



# Certified Recommendation

Raleigh Planning Commission

CR# 11689

## Case Information: TC-3-16 / Historic Overlay District and Certificate of Appropriateness Updates

### 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 the Part 10A Raleigh Unified Development Ordinance, in Streetside Historic Overlay District to remove the review of color and clarify that alleys are not “streets” for the purpose of this section of the City of Raleigh Unified Development Ordinance. Additionally it amends and corrects other sections of the Part 10A Raleigh Unified Development Ordinance relating to administration of Certificates of Appropriateness regarding height and setbacks, the appeals process, and the process diagram.</p>
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### Summary of Impacts

<i>Impacts Identified</i>	<p><u>Adoption of TC-3-16:</u></p> <ol style="list-style-type: none"> <li>1. The adoption of the text change would clarify Certificate of Appropriateness review in the Streetside Historic Overlay District and General Historic Overlay District.</li> <li>2. The removal of the review of color would reflect the will of the residents requesting Streetside Historic Overlay District rezoning.</li> <li>3. The clarification of the definition of an alley will allow for clarification on what parts of the yard are subject to review in the Streetside Historic Overlay District.</li> <li>4. Changing the height and setback language to read “congruous” instead of “equal” will fix an error made in the initial adopted Unified Development Ordinance.</li> <li>5. The modification to the Certificate of Appropriateness appeals timeframe would bring the decision date in line with other quasi-judicial boards and keep the resulting timeframe similar to prior Raleigh Historic Development Commission practice.</li> <li>6. Correcting the Historic Overlay District rezoning language removes an item not reviewed under that</li> </ol>
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## Zoning Staff Report – TC-3-16

### Historic Overlay District and Certificate of Appropriateness Updates

#### Request

<i>Section Reference</i>	<b>Part 10A Unified Development Ordinance §5.4.1. General Historic Overlay District, §5.4.2. Streetside Historic Overlay District, §10.2.15. Certificate of Appropriateness, §10.2.11. Appeal of an Administrative Decision, §10.2.4. Rezoning:</b>
<i>Basic Information</i>	Amends the Part 10A Raleigh Unified Development Ordinance, in Streetside Historic Overlay District to remove the review of color and clarify that alleys are not “streets” for the purpose of this section of the City of Raleigh Unified Development Ordinance. Additionally it amends and corrects other sections of the Part 10A Raleigh Unified Development Ordinance relating to administration of Certificates of Appropriateness regarding height and setbacks, the appeals process, and the process diagram.
<i>PC Recommendation Deadline</i>	

#### Comprehensive Plan Guidance

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

#### Contact Information

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#### History/Overview

This text change was initiated by City Planning staff as part of a general overview of Certificate of Appropriateness related code and in light of the pending Streetside Historic Overlay District rezoning.

#### Purpose and Need

This text change would correct minor errors in the current code, clarify sections of code, and address a residents’ requested change. The text change will result in administrative clarity and efficiency with the Certificate of Appropriateness process.

## **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:

Not changing the height and setback language to read “congruous” instead of “equal” will keep a standard that is impossible to meet. Taking no action on the remainder of the items will result in continued confusion and lack of clarity in the code. Additionally, the appeals process may not be in compliance with state statutes.

## **Impacts Summary**

### **Adoption of Proposed Text Change**

The adoption of the text change would clarify Certificate of Appropriateness review in the Streetside Historic Overlay District and General Historic Overlay District as well as bring the appeals process into alignment with other City quasi-judicial processes and state statutes. It will also remove a language error that would require the height and setback of new construction and additions to be equal to nearby buildings. This is an impossible standard since the nearby heights and setbacks vary.

### **No action**

Not changing the height and setback language to read “congruous” instead of “equal” will keep a standard that is impossible to meet. Taking no action on the remainder of the items will result in continued confusion and lack of clarity in the code. Additionally, the appeals process may not be in compliance with state statutes.



**ORDINANCE NO. (xxx-2016)**

**AN ORDINANCE TO AMEND THE REGULATIONS ASSOCIATED WITH THE GENERAL HISTORIC OVERLAY DISTRICT AND STREETSIDE HISTORIC OVERLAY DISTRICT**

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

**Section 1.** Section 5.4.1.E 1. of the Part 10A Raleigh Unified Development Ordinance, Setbacks, is hereby amended by deleting the following text shown with a strike-through and inserting the following underlined text:

1. The minimum and maximum setbacks within the –HOD-G and for Historic Landmarks shall be ~~equal to~~ congruous with the setbacks of typical any well-related nearby buildings and structures within 1 ½ blocks and in the overlay district, and ~~equal~~ congruous with the character of the Historic Landmark, as set forth in the historic development standards below or as defined in the designation documents or nomination.

**Section 2.** Section 5.4.1.F.1 of the Part 10A Raleigh Unified Development Ordinance, Height, is hereby amended by deleting the following text shown with a strike-through and inserting the following underlined text:

1. Buildings and structures shall be ~~equal to~~ congruous with the height of typical well-related nearby buildings and structures in the overlay district, and ~~equal~~ congruous with the character of the Historic Landmark, as set forth in the historic development standards below or as defined in the designation documents or nomination.

**Section 3.** Section 5.4.2.A.1. of the Part 10A Raleigh Unified Development Ordinance, Purpose and Objectives, is hereby amended by deleting the following text shown with a strike-through and inserting the following underlined text:

1. The –HOD-S is established to provide for protection of the traditional development patterns of an area and to preserve historic resources found in it. The focus is on maintaining that character and on preserving those key character-defining features of individual historic resources within the district, as viewed from the street right-of-way, excluding alleys (as further defined below).

**Section 4.** Section 5.4.2.B.2. of the Part 10A Raleigh Unified Development Ordinance, Applicability, is hereby amended by inserting the following underlined text:

2. The provisions of *Sec. 5.4.1.C through 5.4.1.H., with the exception of Sec.5.4.1.C.3.iii.,* govern the administration of a –HOD-S, but apply only to the following areas within the boundaries of each –HODS:

**Section 5.** Section 10.2.4.E.4. of the Part 10 A Raleigh Unified Development Ordinance, Additional Requirements for –HOD-G, -HOD-S and Historic Landmarks Applications is hereby renamed and amended by deleting the following text shown with a strike-through and inserting the following underlined text:

**4. Additional Requirements for ~~–HOD-G, and –HOD-S and Historic Landmark~~ Applications**

**Section 6.** Section 10.2.11.B. of the Part 10 A Raleigh Unified Development Ordinance, Board of Adjustment, is hereby renamed and amended by deleting the following text shown with a strike-through and inserting the following underlined text:

**B. ~~Board of Adjustment~~ Reviewing Body**

Appeals of an administrative decision are heard by the Board of Adjustment except for Minor Work Certificates of Appropriateness, which are heard by the Raleigh Historic Development Commission.

**Section 7.** Section 10.2.15.D.2.b. of the Part 10 A Raleigh Unified Development Ordinance, Procedure, is hereby amended by adding the following subsection, Section 10.2.15.D.2.b.iv., by inserting the following underlined text beneath subsection iii.:

iv. Appeals of administrative decisions to approval a Minor Work are heard by the Historic Development Commission. Notice of appeal shall be filed with the City Planning Department within 30 days after the date the application for Minor Works was affirmatively decided. An appeal stays all work on the approved Minor Work during the review period of the Historic Development Commission.

**Section 8.** Section 10.2.15.D.4.b. of the Part 10 A Raleigh Unified Development Ordinance, Hearing, is hereby amended by deleting the following text shown with a strike-through and inserting the following underlined text:

- b. Prior to the issuance or denial of a certificate of appropriateness by the Commission, the applicant and ~~other property owners likely to be materially affected by the application~~ persons meeting the criteria of G.S. 160-A-393 shall be given the opportunity to be heard at the hearing.

**Section 9.** Section 10.2.15.D.4.d. of the Part 10 A Raleigh Unified Development Ordinance, Hearing, is hereby amended by deleting the following text shown with a strike-through and inserting the following underlined text:

- d. Interior arrangement shall not be considered by the review body and no certificate of appropriateness is required for interior repairs or renovations, except for designated interior features of Historic Landmarks as allowed in Sec. 10.2.16.D.2.



**Section 10.** Section 10.2.15.D.4 of the Part 10 A Raleigh Unified Development Ordinance, Hearing, is hereby amended by adding the following subsection, Section 10.2.15.D.4.l., by inserting the following underlined text beneath subsection k.:

l. Notice of decision shall be provided as required in Sec. 10.2.1.C.6.

**Section 11.** Section 10.2.15.F.1. of the Part 10 A Raleigh Unified Development Ordinance, Appeals, is hereby amended by deleting the following text shown with a strike-through and inserting the following underlined text:

In any action by the Historic Development Commission granting or denying any certificate of appropriateness issued as a summary proceeding or following a quasi-judicial public hearing, an appeal by an aggrieved party may be taken to the Board of Adjustment. To perfect such an appeal, written notice of intent to appeal must be ~~sent~~ provided to the Historic Development Commission, ~~postmarked~~ within 20 days following the effective date of decision, unless oral notice of appeal is made to the Commission during the meeting at which the oral decision is rendered. A completed application for appeal of a Raleigh Historic District Commission decision, including all papers constituting the record, must then be filed with the Board of Adjustment within ~~60~~ 35 days following the effective date of decision of the Commission. Effective date of decision occurs when the minutes of the proceeding are approved by the Commission. Appeals shall be in the nature of certiorari.

**Section 12.** All laws and clauses of laws in conflict herewith are repealed to the extent of such conflict.

**Section 13.** 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 14.** This text change has been reviewed by the Raleigh City Planning Commission.

**Section 15.** This ordinance has been adopted following a duly advertised public hearing of the Raleigh City Council.

**Section 16.** This ordinance has been provided to the North Carolina Capital Commission as required by law.

**Section 17.** 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 18.** This ordinance is effective 5 days after adoption.

**ADOPTED:**

**EFFECTIVE:**

**DISTRIBUTION:**

*Prepared by the Department of City Planning*