



Requested Interpretation		Case Number
Many rezonings prior to the adoption of the UDO applied zoning conditions requiring Planning Commission approval of any site plan on the subject property. Would a zoning condition requiring Planning Commission approval of a site plan be considered valid?		UI-6-2016
Site Address/PIN: N/A		
Date Submitted: April 25, 2016	Date Issued: April 27, 2016	Code Sections Affected: Sec. 10.2.4.E.2 and Sec.10.2.8.C.

STAFF ANALYSIS

The previous Part 10 Code contained a process for preliminary site plan approval, which required review by the Planning Commission and/or City Council. Certain site plans identified in section 10-2132.2 required this additional step in the review process. This process required applicants of certain site plans to affirmatively meet eight site plan standards. This process could be appealed to the City Council, where a quasi-judicial hearing was conducted. In addition to the base code requirements, some conditional use rezoning applicants added the preliminary site plan review process as a voluntary zoning condition, regardless if the proposed development qualified for preliminary site plan review. Zoning conditions are tied to the property until such time as the zoning is changed or the condition becomes illegal or obsolete by the adoption of additional zoning regulations.

The City adopted a new Unified Development Ordinance in 2013; the UDO was adopted by ordinance 2013-151 TC 357. The City implemented the UDO through a city-initiated rezoning, ordinance number 2015-523 ZC 721. In the latter adopting ordinance, the Raleigh City Council included language related to the status of the former Part 10 Zoning Code. The adopting ordinance states that the Part 10 code shall only remain valid to interpret defined terms and provide clarity in interpreting zoning conditions. The Unified Development Ordinance does not contain Planning Commission or City Council discretionary review of site plans. The UDO process for site plan review is entirely administrative. The UDO does not reference preliminary site plan review or the eight site plan standards.

STAFF INTERPRETATION

With the adoption of the Unified Development Ordinance, any zoning condition requiring a discretionary site plan approval process through the Planning Commission and/or City Council is no longer valid and all subsequent development plans will be administratively reviewed under the process identified in Chapter 10 of the Unified Development Ordinance. Furthermore, no zoning conditions requiring subsequent discretionary Planning Commission or City Council reviews of site plans will be accepted under the current form of the Unified Development Ordinance.

SIGNATORY



Travis R. Crane, Planning and Zoning Administrator