



Planning & Development

Zoning Division
 One Exchange Plaza, Suite 300
 Raleigh, North Carolina 27601
 Phone 919-996-2626

City of Raleigh Official Zoning Code Interpretation

Requested Interpretation		Case Number
<p>1. Section 3.3.1 requires height designations. The designations correspond to stories and feet. I would like to confirm that both limits apply to each designation, i.e. that in NX-5, a building must be five stories or less AND no taller than 75 feet. This seems obvious from the language which states that "[t]he designation establishes the maximum height in stories AND feet for each mixed use district," but I raise the question because I heard it argued that a builder was entitled to a 75-foot height in NX-5 even if the building was 6 or 7 stories high due to the example provided at 3.3.1, which says "For example, CX-7 has a maximum height limit of 7 stories OR 90 feet."</p> <p>2. Section 3.5.1 requires neighborhood transitions in certain circumstances. The transition areas contain one to three zones, depending on circumstances, but where required, each transition area contains a protective yard called Zone A. Section 3.5.3 describes three types of protective yards, but contrary to the case with some other district types, I have been unable to locate a UDO provision that specifies which of the three types of protective yard should be applied when a given Mixed Use District project requires a transition area. Are there requirements of this type that I have overlooked, or is it simply up to the developer to decide whether 10 feet or 50 feet of protective yard is appropriate for a particular project?</p>		UI-2-2014
Site Address/PIN: Not Applicable		
Date Submitted: 26 March 2014	Date Issued: 3 April 2014	Code Sections Affected: Request 1: 3.3.1 (Height requirements); 1.5.7 (Height); 1.1.7.B (Conflicting provisions) Request 2: 3.5.1 (Neighborhood transitions)

STAFF ANALYSIS

- Section 3.3 provides the height categories for the mixed use districts. Each mixed use zoning district must have a height designation. The quoted language in section 3.3.1 does reference the "maximum height in stories and feet." This statement is clear. However, the next sentence provides a specific example applying the height designation to a mixed use district: "For example, CX-7 has a maximum height limit of 7 stories or 90 feet." The usage of the word "or" is different from the preceding sentence.

Section 1.5.7 provides more certainty, stating that "Building height is measured from average grade in both number of stories and feet to the top of the highest point of a pitched or flat roof, not including a maximum parapet wall encroachment." Additionally, section 1.1.7.B states that "conflicts and duplications among portions of this UDO shall be resolved in favor of the more stringent regulation."
- Section 3.5.1 contains the regulations for transitions, which are required when a mixed use district abuts certain residentially zoned properties. The transition is comprised of three zones: A, B and C. Transition zone A is a landscaping area known as the protective yard. This protective yard ranges in width between 10 and 50 feet. The narrow protective yard, known as the type 1, is 10 feet in width; the medium protective yard, or type 2, is 20 feet in width and the wide protective yard, or type 3, is 50 feet in width. The protective yards have different requirements for a fence or wall on the common property line and different planting schedules within the protective yard.

The combination of transition zones A, B and C add to a width of 50 feet, regardless of the treatment chosen for the protective yard. If the property owner chooses a type 1 protective yard, the zone B transition area must be 40 feet wide. If the property owner chooses to apply a type 3 protective yard, there is no zone B transition. The type 3 protective yard is 50 feet in width, thereby fulfilling the requirement for a 50 foot wide transition.

STAFF INTERPRETATION

1. Height is expressed in terms of maximum number of stories and maximum measurement in feet. These two metrics work together and must be considered concurrently. If one of the metrics were ignored, the height regulations could be rendered meaningless. For instance, a structure with three very tall stories structure could exceed fifty feet in height. The language in section 1.5.7 provides the best guidance for how the reader is to measure height of a building. The commenter is correct in that section 3.3.1 seems to contain conflicting language; however, the language in section 1.1.7 provides guidance to the reader that the more restrictive provision shall apply.
2. The application of zone A is selected by the developer. The options for the narrow, medium and wide transition area are provided to allow flexibility to accommodate a variety of lot sizes and shapes.

SIGNATORY



Travis R. Crane, Planning and Zoning Administrator