



PLANNING COMMISSION WRITTEN COMMENTS

Item heard on December 15, 2022

Received as of 12/20/2022

TC2200001 Simplifying Codes for Affordable Development (SCAD)

AMANDOLIA	<p>I largely defer to the staff report and to the Planning Commission committee report you all will find in your packet.</p> <p>As a starting principle, I believe in building cities that are affordable, mixed-use, walkable, sustainable, and inclusive. In general, I approve of proposals that encourage high quality development while making development easier. One may argue that this proposal accomplishes this, however, I have several concerns with this proposal, many of which are documented in the staff and Planning Commission committee report. Additionally, I have the following concerns.</p> <ol style="list-style-type: none">1. When this text amendment came to JCCPC, it was made clear that the applicants needed to get in alignment with staff concerns. As of the Planning Commission meeting, that did not happen.2. The same provision that removes the requirement for affordable units to be indistinguishable from market rate units and spread evenly throughout the development also removes the compliance mechanism for ensuring units are indeed affordable under the HUD definitions. This is deeply concerning and would render the program ineffective.3. On the requirement of spreading the units evenly throughout the site, I recognize that this may not be feasible for very small projects (three or less units). That said, there needs to be a unit count at which we require affordable units to be spread evenly. Imagine if a developer built two duplexes on a parcel of land. As written in this change, they could make one of the duplexes affordable and the other market rate. This works against a cohesive, integrated, and inclusive community. Overall, there are some provisions as written that I would have approved of if they stood on their own. For example, I am in favor of removing parking minimums and other planning best practices to facilitate more affordability. I am also in favor of finding ways to improve our affordable housing
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	<p>incentives. However, there are several changes that need to be made, as detailed in the staff report and in the planning commission committee report.</p> <p>Further, I would encourage us to not good too optimistic about the impacts of this proposal on our affordable housing stock. While land use reforms can certainly help encourage affordability and create a foundation we can build on, land use reforms alone will not solve our affordability crisis, because land use changes ultimately depend on free market dynamics (particularly since we cannot mandate affordable units in North Carolina). We need to continue and expand our funding and financing programs to truly address housing affordability. This proposal is not a silver bullet (and in some cases may quicken gentrification) but includes some tools that are worth pursuing.</p> <p>In my ideal world, we would take the good ideas from this proposal and have planning staff incorporate them in the new UDO rewrite, which should begin in 2023. I would also consider a revised version of this proposal that focused on the positive elements, removing some of the problematic changes and what are seemingly carveouts. However, as is it written, I do not approve of these changes.</p> <p>I endorse the Planning Commission committee report that documents several necessary changes to this proposal. I also endorse the staff report and the issues they raise.</p> <p>However, I voted No on TC2200001.</p>
BAKER	<p>The City Council should send this application back to the Planning Commission and/or Planning Department. That is the right thing to do. The current proposal should not be approved in its current form.</p> <p>As has been discussed ad nauseam, Durham's zoning regulations are broken. The UDO standards result in exclusionary built environment that perpetuates a reliance on cars, allowing almost no other transportation choices and making transit a slow and burdensome mode. It creates vast swaths of corporate built single family sprawl only accessible by car (now upwards of 5,000 acres of it in Southeast Durham alone), with nothing to walk to—not parks, jobs, child care, or grocery stores. Durham's planning and development system also currently disempowers low-wealth and working class people and puts them at a disadvantage; the reality of this process, paired with rampant neoliberalism, has lead to the most aggressive level of displacement of Durham residents since urban renewal. Poorer residents living in smaller houses are being replaced with wealthier residents living in larger houses, where the dimensional standards incentivize tearing down more affordable naturally occurring affordable housing and maxing out the lot dimensional standards. When it comes to zoning regulations, the devil is in the details. The wording of the regulations matters and has long term consequences which over time leads to huge fiscal efficiencies or inefficiencies—who writes the regulations has dramatic impacts over the details,</p>

and for what groups it works.

Durham Planning Commissioners have long identified the broken nature of our regulations. Commissioners have begged for zoning reform, including very specific amendments. We've identified real problems and proposed real solutions. Commissioners have repeatedly asked for specific zoning amendments. We even dedicated a committee to zoning reform, and have taken unprecedented actions, with little to no resources. Folks have asked for action on pedestrian-oriented design standards, sustainability standards, analyses and aggressive updates to the affordable housing density bonus, creation of new zoning districts for better tools to address walkability in the suburban tier, updates to street cross-sections, parking standard updates, and public park dedication standards. We've even asked for more resources for the planning department and sought opportunities to streamline development review procedures. I'm not speaking for everyone, but there were many commissioners over the last few years that supported all or some of those amendments.

The proposed content itself is an expansive wish list falling into four categories: (1) Bad. (2) Good. (3) Loopholes with unknown consequences. (4) Good in concept but executed in ways that get the details wrong.

To be clear, the real estate industry should be a participant in the amendment process. They are one of several key stakeholders, among tenants and climate advocates, and others. And that is one reason why about a quarter of these proposed amendments are decent, some are even good. I also don't blame the applicant for using their power and influence to propose changes to the UDO. My frustrations with lack of action on our zoning regulations are extensive and have been for years. If they have the means, the political connections, the resources to pay for staff members to shepherd this through, pay the \$3,000 fee, and there's a formal process embedded in Durham's UDO for them to do it, it makes complete sense they would take the initiative. The broken system compels it.

The thing is for us on the public sector side, this isn't a real estate deal and shouldn't be treated as such. These are public regulations. We don't have to compromise at the expense of the community good; we get to have the regulations we want. If we as a city/county want to pass some of these amendments, we might as well go ahead and do that since we're here already. We should be making good, walkable, sustainable, inclusive development easy to build. We should make everything else hard to build. The key is to ensure you are improving your city, getting good outcomes, that developers are dedicating their fair share of public goods; and remove any unnecessary hurdles that might slow that down-without compromising on the outcomes or externalizing costs to the public.

CAMERON	<p>I voted yes, but the applicant still needs to update their submission with requests that Planning Staff have given them as well as the Planning Commission. If the text amendment has not been updated for City Council, then please vote no.</p> <p>The SCAD Review Committee is in agreement with all staff recommended changes. We also recommend the following changes:</p> <ul style="list-style-type: none"> • Overall, there are numerous positive improvements to the ordinance that will enable the development of more housing and more affordable housing in the City, yet several proposed changes are problematic. Those are noted as follows. <ul style="list-style-type: none"> o 6.6.4.A.2 – The committee does not support removing the requirements for affordable units to be evenly distributed and indistinguishable from market rate units, nor the removal of the compliance mechanism under the affordable housing bonus. o The committee again requests that affordable housing have a time to run with the land (deed restrictions, covenants, etc) that restrict the use to affordable housing for the minimum of 30 years. • The addition of residential uses within industrial and industrial light districts has a very storied history of racial segregation. Black citizens were regulated to areas that were zoned industrial that allowed overcrowding, poorly constructed housing, non-existent or inadequate city services, prostitution, taverns and most importantly the polluting of air and water which still have health implications to the Black Community in 2022. The committee does not support this portion of the proposed text amendment. • The committee again requests the name be changed from detached townhome to city home or another name for this housing type, for multiple reasons including avoiding conflict with the building code and other references throughout the ordinance. Proposed language referencing building separation for townhouses should also be removed to avoid conflating building code requirements with zoning requirements.
CHAGARIS	<p>This proposal contained no system of checks and balances to ensure affordable housing programs like Habitat for Humanity would be the main beneficiary and not large developers. There were many good ideas proposed at the public hearing such as allowing owners of businesses to live above their business's. Additionally, there is a large underserved portion of the Durham community; veterans. Perhaps a collaboration with Purple Heart homes would help some of this need.</p>
CUTRIGHT	<p>I think everyone has been clear that the UDO isn't a perfect document. SCAD doesn't make it perfect, but pushes Durham towards a more efficient use of land. The concerns around some of the changes are valid, but we should not throw out the proverbial baby with the bath water. If we have an opportunity to make specific changes, as recommended by the Planning Commission subcommittee, I'd recommend that as the path forward. I would consider the</p>

	ability to build residential in I/IL zoned parcels a non-starter. Everything else can be managed.
HERROD	<p>I voted "yes" on TC220001 UDO Text Amendment Development Plan Revisions for the following reasons:</p> <ol style="list-style-type: none"> 1. The Planning Staff has reviewed this proposal in detail over many months and made many appropriate suggestions which were largely incorporated into the TC revisions. The Planning Commission Committee who studied the TC, made a list of non-negotiable items that were subsequently approved by the Commission and will hopefully be given great consideration in the final outcome of potential adoption. 2. Granted it is long and broad and may have unintended consequences in some cases, but it appears to address some barriers to affordable development, particularly in the area of housing. It should bring better efficiency in land use in many ways. 3. Everyone addressing the TC agrees that current regulations are not resulting in the outcomes we desire. Changes are needed and this request is a step in the right direction now for a more affordable, livable, dynamic City for its' citizens. 4. The proposed amendments reportedly will enable more local developers to get involved in the growth of our community by simplifying the regulations and the cost of doing business. 5. Ultimately a new UDO will be developed in conjunction with the new Comprehensive Plan over the next 2 or 3 years. Any undesirable consequences that may develop by adoption of these recommended TC220001 amendments over that time can be addressed in that overarching revision.
MORGAN	<p>Voted No.</p> <p>I recommend considering the pros/cons presented by the Planning Department and subcommittee and breaking up the text amendment into key items. I am against placement of residential in industrial areas or accessory units placed on non-taxable properties as examples.</p> <p>The proposed amendment has a lot of unforeseen implications which has been noted. The applicant mentioned a larger set of amendments in the future and would wish to break them up into a series of smaller submissions. We should look at the fees charged which may encourage these large encompassing proposals that take up staff and commission time to absorb.</p>
SEASE	<p>These amendments are well-considered, thorough, and thoughtful refinements to an unwieldy and complicated ordinance. The applicant has engaged widely with the community without succumbing to the privileging of wealthy naysayers to change who so often dominant several of the voluntary membership groups represented as 'neighborhood associations' in our city. Instead, the ordinance has given light to unnecessarily restrictive and counterproductive UDO requirements relative to providing more housing and more incremental development and more neighborhood-scaled commercial opportunities. As a whole, these are needed changes; adopting them before the UDO rewrite allows a pilot, of sorts. It allows the testing of these approaches to help meet the pressing need for more housing and a more sustainable city through compact</p>

	<p>infill development prior to the full UDO rewrite, to better frame decisions down the road.</p> <p>The Planning Commission Committee identified four remaining areas of concern, items which Council should consider carefully and hopefully the applicant will address, at least in part, prior to appearing before Council. Of these, changing the 'detached townhouse' name should be easy, something the applicant should agree to before the item gets to Council. Eliminating the option for housing in industrial districts should be agreed to by the applicant, giving the problematic history of such conditions. Distributing affordable units among market rate is laudable, but does introduce added complexities for financing and other considerations especially for smaller, infill scenarios. Lastly, the time period for guaranteeing affordability, proposed at 5 years rather than 30 years, is also complex and is a policy decision more so than a land use item. It is appropriate for Council to consider this item carefully, as there are differing opinions and impacts to the delivery of housing especially for small projects and small developers.</p> <p>I urge Council to consider the four items identified in the Committee report summarized in the preceding paragraph, and to approve the text amendments as a whole after such careful consideration and any associated refinements.</p>
VALENTINE	<p>There was a lot opposition from the community related to notice and transparency. Also, the simplifying of the codes is been driven by the developers for obvious reason related to expertise, efficiency, and money. As noted by Commissioner Baker, I believe input from developers as key stakeholders is one factor to be considered but they should not be leading the effort in simplifying the codes that regulate there business practices. For that reason I believe we should be more deliberate in addressing these changes.</p>
WILLIAMS, Z.	<p>While I voted for these amendments, I have serious concerns about SCAD. The positive aspects of these proposed text amendments is they will provide less hurdles in order to build housing due to setback requirements, parking, etc.</p> <p>We desperately need housing and the only way for housing prices to come down is to have more housing for the demand. In theory, I would love to see these amendments utilized to increase infill housing which would open up new housing opportunities for first time homeowners as well as individuals looking to downsize. Which would in turn, open up the resale market to the middle market. HOWEVER, these amendments can be highly problematic because while we may agree with certain aspects of the amendments, the text amendments are being voted on as a whole. I think the amendments are a good starting point and can assist in shaping the conversation during the UDO changes. I also believe that if there are certain portions of the amendments that we want to see changed sooner rather than waiting for the UDO that would make sense. However, voting for the amendment as it stands is problematic and I urge city council to review the planning staff and sub-committees comments.</p>