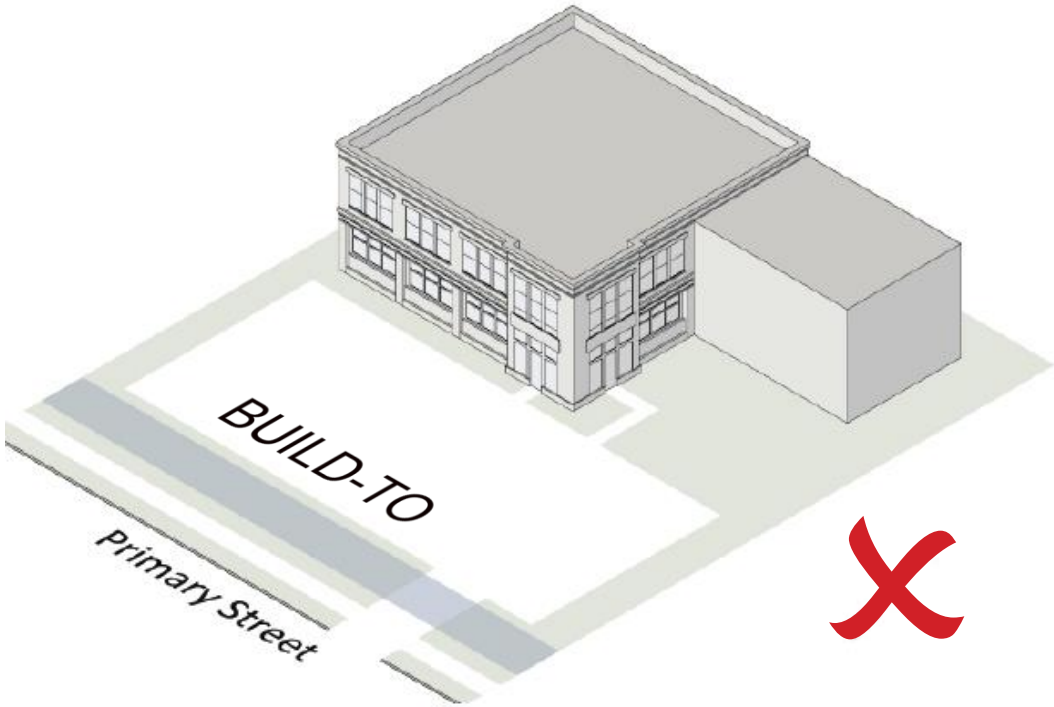
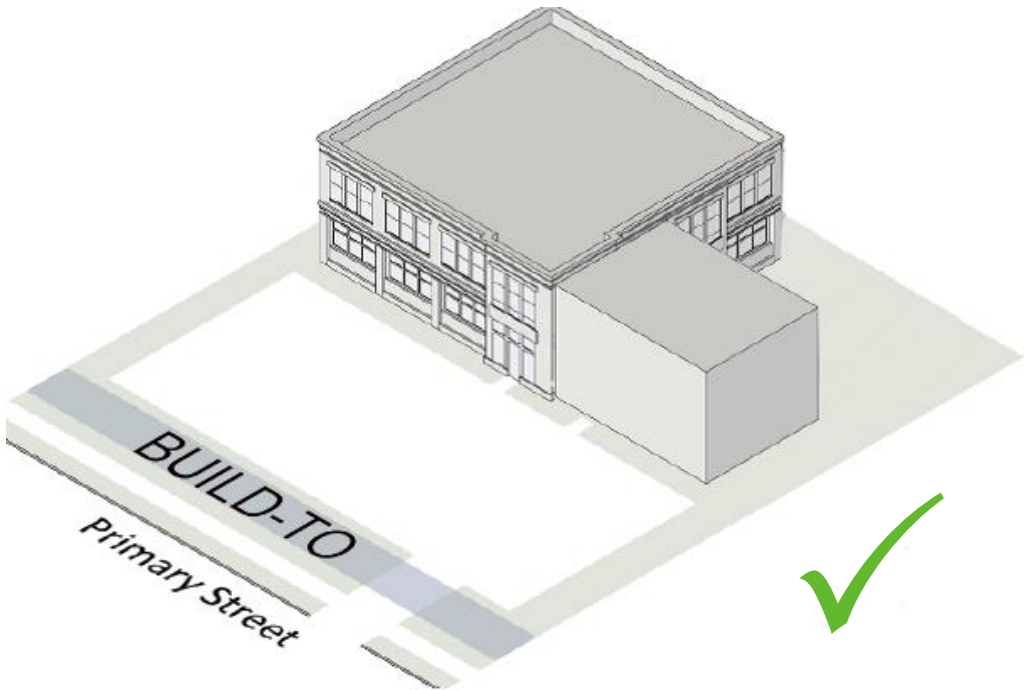
ii. Rear: Addition

Rear additions are not allowed until the required build-to percentage for the lot has been met except when the addition is used exclusively for one or more of the following: loading areas, storage, kitchens, repair facilities (including bays for motor vehicles) and mechanical equipment.



iii. Non-street Side: Addition

Non-street Side Additions are allowed where the side addition is at least as close to the build-to as the existing building because the extension increases the width of the building and does not set back any further than the existing building.

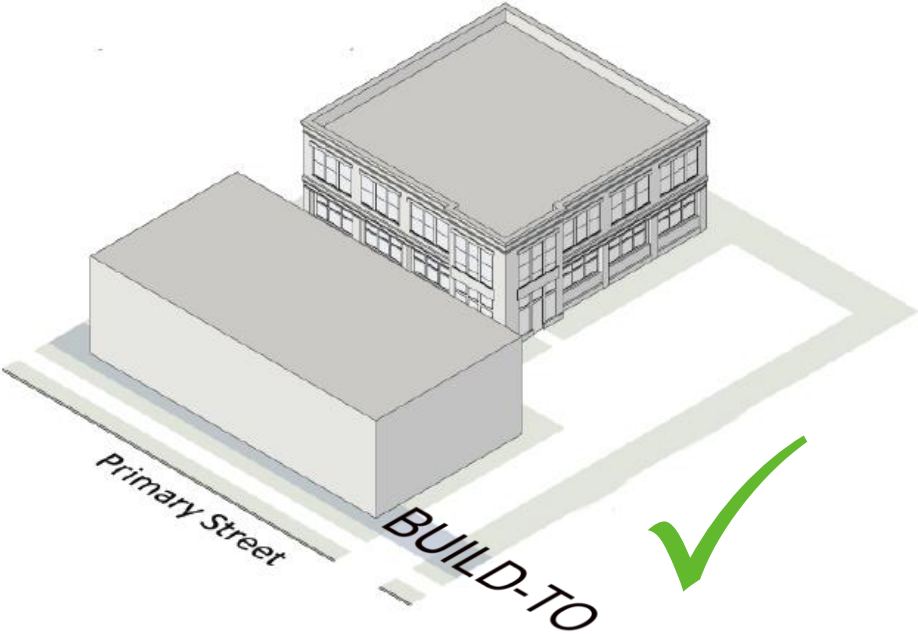


b. New Buildings

Where a new building is being constructed on a lot with an existing building that does not meet the build-to percentage requirement, the following provisions comply:

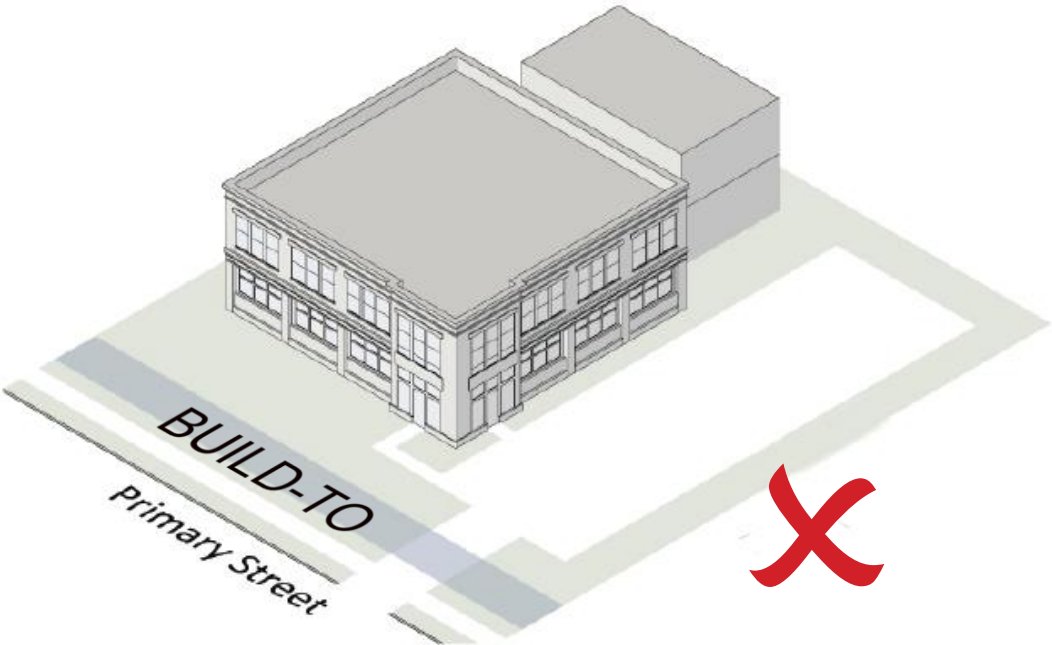
i. Street-Fronting: New Building

All new buildings must be placed in the build-to range until the required build-to percentage requirement has been met for the lot.



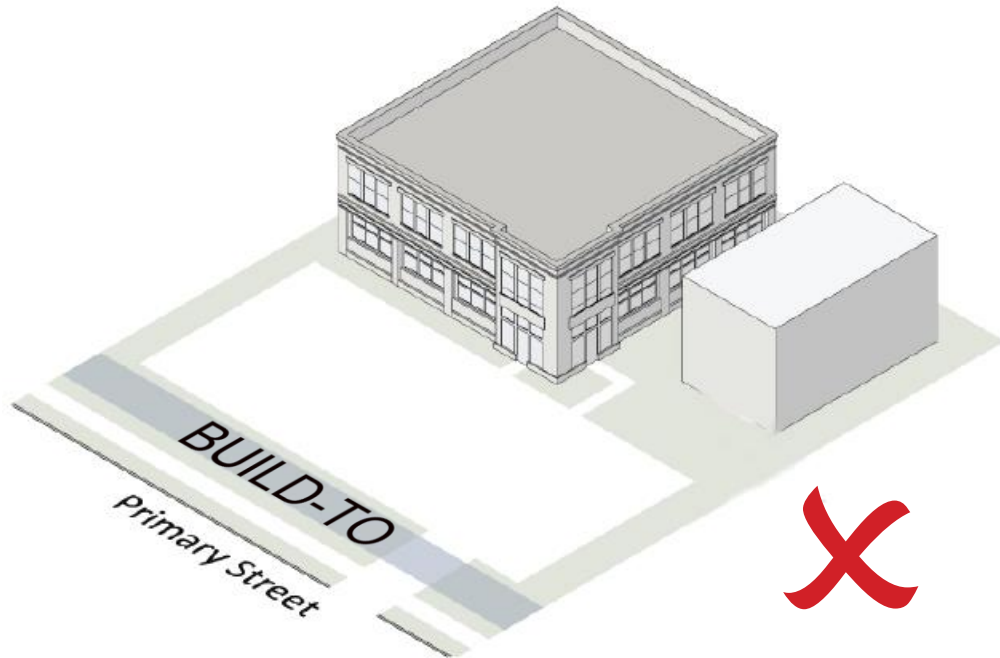
ii. Rear: New Building

New buildings located in the rear of existing buildings are not allowed until the required build-to percentage requirements have been met for the lot.



iii. Non-street Side: New Building

New buildings located outside of the build-to range are not allowed until the required build-to percentage requirements have been met for the lot.



4. The Planning Director may, in accordance with Sec. 10.2.17., reduce the build-to requirement, subject to the findings set forth in Sec. 1.5.6.D.
5. The streetscape requirements shall not apply whenever a plot plan is applicable in accordance with Sec.10.2.7.A.; in all other instances, the streetscape requirements shall apply. The additional parking limitations of this article shall be applied in accordance with Sec. 7.1.1.B.4. Related parking requirements of this UDO shall be in accordance with Sec. 7.1.1.B.
6. Lots subject to build-to requirements that contain buildings existing at the time the frontage regulations were first applied to the property may, without deference to the build-to requirements, make voluntary renovations or alterations changing the exterior appearance of such buildings, including vertical expansions, that do not enlarge the footprint of the existing buildings, when done in accordance with the transparency and streetscape requirements of this UDO, and the pedestrian access requirements of this UDO when the costs of the improvements exceed cumulatively \$10,000 in any one calendar year. Voluntary demolitions or tear-downs shall be replaced with building improvements that comply with the regulations of the applicable build-to requirements and all other frontage requirements.

7. In the event that a buildings, structures, pedestrian accesses, streetscapes and vehicular surface areas existing at the time that the frontage is first applied to the property is damaged or partially destroyed, by exercise of eminent domain, riot, fire, accident, explosion, flood, lightning, wind or other calamity or natural cause to the extent of more than 50% of the replacement cost immediately prior to such damage, such buildings, structures, pedestrian accesses, streetscapes and vehicular surface areas shall not be restored unless either the replacement will conform to all regulations of this UDO or a special use permit is issued by the Board of Adjustment for the restoration. Replacement cost shall be determined in accordance with Sec. 10.3.3 G. 4. and 5.

Before a request for the special use permit is granted, the Board of Adjustment must show that all of the following are met:

- a. The applicable standards of this section have been met;
- b. All of the showings of Sec. 10.2.9.E. have been met; and
- c. The requested repair, reconstruction, or restoration will not be injurious to property or improvements in the affected area.”

Section 14. Section 3.4.3.E.1. of Part 10A Raleigh Unified Development Ordinance, protective yard landscaping for Parkway frontages, is hereby amended by the insertion of the following underlined provisions:

“E. Protective Yard Landscaping

- E1 The 50-foot protective yard must be landscaped in accordance with Sec. 5.3.1.F. (SHOD-1 requirements) or Sec. 5.3.1.H. for expansions and additions.”

Section 15. Section 5.2.2 of Part 10A Raleigh Unified Development Ordinance, Metro-Park Overlay District, is hereby amended by the insertion of the following underlined provisions and deleting the language shown with a strike-through:

Sec. 5.2.2. Metro-Park Overlay District (MPOD)

“A. Applicability

No building, structure, use, impervious surface, tree conservation area or light shall be constructed, established, moved, altered, changed or increased in size within a MPOD except in conformity with the regulations contained in this section for the adopted MPOD.

~~A~~ B. Permitted Uses

Uses permitted in the underlying district are permitted in a MPOD.

~~B~~ C. Prohibited Uses and Activities

Prohibited uses and activities in a MPOD:

1. Any establishment, use or trade that emits detectable odor at a Metro-Park boundary more than 15 minutes in any 1 day or more than 2 days out of the calendar month;
2. Above-ground storage of hazardous waste, as defined in the Code of Federal Regulations 2161.3 and 263.33, or as the same may be amended by law, except up to 55 gallons which shall be stored inside a fully impervious structure. This prohibition does not include underground storage in tanks which meet applicable fire prevention standards and federal and state regulations and otherwise comply with the City Code; and
3. Use of outdoor speakers within 500 feet of a Metro-Park boundary.

~~C~~ D. Setbacks

1. Separation and Protective Yards

- a. The setbacks of the underlying zoning district shall apply with the exception that any portion of a lot abutting a Metro-Park boundary requires a 32-foot wide primary tree conservation area along the entire length of the property boundary.
- b. No tree or land disturbing activity, animal pen, structure, septic system, stormwater facility or vehicular surface area may be located within 32 feet of a Metro-Park boundary.

2. Natural Resource Buffer Yards

All watercourses that both drain into a Metro-Park and have concentrated flow from a drainage area of at least 5 acres must establish a primary tree conservation area in accordance with Sec. 9.2.3.

3. Height

- a. Buildings and structures located within 1,000 feet of a Metro-Park boundary shall be limited to a maximum height of 45 feet, provided that no building is greater than 2½ stories.

- b. Buildings and structures not otherwise restricted to a lower height located further than 1,000 feet from a Metro-Park boundary, which are more than 45 feet high or contain more than 2½ stories can add 25 feet of additional setback from the 1,000-foot distance from the edge of the Metro-Park boundary for each foot of height greater than 45 feet.

D E. Supplementary Regulations

1. Lighting

- a. No exterior lighting may cause illumination in excess of 0.4 foot-candles measured at the boundary of the Metro-Park.
- b. Full-cutoff lights must be used for all lighting.
- c. No external illumination of buildings that face the boundary of the Metro-Park is allowed except for the exterior lighting of building entrances, exits or loading docks.
- d. No provision of a MPOD shall be in conflict with applicable FAA lighting regulations.

2. Impervious Surface Coverage

Excluding streets, impervious surface areas may not be added so that the impervious surface lot coverage exceeds 45% in areas that drain into the Metro-Park. Impervious surface coverage greater than 30% but less than 45% of the lot is allowed but only when identified pollutants (such as nitrogen and/or phosphorous) are reduced by a minimum of 25%.

E F. Hardships

- 1. In those instances where in accordance with Sec.10.2.10. the Board of Adjustment determines that the application of these regulations would deprive the landowners of reasonable use of their land, the Board of Adjustment may alter the impervious surface coverage limits, increase height restrictions and reduce the widths of the protective yard as determined necessary.
- 2. Maintenance of the protective yard should be given the highest priority by the Board of Adjustment when making its determination to modify one or more of these regulations.

F G. Existing Structures, Uses and Impervious Surfaces

1. All structures, uses and impervious surfaces, watercourses and lighting existing at the time that the MPOD is first applied to the property shall not be deemed a zoning nonconformity solely because of this the overlay district.
2. All additions, changes, expansions and alterations to existing structures, impervious surfaces, lighting and uses must comply with the regulations of the MPOD, unless the Board of Adjustment approves a special use permit under Sec. 10.3-6. 2.9. ~~allowing~~ approves the addition, change, expansion or alteration. ~~as if the existing structure or use were made nonconforming by application of a MPOD.~~
3. In addition to the showings required by Sec. 10.2.9.E.4. through 8., all of the following standards shall be met:
 - a. The expansion does not, singularly or collectively, exceed 25% of the total gross floor area of the building or use existing at the time the MPOD overlay zoning district regulations were first applied to the property.
 - b. The building or use existed at the time the MPOD overlay zoning district regulations requirements were first applied to the property.
 - c. The requested activity complies with all requirements and regulations of this UDO other than the MPOD overlay zoning district regulations.
 - d. Except where pre-existing structures, septic systems, wells, stormwater facilities, vehicular surface drives and parking surfaces needed for UDO required off-street parking prevent the planting of trees, tree conservation areas are established in accordance with Sections 5.2.2.C.1.a. and 5.2.2.C.2.
4. Nothing shall be deemed to permit the reconstruction – similar or different, whole or in part – of a building, improvement or use existing at the time the NCOD overlay zoning regulations were first applied to the property that has been voluntarily demolished or discontinued. Voluntarily torn down buildings and improvements or discontinued uses shall be replaced with buildings improvements and uses that comply with the regulations of the MPOD.”

Section 16. Section 5.4.3.A. of Part 10A Raleigh Unified Development Ordinance, Neighborhood Conservation Overlay District, is hereby amended by the insertion of the following underlined provisions and deleting the language shown with a strike-through:

“A. Applicability

1. No building, structure, lot boundary, dwelling unit, vehicular surface area, street right-of-way or greenway shall be constructed, established, moved, alter, changed or increased in size or number within a NCOD except in conformity with the regulations contained in this section for the adopted NCOD.
2. All lots and structures existing at the time that the NCOD is first applied to the property shall not be deemed a zoning ~~noneonforming~~ nonconformity solely because of this overlay district.
3. All additions, changes, expansions and alterations to existing structures, impervious surfaces and uses must comply with the regulations of the NCOD, unless the Board of Adjustment approves a special use permit under Sec. 10.3-6. ~~2.9. allowing~~ approves the addition, change, expansion or alteration ~~as if the existing structure or use were made noneonforming by application of a NCOD.~~
4. In addition to the showings required by Sec. 10.2.9.E. 4. through 8., all of the following standards shall be met:
 - a. The expansion does not, singularly or collectively, exceed 25% of the total gross floor area of the building or use existing at the time the NCOD overlay zoning district regulations were first applied to the property.
 - b. The building or use existed at the time the NCOD overlay zoning district regulations requirements were first applied to the property.
 - c. The requested activity complies with all requirements and regulations of this UDO other than the NCOD overlay zoning district regulations.
5. Nothing shall be deemed to permit the reconstruction – similar or different, whole or in part – of a building, improvement or use existing at the time the NCOD overlay zoning regulations were first applied to the property that has been voluntarily demolished or discontinued. Voluntarily torn down buildings and improvements or discontinued uses shall be replaced with buildings, improvements and uses that comply with the regulations of the NCOD.”

Section 17. Section 5.5.1 of Part 10A Raleigh Unified Development Ordinance, Transit Overlay District, is hereby amended by the insertion of the following underlined provisions and deleting the language shown with a strike-through:

“G. Applicability

1. No building, structure, or use shall be constructed, moved, altered, changed or increased in size within a TOD except in conformity with the regulations contained in this section for the adopted TOD.
2. All lots, uses, and structures existing at the time that the TOD is first applied to the property shall not be deemed a zoning nonconformity solely because of this overlay district.
3. All additions, changes, expansions and alterations to existing structures, impervious surfaces and uses must comply with the regulations of the TOD, unless the Board of Adjustment approves a special use permit under Sec. 10.2.9 allowing the addition, change, expansion or alteration.
4. In addition to the showings required by Sec. 10.2.9. E.4. through 8., all of the following standards shall be met:
 - a. The expansion does not, singularly or collectively, exceeds 25% of the total gross floor area of the building or use existing at the time the TOD overlay zoning district regulations were first applied to the property.
 - b. The building or use existed at the time the TOD overlay zoning district regulations requirements were first applied to the property.
 - c. The requested activity complies with all requirements and regulations of this UDO other than the TOD overlay zoning district regulations.
5. Nothing shall be deemed to permit the reconstruction – similar or different, whole or in part – of a building, improvement or use existing at the time the TOD overlay zoning regulations were first applied to the property that has been voluntarily demolished or discontinued. Voluntarily torn down buildings and improvements or discontinued uses shall be replaced with buildings, improvements and uses that comply with the regulations of the TOD.”

Section 18. Section 7.1.1.B.2. of Part 10A, Raleigh Unified Development Ordinance, parking regulations applied to additions, is hereby amended by the insertion of the following underlined provisions and deleting the language shown with a strike-through:

- “2. When a building, use or site is increased in gross floor area or improved site area by up to 25% cumulatively, any new parking that is required for the additional floor or site area only shall comply with all of the related parking standards of this UDO.”

Section 19. Section 7.1.1.B. of Part 10A of the Raleigh Unified Development Ordinance, parking regulations applied to additions, is hereby amended by the insertion of the following underlined new subsection:

- “4. When the gross floor area or improved site area is increased by more than 25% cumulatively, both the existing parking and the new parking required for the additional floor or site area must conform to all related parking standards of this UDO.”

Section 20. Article 10.3. of Part 10A, Raleigh Unified Development Ordinance, Nonconformities, is hereby amended by the insertion of the following underlined provisions and deleting the language shown with a strike-through:

“10.3. Nonconformities

Sec. 10.3.1. In General

A. Public Safety

Repairs required for public safety because of unsafe conditions or by either the Housing Code or North Carolina State Building Code may be made in any amount unless the repairs are caused by a casualty, in which case the provisions of Sec. 10.3.2.G. or Sec. 10.3.3.G. shall apply in lieu of this provision.

B. Reservation of Authority

Notwithstanding the policies and provisions of this Article with respect to nonconformities, the City expressly reserves its authority to initiate criminal and civil proceedings against unlawful uses, buildings, structures and lots, including those which unlawfully existed here before and to control or abate noxious uses, to require the repair or demolition of unsafe buildings or structures or to control or eliminate public health nuisances through the exercise of any powers authorized by the City Code and the North Carolina General Statutes.

C. Right of Way Acquisition

Public acquisition of right-of-way shall not render a property non-conforming.

Sec. 10.3.2. Nonconforming Uses

A. Authority to Continue

1. Subject to the provisions of this Article or any amortization provision, any lawfully existing nonconforming use may continue in operation on the same land area and on the same floor area of the structure that was occupied by the nonconforming use on the date the use first became a nonconforming use. The continuation of a nonconforming use shall not be construed constructed to permit an increase in the number of dwelling units or a reduction of land area to the number of dwelling units.
2. Subject to the provisions of this Article or any amortization provision, any lawfully existing nonconforming structure may continue to occupy the same land area within the existing configuration and size of the structure which existed on the date the structure first became a nonconforming structure.

B. Ordinary Repair and Maintenance

Normal maintenance and incidental repair or replacement, installation or relocation of non-bearing walls or non-bearing partitions, adding facilities to improve handicapped accessibility, painting, energy conservation, fencing and landscaping, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use; provided, however, that this paragraph shall not be deemed to authorize any violation of Sec. 10.3.2.C. through Sec. 10.3.2.G. Expenditures in any amount may be to either bring the nonconformity into full compliance with this UDO or to amortize the nonconformity.

C. Extensions

A nonconforming use shall not be extended, expanded, enlarged or increased in intensity, unless a special use permit is issued by the Board of Adjustment for such extension or expansion. Such prohibited activity shall include, without being limited to:

1. Extension of the use to any structure or land area other than that occupied by the nonconforming use on September 1, 2013, or any amendment to this UDO that causes a use of the property to become otherwise nonconforming.
2. Extension of the use within a building or other structure to any portion of the floor area that was not occupied by the nonconforming use on September 1, 2013, or when any amendment to this UDO ~~that~~ causes the use to become otherwise nonconforming.

3. Operation of the nonconforming use in such a manner as to conflict with this UDO, or to further conflict with this UDO, if already conflicting as of September 1, 2013, or any amendments to this UDO is applied to the property, any use limitations established for the district in which the use is located.
4. New construction, reconstruction or structural alteration except those described as ordinary repair and maintenance in Sec. 10.3.2.B. above.
5. Extensions of the use to any new construction, enlargement or additions other than that occupied by the nonconforming use on September 1, 2013, or any amendment to this UDO that causes a use of the property to become otherwise nonconforming.

D. Relocation

1. No structure that is devoted in whole or in part to a nonconforming use shall be relocated in whole or in part to any other location on the same or any other tract or lot unless the entire structure and the use of the structure shall conform to all the regulations of the district to which the structure and use are relocated.
2. No nonconforming use of land shall be relocated in whole or in part to any other location on the same or any other lot unless such use conforms to all the regulations of the district to which the use of land is relocated.

E. Change in Use

A nonconforming use of land or of a structure shall not be changed to any use other than a use permitted in the zoning district in which the land or structure is located. When a nonconforming use has been changed to a permitted use, it shall only be used thereafter for a use permitted in the zoning district in which it is located. For purposes of this paragraph, a use shall be deemed to have been changed when an existing nonconforming use has been terminated and the permitted use has commenced and continued for a period of 7 days.

F. Abandonment or Discontinuance

1. When a nonconforming use of land or a nonconforming use of part or all of a structure is discontinued, vacated or abandoned for a period of 365 consecutive days or more, the use shall not be reestablished or resumed.

2. Operation of any nonconforming use without a license or permit required of the owner or operator, for 365 consecutive days, shall constitute a termination of the nonconforming use.
3. Following the abandonment or discontinuation of a nonconforming use, any subsequent use or occupancy of land or structure shall comply with the regulations of the zoning district in which the land or structure is located.

G. Damage or Destruction

1. In the event that a conforming structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to the extent of more than 50% of the replacement cost of the structure immediately prior to such damage, such structure shall not be restored unless the structure and the use will conform to all regulations of the district in which the structure and use are located or unless a special use permit is issued by the Board of Adjustment for such restoration.
2. In the event that a conforming structure that is devoted in whole or in part to a nonconforming use is damaged or partially destroyed, by exercise of eminent domain riot, fire, accident explosion, flood, lightning, wind or other calamity or natural cause to the extent of 50% or less of the replacement cost of the structure immediately prior to such damage, such structure may be repaired and reconstructed and used for the same purposes and degree as it was before the damage or destruction, provided that such repair or reconstruction is commenced with a valid building permit within 12 months of the date of such damage or destruction.
3. If a nonconforming use is located within an Airport Overlay District, the following shall apply:
 - a. No renovation, maintenance or repair shall be made if the damage or destruction is more than 80% of its replacement cost immediately prior to such damage, unless the nonconformity is brought into compliance with this UDO; or
 - b. A special use permit is issued by the Board of Adjustment for such restoration and the restoration does not create a greater hazard to navigation than the previously existing nonconformity.

4. Replacement cost shall be determined by either:
 - A. The median value based Square Foot Costs established by the most recent edition of Building Construction Cost Data published by R.S. Means; or
 - b. The most recent tax value for building as reported in the county tax office where the property is located. The property owner shall decide which of the 2 methods for determining replacement cost is to be used.
5. The percent of damage shall be calculated by using the selected replacement value of the entire structure as the denominator and by using the selected replacement value of the damaged portion of the structure as the numerator. The same method used to determine replacement value for the denominator must be used.

Sec. 10.3.3. Nonconforming Principal Structures

A. Applicability

This section applies to all nonconforming principal structures and not to nonconforming accessory buildings, accessory structures, fences, signs, off-street parking, vehicular surface areas, private access points and outdoor lighting.
(See Sec. 10.3.4.)

B. Authority to Continue

Subject to the provisions of this Article or any amortization provision, any lawfully existing nonconforming structure may continue to occupy the same land area within the existing configuration and size of the structure which existed on the date the structure first became a nonconforming so long as it remains otherwise lawful.

C. Ordinary Repair and Maintenance

1. Normal maintenance and incidental repair or replacement, installation or relocation of non-bearing walls or non-bearing partitions, adding facilities to improve handicapped accessibility, energy conservation, painting, fencing and landscaping, wiring or plumbing, may be performed on any nonconforming structure; provided, however, that this paragraph shall not be deemed to authorize any violation of Sec. 10.3.3.C. through Sec. 10.3.3.F. Expenditures in any amount may be to either bring the

nonconformity into full compliance with this UDO or to amortize the nonconformity.

2. Repairs maintenance and renovations to nonconforming residential buildings (detached house, attached house, townhouse and apartment) used exclusively for household living as set forth in Sec. 6.2.1. may be made in any amount and for any purpose except as restricted by Sec. 10.3.3.D. or Sec. 10.3.3. G.1. below.

D. Enlargement

Any nonconforming structure used for a conforming use may be enlarged or altered in any amount which does not exceed, singularly or collectively, 25% of the floor area gross of the original nonconformity; provided, however, that no enlargement, maintenance, repair or alteration shall either create an additional nonconformity or increase the degree of the existing nonconformity of all or any part of such structure, and the enlargement or alteration complies will all requirements and regulations of this UDO.

E. Relocation

No nonconforming structure shall be relocated in whole or in part to any other location on the same or any other lot unless the entire structure conforms to the regulations of the district to which such structure is relocated.

F. Voluntary Demolition

Nothing shall be deemed to permit the reconstruction of any part of a nonconforming structure or building that has been voluntarily demolished except in full conformity with the provisions of the UDO.

G. Damage or Destruction

1. In the event that a nonconforming structure that is devoted in whole or in part to a conforming use is damaged or partially destroyed, by exercise of eminent domain, riot, fire, accident, explosion, flood, lightning, wind or other calamity or natural cause to the extent of more than 50% of the replacement cost of the structure immediately prior to such damage, such structure shall not be restored unless the structure and the use will conform to all regulations of the district in which the structure and use are located or unless a special use permit is issued by the Board of Adjustment for such restoration.

2. In the event that a nonconforming structure that is devoted in whole or in part to a conforming use is damaged or destroyed, by any means other than voluntary demolition, to the extent of 50% or less the replacement cost of the structure immediately prior to such damage, such structure may be repaired and reconstructed and used for the same purposes and degree as it was before the damage or destruction, provided that such repair or reconstruction is commenced with a valid building permit within 12 months of the date of such damage or destruction.
3. If the nonconforming structure is located within an Airport Overlay District, the following shall apply:
 - a. No renovation, maintenance or repair shall be made if the damage or destruction is more than 80% of its replacement cost immediately prior to such damage, unless the nonconformity is brought into compliance with this UDO; or
 - b. A special use permit is issued by the Board of Adjustment for such restoration and the restoration does not create a greater hazard to navigation than the previously existing nonconformity.
4. Replacement cost shall be determined by either:
 - a. The most recent edition of Building Construction Cost Data published by R.S. Means; or
 - b. The most recent tax value for building as reported in the county tax office where the property is located. The property owner shall decide which of the 2 methods for determining replacement cost is to be used.
5. The percentage of damage shall be calculated by using the selected replacement value of the entire structure as the denominator and by using the selected replacement value of the damaged portion of the structure as the numerator. The same method used to determine replacement value for the denominator must be used.
6. Nothing in this paragraph shall prevent the rebuilding, reconstruction or restoration of the same ~~the~~ structure because such structure fails to conform to the standards of a Neighborhood Conservation Overlay District.

H. Replacement of Manufactured Homes

Replacement of nonconforming manufactured homes that fail to meet the minimum standards of the National Manufactured Home Construction and Safety Standards shall be permitted, provided that all of the following are met:

1. The replacement manufactured home meets the current minimum required standards as prescribed by the United States Department of Housing and Urban Development (HUD).
2. The newly installed manufactured home, if located in a flood prone area, complies with the provisions of Article 9.3. Floodprone Area Regulations.
3. That the period of time between the time the nonconforming manufactured home is removed and the time it is replaced with a standard manufactured home is less than 365 days.
4. The number of manufactured homes is not increased.
5. The floor area gross of the new manufactured home does not exceed the floor area gross of the manufactured home it replaced by more than 25%.

Sec. 10.3.4. Nonconforming Site Elements

Subject to the provisions contained in this section and all other applicable provisions of this UDO, one or more of the following activities and improvements can be made to nonconforming accessory buildings, accessory structures, outdoor lighting, fences, walls, signs, off-street parking, vehicular surface areas and private access points. Improvements and activities that are not explicitly authorized by in this section are not allowed. The following allowed activities and improvements can be initiated without the issuance of a special use permit by the Board of Adjustment.

A. Renovation, Ordinary Maintenance and Repair

1. The cost of renovation and ordinary maintenance and repair to any nonconforming accessory building, accessory structure, fence, walls, vehicular surface area, private access point and outdoor lighting shall not during any 1 calendar year exceeds 15% of the tax value of the zoning nonconforming site element ~~nonconformity~~ in the county where the property is located, or ~~if there is no listed tax value~~, the original cost of the nonconforming site element ~~nonconformity~~ if there is no listed tax value.

2. The limitation on expenditures established here does not apply to Sec. 10.3.4. B. through Sec. 10.3.4.G. below.
3. Ordinary maintenance and repair shall be limited to work necessary to maintain and correct any damage, other than caused by casualty or deterioration to the structural soundness or features of an accessory building, accessory structure, fence, vehicular surface area, private access point, or outdoor lighting.
4. For damage to any nonconformity that is caused by any casualty, the provisions of Sec. 10.3.4.E. below apply in lieu of this provision.
5. The regulations for ordinary maintenance and repair of nonconforming signs are set forth in Sec. 7.3.17.

B. Casualties

The rebuilding, reconstruction or restoring of any nonconforming accessory building, accessory structure, fence, walls, vehicular surface area, private access point and outdoor lighting which was damaged or partially destroyed by a casualty, which includes the exercise of eminent domain, riot, fire, accident, explosion, lightning, flood, wind or other calamity or natural act, is allowed provided all of the following conditions are met:

1. The cost of rebuilding, reconstructing and restoring the nonconforming site element ~~nonconformity~~ is less than 50% of either its listed property tax value of the nonconforming site element ~~zoning nonconformity~~ in the county where the property is located or, if there is no listed property tax value, the original cost of the nonconforming site element ~~nonconformity~~.
2. The nature and degree of the nonconformity is not expanded, extended or increased from that which existed prior to the damage or destruction, nor is it altered or changed except as otherwise allowed as a renovation in Sec. 10.3.4. A. above.
 - a. Reconstruction and repair is commenced with a valid building permit within 12 months of the date of such damage or destruction.
 - b. If the cost of the rebuilding, reconstruction or restoration will be 50% or more of either the listed property tax value of the nonconforming site element in the county where the property is located or if there is no listed property tax value

the original cost of the nonconforming site element ~~nonconformity~~, the nonconforming accessory building, accessory structure, fence, vehicular surface area, private access point or outdoor lighting shall not be rebuilt, reconstructed or restored except in compliance with this UDO.

C. Expansions

Additions to the number of off-street parking spaces and expansions to vehicular surface areas shall be governed by Article 7.1. Parking. In addition, expansions to vehicular surface areas to serve any zoning nonconforming use shall in addition to these standards be subject to all the requirements of Sec. 10.3.6.A.3., ~~including the requirement.~~

D. Resumptions

Any nonconforming accessory building, accessory structure, sign, vehicular surface area, private access point or outdoor lighting, which is discontinued, unused or unoccupied for a continuous period of 365 days or more may not be restarted, resumed or reoccupied.

E. Substitution of Impervious Surfaces

Substitution of impervious surfaces for one use, facility, building or structure, vehicular surface area or access point to another provided all of the following are met:

1. The amount and extent of impervious surfaces is not increased.
2. The placement of those new impervious surfaces conforms to the requirements of this UDO.
3. The impervious surface is for a lawful activity.

F. Zoning Nonconformities Brought Into Compliance

Expenditures to bring any nonconforming accessory building, accessory structure, fence, wall, sign, off-street parking, vehicular surface areas, private access point or outdoor lighting into full compliance with the City Code are allowed in any amount. The owner may secure any permit or approval and make any alteration that will bring the zoning nonconformity into full compliance.

G. Amortizing a Nonconformity

Expenditures required by this UDO to ~~remove~~ ~~amortize~~ a nonconforming site element or bring it into conformity with the UDO ~~nonconformity~~ are permitted in any amount.

Sec. 10.3.5. Nonconforming Lots of Record

A. Authority to Use for Single-Unit Living

In any district in which a single-unit living detached house is allowed as a permitted use, notwithstanding the regulations imposed by any other provisions of this UDO, a single-unit living detached house which complies with the restrictions of Sec. 10.3.5.B. below may be erected on a nonconforming lot that:

1. Has less than the prescribed minimum lot area or width; and
2. Is shown by a recorded plan or deed to have been a lot of record owned separately and individually from adjoining tracts of land at a time when the creation of a lot or tract of such area and depth at such location would not have been prohibited by any zoning or other ordinance.

B. Regulations for Single-Family Use of Nonconforming Lots

A nonconforming lot authorized to be used pursuant to Sec. 10.3.5.A. above may be used for a single-unit living detached house and permitted accessory uses and structures. Construction of the single-unit living detached house shall comply with all the regulations, except lot area or width, applicable to the detached house in the district in which the lot is located, unless a variance is granted pursuant to Sec. 10.2.10.

Sec. 10.3.6. Special Use Permits for Nonconformities

A. Special Use Permit Required

All special use permits authorized in this section shall be processed, noticed and heard in accordance with Sec. 10.2.9. After the issuance of a special use permit by the Board of Adjustment in accordance with Sec. 10.3.6.B., one or more of the following activities can be made to a zoning nonconformity.

1. Repair and maintenance work not authorized by either Sec. 10.3.2.B. or Sec. 10.3.3. ~~C~~.

2. Fixing and replacing damage and destruction authorized by Sec. 10.3.2.G.1. and Sec. 10.3.2.G.3 b and by Sec. 10.3.3.G.1. and Sec. 10.3.3.G.3.b.
3. The expansion, extension or alteration of a nonconforming use or vehicular surfaces serving a nonconforming use (including nonconforming principal use parking facilities) when all of the following are met:
 - a. The expansion, extension or alteration complies with all requirements of this UDO including but not limited to: height, bulk, setback, off-street parking, impervious surface coverage and access.
 - b. The expansion of a nonconforming use does not, singularly or collectively, exceed 25% of the total gross area occupied by the original nonconforming use. If the original nonconforming use occupied a portion of a building and that building has not been enlarged since the establishment of the nonconformity, that original nonconforming use may be extended beyond 25% within the interior portions of the building.
4. The change of an existing nonconforming use to another nonconforming use provided that all of the following are met:
 - a. The use will have no greater adverse effect on the surrounding property in terms of automobile or truck traffic, on-street parking, noise, stormwater, vibration and hours of nighttime operation than the existing use.
 - b. Any change to a limited use or special use complies with applicable requirements of Chapter 6. Use Regulations.
 - c. The proposed substitute nonconforming use is allowed in the zoning district of the highest classification in which the existing nonconforming use would be a conforming use. The determination of the classification of the use shall be based on Planning and Development Officer.
 - d. Once a nonconforming use is changed to a higher classification, it may not thereafter be changed to a nonconforming use of a lower classification, including a change back to the original nonconforming use.

- e. The substitution of a nonconforming impervious surface for another, the replacement of a substandard nonconforming manufactured home and the change of use of a nonconforming use to a conforming use may all be done without a special use permit from the Board of Adjustment if the applicable provisions of ~~Sec. 10.3.5., Sec. 10.3.4 3.E., Sec 10.3.3.H., Sec. 10.3.2.B. and~~ Sec. 10.3.3. C. 1 B. and Sec. 10 3.2 B are met.
- 5. The relocation onto its same premise of either a nonconformity or a nonconforming private access point is allowed; provided the relocation reduces the extent of the nonconformity and more closely conforms to the standards contained in this UDO.
- 6. The enlargement or alteration of any nonconforming structure used for a conforming use that creates an additional nonconformity or increases the degree of the existing nonconformity is allowed provided the enlargement or alteration of all or any part of such structure, does not exceed, singularly or collectively, 25% of the floor area gross of the original nonconforming structure, and the enlargement or alteration complies will all other requirements and regulations of this UDO.
- ~~6. The expansion, change, addition and alteration of a building or use which fails to comply with the regulations of a TOD, NCOD, MPOD, CM District; provided all of the following are met:~~
 - ~~a. The expansion does not, singularly or collectively, exceeds 25% of the total gross floor area of the building or use existing at the time the zoning district regulations was first applied to the property.~~
 - ~~b. The building or use existed at the time the zoning district regulations were applied to the property.~~
 - ~~e. The proposed activity complies with all requirements and regulations of this UDO other than the zoning district regulations.~~

B. Showings for Granting Special Use Permit for Nonconformities

- 1. Before a request for the special use permit is granted, the Board of Adjustment must show that all of the following are met:
 - a. The applicable standards of this section have been met;

- b. All of the showings of Sec. 10.2.9.E. have been met; and
 - c. The requested repair, reconstruction, expansion, change of use to a different nonconforming use or relocation will not be injurious to property or improvements in the affected area.
2. In acting upon a petition for a special use permit, the Board cannot order the discontinuance or termination of the nonconformity.
 3. If a special use petition is denied, the continuation of the nonconformity and the activities allowed in Sec. 10.3.2. and Sec. 10.3.3. without a special use permit is still allowed unless otherwise prohibited by law. This policy is adopted to encourage the owners of nonconformities to apply for special use permits to improve and bring into conformance to the extent possible their property.”

Section 21. Article 12.2 of the Part 10A Raleigh Unified Development Ordinance, Defined Terms, is hereby amended by the insertion of the following underlined provisions and deleting the language shown with a strike-through:

“Urban Frontage

The following frontages: ~~Parking Limited (-PL)~~, Green (-GR), Urban Limited (-UL), Urban General (-UG) and Shopfront (-SH).”

Section 22. All laws and clauses of laws in conflict herewith are repealed to the extent of such conflict.

Section 23. 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 24. This text change has been reviewed by the Raleigh City Planning Commission.

Section 25. This ordinance has been adopted following a duly advertised public hearing of the Raleigh City Council.

Section 26. This ordinance has been provided to the North Carolina Capital Commission as required by law.

Section 27. 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 28. This ordinance is effective five (5) days after adoption.

ADOPTED: November 3, 2015

EFFECTIVE: November 8, 2015

DISTRIBUTION: Planning – Bowers, Crane, Hodge
City Attorney – Botvinick, Hargrove-Bailey
Department Heads
Transcription Svcs – Taylor

Prepared by the Planning and Development Department