

STATE OF NORTH CAROLINA

File No.

25CV015350-910

25 CVS

Wake County

In The General Court Of Justice
☐ District ☒ Superior Court Division

Name Of Plaintiff

Raleigh Country Club, LLC, et al. - C/o Craig D. Justus

Address

Wilkerson Justus PLLC - PO Box 54

City, State, Zip

Asheville NC 28802

VERSUS

G.S. 1A-1, Rules 3 and 4

Name Of Defendant(s)

City of Raleigh, et al.

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Mark A. Thompson
7201 Vermilion Court

Name And Address Of Defendant 2

Wake Forest NC 27587-7336



IMPORTANT! You have been sued! These papers are legal documents, DO NOT throw these papers out! You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!

¡IMPORTANTE! ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales. ¡NO TIRE estos papeles!

Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

Craig D. Justus
Wilkerson Justus PLLC
PO Box 54
Asheville NC 28802

Date Issued

5/8/2025 11:17:40 am ☐ AM ☐ PM

Signature

/s/ Marina Presnell



Deputy CSC



Assistant CSC



Clerk Of Superior Court

☐ ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM ☐ PM

Signature



Deputy CSC



Assistant CSC



Clerk Of Superior Court

NOTE TO PARTIES: Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1*Date Served**Time Served*☐ AM☐ PM*Name Of Defendant*

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (*specify*)

- ☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2*Date Served**Time Served*☐ AM☐ PM*Name Of Defendant*

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (*specify*)

- ☐ Defendant WAS NOT served for the following reason:

Service Fee Paid

\$

*Signature Of Deputy Sheriff Making Return**Date Received**Name Of Sheriff (type or print)**Date Of Return**County Of Sheriff*

STATE OF NORTH CAROLINA

File No.

25CV015350-910

25 CVS

Wake County

In The General Court Of Justice
☐ District ☒ Superior Court Division

Name Of Plaintiff

Raleigh Country Club, LLC, et al. - C/o Craig D. Justus

Address

Wilkerson Justus PLLC - PO Box 54

City, State, Zip

Asheville NC 28802

VERSUS

Name Of Defendant(s)

City of Raleigh, et al.

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3 and 4

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

City of Raleigh
 C/o Marchell Adams-David, City Manager
 222 W. Hargett St.
 Raleigh NC 27601

Name And Address Of Defendant 2



IMPORTANT! You have been sued! These papers are legal documents, DO NOT throw these papers out! You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!

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2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

Craig D. Justus
 Wilkerson Justus PLLC
 PO Box 54
 Asheville NC 28802

Date Issued

5/8/2025 11:17:40 am ☐ AM ☐ PM

Signature

/s/ Marina Presnell



Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

☐ ENDORSEMENT (ASSESS FEE)

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Date Of Endorsement

Time

☐ AM ☐ PM

Signature



Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

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(Over)

RETURN OF SERVICE

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- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service *(specify)*

- ☐ Defendant WAS NOT served for the following reason:

DEFENDANT 2*Date Served**Time Served*☐ AM☐ PM*Name Of Defendant*

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
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\$

*Signature Of Deputy Sheriff Making Return**Date Received**Name Of Sheriff (type or print)**Date Of Return**County Of Sheriff*

STATE OF NORTH CAROLINA

File No.

25CV015350-910

25 CVS

Wake County

In The General Court Of Justice
☐ District ☒ Superior Court Division

Name And Address Of Plaintiff 1

Raleigh Country Club, LLC

C/o Craig D. Justus - Wilkerson Justus PLLC

PO Box 54

Asheville NC 28802

Name And Address Of Plaintiff 2

Raleigh Country Club Acquisition, LLC

C/o Craig D. Justus - Wilkerson Justus PLLC

PO Box 54

Asheville NC 28802

GENERAL

CIVIL ACTION COVER SHEET

☒ INITIAL FILING ☐ SUBSEQUENT FILING

Rule 5(b) of the General Rules of Practice for the Superior and District Courts

VERSUS

Name And Address Of Defendant 1

City of Raleigh

C/o Marchell Adams-David, City Manager

222 W. Hargett St.

Raleigh NC 27601

Summons Submitted

☒ Yes ☐ No

Name And Address Of Defendant 2

Mark A. Thompson

7201 Vermilion Court

Wake Forest NC 27587-7336

Summons Submitted

☒ Yes ☐ No

Name And Address Of Attorney Or Party, If Not Represented
 (complete for initial appearance or change of address)

Craig D. Justus, Esq.

Wilkerson Justus PLLC

PO Box 54

Asheville NC 28802

Telephone No.

828-373-0462

Cellular Telephone No.

NC Attorney Bar No.

18268

Attorney Email Address

cjustus@wilkersonjustus.com

☒ Initial Appearance in Case ☐ Change of Address

Name Of Firm

Wilkerson Justus PLLC

Fax No.

Counsel For

☒ All Plaintiffs ☐ All Defendants ☐ Only: (list party(ies) represented)

☐ Jury Demanded In Pleading ☐ Complex Litigation ☐ Stipulate to Arbitration

TYPE OF PLEADING

(check all that apply)

- ☐ Amend (AMND)
- ☐ Amended Answer/Reply (AMND-Response)
- ☐ Amended Complaint (AMND)
- ☐ Assess Costs (COST)
- ☐ Answer/Reply (ANSW-Response) (see Note)
- ☐ Change Venue (CHVN)
- ☒ Complaint (COMP)
- ☐ Confession Of Judgment (CNFJ)
- ☐ Consent Order (CONS)
- ☐ Consolidate (CNSL)
- ☐ Contempt (CNTP)
- ☐ Continue (CNTN)
- ☐ Compel (CMPL)
- ☐ Counterclaim (CTCL) Assess Court Costs
- ☐ Crossclaim (list on back) (CRSS) Assess Court Costs
- ☐ Dismiss (DISM) Assess Court Costs
- ☐ Exempt/Waive Mediation (EXMD)
- ☐ Extend Statute Of Limitations, Rule 9 (ESOL)
- ☐ Extend Time For Complaint (EXCO)
- ☐ Failure To Join Necessary Party (FJNP)

- ☐ Failure To State A Claim (FASC)
- ☐ Implementation Of Wage Withholding In Non-IV-D Cases (OTHR)
- ☐ Improper Venue/Division (IMVN)
- ☐ Including Attorney's Fees (ATTY)
- ☐ Intervene (INTR)
- ☐ Interplead (OTHR)
- ☐ Lack Of Jurisdiction (Person) (LJPN)
- ☐ Lack Of Jurisdiction (Subject Matter) (LJSM)
- ☐ Modification Of Child Support In IV-D Actions (MSUP)
- ☐ Notice Of Dismissal With Or Without Prejudice (VOLD)
- ☐ Petition To Sue As Indigent (OTHR)
- ☐ Rule 12 Motion In Lieu Of Answer (MDLA)
- ☐ Sanctions (SANC)
- ☐ Set Aside (OTHR)
- ☐ Show Cause (SHOW)
- ☐ Transfer (TRFR)
- ☐ Third Party Complaint (list Third Party Defendants on back) (TPCL)
- ☐ Vacate/Modify Judgment (VCMD)
- ☐ Withdraw As Counsel (WDCN)
- ☐ Other (specify and list each separately)

NOTE: All filings in civil actions shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts, and the Clerk of Superior Court shall require a party to refile a filing which does not include the required cover sheet. For subsequent filings in civil actions, the filing party must include either a General Civil (AOC-CV-751), Motion (AOC-CV-752), or Court Action (AOC-CV-753) cover sheet.

Electronically Filed Date: 5/8/2025 11:07 AM (Qwen)

AOC-CV-751, Rev. 3/19, © 2019 Administrative Office of the Courts Wake County Clerk of Superior Court

CLAIMS FOR RELIEF

- | | | |
|---|--|---|
| <input type="checkbox"/> Administrative Appeal (ADMA)
<input type="checkbox"/> Appointment Of Receiver (APRC)
<input type="checkbox"/> Attachment/Garnishment (ATTC)
<input type="checkbox"/> Claim And Delivery (CLMD)
<input type="checkbox"/> Collection On Account (ACCT)
<input type="checkbox"/> Condemnation (CNDM)
<input type="checkbox"/> Contract (CNTR)
<input type="checkbox"/> Discovery Scheduling Order (DSCH)
<input type="checkbox"/> Injunction (INJU) | <input type="checkbox"/> Limited Driving Privilege - Out-Of-State
Convictions (PLDP)
<input type="checkbox"/> Medical Malpractice (MDML)
<input type="checkbox"/> Minor Settlement (MSTL)
<input type="checkbox"/> Money Owed (MNYO)
<input type="checkbox"/> Negligence - Motor Vehicle (MVNG)
<input type="checkbox"/> Negligence - Other (NEGO)
<input type="checkbox"/> Motor Vehicle Lien G.S. Chapter 44A (MVLN)
<input type="checkbox"/> Possession Of Personal Property (POPP) | <input type="checkbox"/> Product Liability (PROD)
<input type="checkbox"/> Real Property (RLPR)
<input type="checkbox"/> Specific Performance (SPPR)
<input checked="" type="checkbox"/> Other (specify and list each separately)
Declaratory and Injunctive Relief |
|---|--|---|

Date

Signature Of Attorney/Party

FEES IN G.S. 7A-308 APPLY

Assert Right Of Access (ARAS)
 Substitution Of Trustee (Judicial Foreclosure) (RSOT)
 Supplemental Procedures (SUPR)

PRO HAC VICE FEES APPLY

Motion For Out-Of-State Attorney To Appear In NC Courts In A Civil Or Criminal Matter (Out-Of-State Attorney/Pro Hac Vice Fee)

No. ☐ **Additional Plaintiff(s)**

No. ☐ **Additional Defendant(s)** ☐ **Third Party Defendant(s)**

**Summons
Submitted**

		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No

Plaintiff(s) Against Whom Counterclaim Asserted

Defendant(s) Against Whom Crossclaim Asserted

STATE OF NORTH CAROLINA

COUNTY OF WAKE

RALEIGH COUNTRY CLUB, LLC;
RALEIGH COUNTRY CLUB
ACQUISITION, LLC,

Plaintiffs,

v.

CITY OF RALEIGH, a municipal
corporation; and MARK A.
THOMPSON,

Defendants.

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

FILE NO. 25 CVS —25CV015350-910

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

NOW COME Raleigh Country Club, LLC (herein “RCC”) and Raleigh Country Club Acquisition, LLC (herein “RCCA”) (RCC and RCCA collectively referred to as “Plaintiffs”) by and through counsel, complaining of the Defendants, and do hereby allege as follows:

NATURE OF THE ACTION

Plaintiffs are seeking a declaratory judgment pursuant to N.C.G.S. §160D-1401 and N.C.G.S. §1-253, *et seq.* regarding the validity of actions by the City of Raleigh (herein “City”) to amend its zoning regulations under its Unified Development Ordinance (herein “UDO”) that significantly altered the standards for residential uses to purportedly enable a highly dense sixteen (16) unit townhouse development (“Project”) on property adjoining the Plaintiffs’ properties within the predominantly single-family King Charles neighborhood. Additionally, Plaintiffs seek injunctive relief under N.C.G.S. §7A-245(a)(1) and common law to bar the

Project based on the illegality of the ordinance pursuant to which it was purportedly authorized, as hereinafter set forth.

PARTIES AND JURISDICTION

1. RCC is a North Carolina limited liability company with its principal office and place of business in Wake County, North Carolina. RCC is the owner and operator of the Raleigh Country Club, a high-quality golf club business (herein “Club”) located at 400 Donald Ross Drive in Raleigh, North Carolina, on real estate described in a deed recorded in Deed Book 11020, Page 1959, Wake County Registry with the Parcel Identification No. 1713-98-1008, consisting of approximately 134.23 acres (herein “Golf Parcel”).

2. RCCA is a North Carolina limited liability company that is owned by RCC. RCCA is the owner of the fee title to the Golf Parcel. RCCA essentially holds the land occupied by the Club for accounting and tax conveniences. By virtue of Deed Book 13682, Page 2697, Wake County Registry, RCCA also owns a parcel with Parcel Identification No. 1713-77-8200, consisting of approximately 1 acre, on which is located a single-family residence presently occupied by the Club manager (herein “Manager Parcel”).

3. RCC possesses a long-term renewable lease with RCCA for the Golf Parcel for the purposes of operating the Club there as evidenced by a Memorandum of Lease recorded in Deed Book 19763, Page 2122, Wake County Registry.

4. Defendant City of Raleigh (“City”) is a municipal corporation organized and existing under the laws of the State of North Carolina and is governed by or is subject to N.C.G.S. Chapter 160D in the exercise of its zoning authority.

5. Mark A. Thompson (“Thompson” or “Developer”) is the owner of property located at 2501 Poole Road, Raleigh, North Carolina (herein “Site”), which is immediately adjacent to the Club, Golf Parcel and Manager Parcel. The Site is identified by Parcel Identification Number: 1713-76-9914 and consists of approximately 2.13 acres.

6. The relationship of the Site to the Club, Golf Parcel and Manager Parcel is shown on Exhibit “1”, attached hereto and incorporated herein by reference.

7. The Site is zoned R-4 by the City and is in the King Charles neighborhood of the City, which area has zoning restrictions since 2005 in the form of a Neighborhood Conservation District (“NCOD”), called the King Charles Neighborhood Overlay. The King Charles Neighborhood Overlay, which applies to the Site, establishes a minimum lot requirement of 33,541 square feet. (UDO, Section 5.4.3F6ai). With this overlay standard per the NCOD, density on the Site was historically limited to approximately 3 dwelling units.

8. On May 22, 2024, Developer received development approval from the City for the development of the Project on the Site. A true and accurate copy of the development approval (herein “22 May 2024 Approval”) is attached hereto as Exhibit “2” and incorporated herein by reference. The Project envisions the tearing down of

one (1) longstanding residence and replacing it with 8 separate townhouse buildings consisting of 16 units.

9. The City approved the Project utilizing what the City calls the Frequent Transit Development Option, which set of development regulations were initially adopted by the City Council for the City of Raleigh on May 10, 2022 by Ordinance No. (2022) 362 TC 466 (also referred to as “TC-20-21 Missing Middle 2.0” (herein “Frequent Transit Ordinance”)). A true and accurate copy of the Frequent Transit Ordinance is attached hereto as Exhibit “3” and incorporated herein by reference.

10. On June 19, 2024, RCC timely appealed the 22 May 2024 Approval to the City’s zoning board of adjustment (herein “BOA”) to contest the City’s interpretation of the King Charles Neighborhood Overlay requirements in conjunction with the Frequent Transit Development Option (“Interpretation Appeal”).

11. Thompson filed a motion with the BOA to dismiss the Interpretation Appeal based on the standing of RCC, which motion was joined by the City and granted by the BOA. RCC has appealed to Wake County Superior Court the decision concerning dismissal of the Appeal on standing grounds, which matter is pending as of the filing of this Complaint.

12. There is no outstanding exhaustion of remedies condition precedent to this declaratory judgment action or if there was, such remedies would be futile. This action for declaratory and injunctive relief challenges the validity of the Frequent Transit Ordinance (and the validity of the Project) and not the interpretation or

application of its terms to the Project. See *Cary Creek Ltd P'ship v. Town of Cary*, 203 N.C. App. 99, 101-102 (2010) (a party can challenge the interpretation or application of an ordinance while in a separate action challenge the ordinance's legality); *Simpson v. City of Charlotte*, 115 N.C. App. 51, 55 (1994).

13. Due to the failure of the City to follow or comply with statutory authority or procedures in the adoption of the Frequent Transit Ordinance, as hereinafter set forth, said ordinance is invalid, ineffective and *void ab initio*. *Keiger v. Winston-Salem Bd. of Adj.*, 281 N.C. 715, 720-721 (1972); *Swansboro v. Odum*, 96 N.C. App. 115, 117 (1989). Being *void ab initio*, the 22 May 2024 Approval, which is a byproduct of the Frequent Transit Ordinance, would also be invalid or void and it along with future applications of said ordinance to the Site would be properly restrained since the prior law did not authorize the Project. *Godfrey v. Zoning Bd. of Adj.*, 317 N.C. 51, 58-59 (1986); *Zopfi v. Wilmington*, 273 N.C. 430, 433, 437 (1968); *Board of Manager James Walker Memorial Hospital v. Wilmington*, 237 N.C. 179, 190 (1953) (a void law does not confer any rights and would not justify any acts performed under it).

14. There are no equities that preclude injunctive relief and the voiding of the Frequent Transit Ordinance, the 22 May 2024 Approval and any future applications of said ordinance to the Site. *American Mfrs. Mut. Ins. Co. v. Ingram*, 301 N.C. 138 (1980) (employing a test of reasonableness and good faith to the retroactive application of the *void ab initio* doctrine). Defendants are in the early stage of the development approval process for the Project.

15. With the Frequent Transit Ordinance, the City has imposed within R-4 and especially within the King Charles Neighborhood Overlay materially different land use restrictions and benefits as to properties located within a so-called “Frequent Transit Area” in a manner that is distinct and different from the zoning regulations normally applicable to R-4 zoned properties outside a Frequent Transit Area and subject to the King Charles Neighborhood Overlay.

16. With the 22 May 2024 Approval, the City has interpreted the ordinance referenced above as permitting, as of right, the Project; such a Project would not be allowed based on the UDO prior to those changes.

17. Plaintiffs, as the owner or occupiers of properties adjoining the Site, will be uniquely, directly and adversely affected by the Project with its high density as enabled by the Frequent Transit Ordinance in a manner different than the general public in the form of increased traffic, noise, odor, and litter pollution, trespassing from Project users and a diminution in the value of the Club, including RCC’s leasehold interest and business assets. Due to the development of high density residential with associated parking enabled by the ordinance, a vegetative buffer on the Golf Parcel abutting the Site that provides screening and shading to the golf course will likely be injured. RCC sponsors or hosts high quality golf tournaments at the Club and its privacy, reputation and operations will be materially affected by the Site’s use for a high-density multi-family development near the golf facilities, including holes and tee boxes.

18. Due to their status as owners or occupiers of properties adjoining the Project and the negative impacts set forth above, Plaintiffs have standing as parties with a specific personal and legal interest in the Frequent Transit Ordinance and its application to the Site and are directly and adversely affected thereby. *Gardner v. Richmond County*, 911 S.E.2d 761 (2025); *Taylor v. Raleigh*, 290 N.C. 608, 620 (1976); *Blades v. City of Raleigh*, 280 N.C. 531, 544 (1972); *Village Creek Prop. Owners Ass'n v. Town of Edenton*, 135 N.C. App. 482, 485-86 (1999). Enabled by the zoning changes reflected in the Frequent Transit Ordinance, as applied by City staff, the use of the Site for a high-density residential project at densities more than five times that typically expected in an area zoned low density residential and covered by the King Charles Neighborhood Overlay would be an invasion of Plaintiffs' legally protected interests that is concrete, particularized and real.

19. Moreover, upon information and belief, Plaintiffs' properties fall within the so-called Frequent Transit Area and, as a result of the Project, are specifically injured by the procedural defects in the enactment of the Frequent Transit Ordinance and the failure of the City to comply with the limitations on zoning authority in N.C.G.S. §160D-703(a) and (c) and other statutes, as hereinafter set forth. *Thrash Ltd. P'ship v. County of Buncombe*, 195 N.C. App. 727, 730-31 (2009).

20. The Superior Court of Wake County has jurisdiction over the parties and over the subject matter herein, and Wake County is the appropriate venue for this action.

21. Plaintiffs have notified the Defendants of the illegality of the Frequent Transit Ordinance and have requested that Defendants cease and desist continuing to apply the Frequent Transit Ordinance to the Project due to the illegality of said ordinance. Defendants disagree and have refused to cease and desist. An actual justiciable controversy exists between Plaintiffs and Defendants concerning the City's adoption of development regulations or zoning ordinances that affect the parties' rights, status, or other legal relations under applicable laws and/or regulations.

22. Specifically, N.C.G.S. § 1-254 titled "Courts given power of construction of all instruments" states in pertinent part:

Any person . . . whose rights, status or other legal relations are affected by a statute [or] municipal ordinance . . . may have determined any question of construction or validity arising under the . . . statute [or] ordinance, . . . and obtain a declaration of rights, status, or other legal relations thereunder

Plaintiffs are adversely affected by the Frequent Transit Ordinance and its application to the Site and, as a result, fall within the zone or scope of the Declaratory Judgment statute and are entitled to its relief.

FIRST CLAIM FOR RELIEF
DECLARATION PURSUANT TO N.C.G.S. § 1-254
(The Frequent Transit Ordinance was illegally enacted)

23. The allegations of paragraphs 1-22 above are re-alleged and incorporated herein.

24. Prior to the adoption of the Frequent Transit Ordinance, the City of Raleigh's UDO greatly restricted townhouses, including ones containing two units, within the R-4 zoning district and the King Charles Neighborhood Overlay.

25. The purpose and intent of the Frequent Transit Ordinance is stated on the City's website to be "the next step in a more flexible zoning code designed to allow for smaller homes on smaller lots and denser development near high-frequency transit."

26. By virtue of the Frequent Transit Ordinance, the City's UDO was changed to attempt to allow, among other things, large scale townhouse projects, row housing and multi-family apartment building development in R-4 zoning districts. Through application by City staff, developments such as the Project are being processed and allowed at double or more the density than the densities traditionally afforded under the underlying zoning district or overlay district requirements. Moreover, the Frequent Transit Ordinance allows for intensely packed developments without transitional protective yards or other vegetative buffers commonly found with other development types.

27. The Frequent Transit Ordinance substantially affects land use of those properties impacted and, therefore, must be enacted under the procedures which govern zonings and rezonings under applicable North Carolina law. The Frequent Transit Ordinance establishes restrictions or new development standards regarding uses, densities, buffers, setbacks and other zoning requirements without, on its face, establishing a new zoning district as described in N.C.G.S. §160D-703 (e.g., conventional, conditional, overlay).

28. The power to zone property conferred upon a local governing body, including the power to rezone or make changes to a zoning text or zoning map, is

subject to the limitations of the enabling legislation adopted by the North Carolina General Assembly. *Heaton v. Charlotte*, 277 N.C. 506, 513 (1971); *Allred v. City of Raleigh*, 277 N.C. 530, 540 (1971); *Wally v. City of Kannapolis*, 365 N.C. 449, 452 (2012). As a condition of adopting or amending any zoning development regulation, the General Assembly has prescribed that local governments hold “a legislative hearing”. N.C.G.S §160D-601(a). A “legislative hearing” is a “hearing to solicit public comment on a proposed legislative decision.” N.C.G.S. §160D-102(20). The purpose of the hearing is to apprise fairly and sufficiently those persons who may be affected by zoning action so that they may intelligently prepare for the hearing on the matter. Another reason is to allow local leaders to solicit information from the public to make informed and reasonable land use decisions. The content of a notice of a hearing describing proposed UDO changes must be reasonably understood by the ordinary person or layman. In that regard, the common person must at a minimum be informed of what properties are potentially affected by a zoning change and the nature or effect of the proposed change, including, but not limited to, whether new uses of buildings or land are being proposed or prior uses prohibited.

29. Plaintiffs have an expectation and right that the zoning of their properties and those of the adjoining area will not be materially altered to detrimentally affect the character of the district, the suitability of uses therein and the value of buildings and land without, at a minimum, notice of such proposed changes adequate enough to alert them that their rights might be affected. Notice under our zoning enabling legislation of a legislative public hearing concerning

zoning changes “must fairly and sufficiently apprise those whose rights may be affected of the nature and character of the action proposed.” *Sellers v. City of Asheville*, 33 N.C. App. 544, 549 (1977). “The very purpose of [a public hearing is] to afford an opportunity to interested parties to make known their views and to enable the board to be guided by them.” *Heaton v. City of Charlotte*, 277 N.C. 506, 516 (1971).

30. Prior to the Frequent Transit Ordinance, the City had for a long time described and solidified the character of zoning districts by their possible maximum density. See UDO, Sec. 2.1.1. A residential-1 (R-1) zone was one unit per acre; Residential-2 (R-2) was 2 units per acre; Residential-4 (R-4) was 4 units per acre, Residential-6 (R-6) was 6 units per acre, and Residential-10 (R-10) was 10 units per acre. Density traditionally was determined by the historical density caps, except where more restrictive due to overlay districts like the NCOD and the King Charles Neighborhood Overlay.

31. The notice of the legislative hearings for the Frequent Transit Ordinance did not “fairly and sufficiently apprise those whose rights may be affected of the nature and character of the action proposed.” *Sellers*, *supra*.

32. Legal notices provided by the City were only through newspaper ads, and not mailings to affected parties. Newspaper ads were deficient in that they failed to give the essence and scope of the proposed changes under consideration, including any mention of what zone districts or classification were to be affected such as R-4 or what property was potentially affected. The newspaper ads are completely devoid of any notice that the use of property for multiple townhouses on the same lot could be

introduced into R-4 zoned neighborhoods, including the King Charles Neighborhood Overlay. Plaintiffs never saw the newspaper legal ads for the Frequent Transit Ordinance prior to its adoption.

33. The legislative notices in the newspaper mention “high-frequency transit” without designating the meaning of such phrase (e.g., trains, buses, automobiles, etc.) or providing with sufficient specificity where they are or could be located. No geographical areas or boundaries were described via text or by way of a map published in the newspaper.

34. In N.C.G.S. §160D-701, the General Assembly has mandated that local governments, when exercising zoning powers, reasonably consider density of an area, the character of a district and its suitability for particular uses, among other things. The effect of the City’s zoning changes, as applied by City staff, is to allow more than double the amount of density on relatively small lots or parcels in well-established R-4 zoning districts, which zone makes up a considerable portion of the older sections of Raleigh. If the City is correct in its application of the current UDO, the Project is illustrative of that wide reaching outcome. The effect of the Frequent Transit Ordinance is to essentially convert R-4 into an R-6 or R-8 zone. For the properties subject to the King Charles Neighborhood Overlay, the density is potentially increased such as for the Project more than five (5) times the typical allowances. The legislative notices described above for the Frequent Transit Ordinance do not mention R-4 (or any other districts by name) or reasonably apprise the layperson of the

dramatic changes to the character of R-4 or other zoning districts or changes to overlay districts like the King Charles Neighborhood Overlay.

35. The Frequent Transit Ordinance was not enacted by the City of Raleigh under the procedures governing zonings and rezonings under applicable law, but rather, was instead wrongfully presented by the City of Raleigh as a “text change” which the City attempted to pass by providing mere notice to the public by publication in the local newspaper in Wake County and via posting on the City of Raleigh’s website (www.raleighnc.gov).

36. The Frequent Transit Ordinance changed development allowances based on the City’s geographical preference of a property’s proximity to transit corridors designated by the City, labeled as Frequent Transit Areas, which are not features uniquely existing on a lot such as a wetland, creek or steep slope. The City mapped these new transit areas as part of edits to their Comprehensive Land Plan, adopted also on May 10, 2022, which plan is not a zoning map identified by an ordinance or by Chapter 160D, nor does the Comprehensive Land Plan have an independent regulatory effect. N.C.G.S. §160D-501(c). Such plan is merely advisory and not a development regulation *per se*.

37. The Frequent Transit Ordinance defines “Frequent Transit Areas” as those “areas slated for bus or other transit service where the time between vehicles will be 15 minutes or less during peak service periods”. The identity of these areas is not discernible to a layperson by a known feature or thing and is instead subject to the whims of City leaders or administrators in their establishment. While the

ordinance requires that such decisions of City leaders or administrators to establish “Frequent Transit Areas” “be mapped in the City’s Comprehensive plan” (Article 2.7, UDO), that so-called map is not a zoning regulation or zoning map and its boundaries or changes to its boundaries are not described in any legal notice nor part of individual mailings to affected property owners.

38. The Frequent Transit Ordinance and its Frequent Transit Areas are not shown on and are not part of changes to Raleigh’s zoning map. The City’s actions do not comply with N.C.G.S. §160D-105; the incorporation in a zoning regulation by reference to a map in a land use plan is not authorized by said statute since it is not a map “officially adopted or promulgated by State and federal agencies.” Upon information and belief, the Comprehensive Plan or changes thereto including the so-called map showing Frequent Transit Areas is or was not adopted by ordinance as required by N.C.G.S. §160D-601(c).

39. N.C.G.S. §160D-602 requires additional or heightened notices to affected parties for “proposed zoning map amendments.” A “zoning map amendment” means “an amendment to a zoning regulation for the purpose of changing a zoning district that is applied to a specified property or properties.” N.C.G.S. §160D-102(34). As applied by City staff, if correct, the Frequent Transit Ordinance materially changed the uses and densities previously allowed in R-4 or King Charles Neighborhood Overlay such that the changes constitute a new zoning district – i.e., from low density single family residential to high density residential, including multi-unit or multi-family. Where so-called text changes to zoning regulations are so

comprehensive in nature as to result in a substantial change to the manner in which the tract of land is zoned so as to essentially or effectively create a new zoning district, such ordinance changes must follow the procedures for adopting a zoning map change. David W. Owens, *Land Use Law in North Carolina* 156 (3ded 2020); *Modak-Truran v. Johnson*, 18 So. 3d 206, 211 (Miss. S. Ct. 2009); *Embreeville Redevelopment, L.P. v. Bd. of Supervisors of W. Bradford Twp*, 134 A.3d 1122, 1127-29 (P.A. Commw. 2016).

40. The Frequent Transit Ordinance is essentially a type of form-based zoning, which is different than a conventional district or an overlay district. See N.C.G.S. § 160D-703(a) (describing authorized zoning district types). If the City staff is correct in the application of the Frequent Transit Ordinance, its effect is to change the zoning district applicable to the Site (as contemplated by the phrase “zoning map amendment” referenced above), thus triggering the heightened notice provisions of N.C.G.S. § 160D-602.

41. None of the procedures in N.C.G.S. §160D-602 were followed even though the Frequent Transit Area designation noted in the Comprehensive Land Plan shows that the area could have been mapped, at least as an overlay district on the official zoning map. Mailed notices to affected property owners were not given. The optional notice for large-scale zoning map amendments in N.C.G.S. §160D-602(b) was also not complied with. Upon information and belief, the notice in the local paper employed incredibly small print and comprised well less than one-half page to show the proposed zoning changes, all of which led to obscuring the actions of the City.

42. Plaintiffs did not receive any mailed notice as to such zoning changes as required by UDO 10.2.1.C.1.a., which provides that:

Whenever mailed notice is required by Sec. 10.1.8. or elsewhere in this UDO, at the time of submission of the application, the applicant shall deliver to the City first class stamped envelopes addressed to the property owners of the property included in the proposed application and the owners of all property within 100 feet on all sides of the subject property at the time of submittal. If a portion of a property is requested for rezoning, the notification radius shall be calculated from the property lines, and not the requested zoning boundary. For zoning map amendments, the mailing radius shall be increased to 500 feet. The mailing radius for neighborhood meetings is that set forth in Section 10.2.4.D. For zoning map amendments that directly affect more than 50 properties owned by a total of at least 50 different property owners, the applicant may elect to provide mailed notice of the Planning Commission public meeting by postcard instead of first class (sic) mail. Envelopes shall be provided, and notice given to non-owner tenants in accordance with subsection b.

43. The result of this unlawful procedure by the City of Raleigh as to the Frequent Transit Ordinance is that the City failed to engage directly the community and property owners impacted by the substantial change in land use entitlement sought to be imposed under said ordinance provisions, and failed to provide the required legislative notice, due process, right to be heard, and other community engagement that the UDO and applicable law require that the City follow for the protection of residents.

44. The City may not evade legislative notice requirements required by its own UDO and other applicable law by mis-labeling an act of zoning that works a substantial change in land use entitlement as simply an exercise of the City's police power.

45. Upon information and belief, only five (5) people spoke at the legislative hearing for the Frequent Transit Ordinance. In 2022, Raleigh had a population of over 470,000 people with over 187,000 households with a geographical size covering over 147 square miles. The lack of adequate notice is reflected in the numbers present at the legislative hearing.

46. Additionally, the City of Raleigh requires that its Planning Board or Commission conduct “legislative hearings” for its decisions related to zoning changes and give the requisite notice. See UDO, Sec. 10.2.3D.2.a. Upon information, the Planning Board’s notice of its legislative hearing was also deficient for the same reasons described above for the City Council action.

47. The City through its Planning Board and City Council is required to adopt statements of consistency and reasonableness per N.C.G.S. §160D-604(d) and N.C.G.S. §160D-605, which, upon information and belief, were not followed for the proposed zoning changes comprising the Frequent Transit Ordinance.

48. The Frequent Transit Ordinance is also defective because it violates other provisions of applicable law including but not limited to N.C.G.S. §160D-703(c) as to uniformity of regulations for each class or kind of buildings throughout each zoning district. N.C.G.S. § 160D-703(c) provides as follows:

Uniformity Within Districts. - Except as authorized by the foregoing, all regulations shall be uniform for each class or kind of building throughout each district but the regulations in one district may differ from those in other districts.

49. Specifically, property within R-4, R-6, and/or R-10 zoning districts within the City are not subject to a uniform set of regulations because the kind and/or

type of use permitted within each of those districts, and the density, dimensional standards, bulk, mass, and/or height of buildings, may vary depending on whether a property that is zoned R-4, for instance, is or is not located within an area designated as Frequent Transit Area.

50. N.C.G.S. §160D-703 limits the tools that cities can use to create differential land use regulatory standards and such standards must be part of one of five “zoning district” options, including conventional districts or overlay districts. The Frequent Transit Ordinance changes reflected in the boundaries set forth with Frequent Transit Areas is, in essence, an overlay district but was not called such by the City and was not adopted in accordance with the procedures for an overlay district. *A-S-P Associates v. Raleigh*, 298 N.C. 207 (1979) (discussing a historic overlay district).

51. The City has adopted several overlay districts in its UDO, including one addressing density tied to transit, that overlay onto the City’s zoning map where changes thereto must follow the heightened procedural requirements imposed by statute and the UDO. The City ties the effectiveness of the Frequent Transit Ordinance to a map, albeit not a zoning map. Due to the vague nature of Frequent Transit areas (i.e., areas slated for bus or other transit service where the time between vehicles will be 15 minutes or less during peak service periods), a layperson and City enforcement officials would need zoning boundaries to understand or carry out its provisions without discrimination. The City is trying to do indirectly what it

cannot do directly – adopt a zoning regulation without zoning boundaries to avoid giving more people greater notice of proposed development standards.

52. The legality or validity of the Project is dependent on and the 22 May 2024 Approval relies upon the validity of the Frequent Transit Ordinance.

53. The Plaintiffs request that the Court enter declaratory relief, binding on the parties, to settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations, as to the following, with respect to the adoption of the Frequent Transit Ordinance:

i. Assuming the changes reflected by the Frequent Transit Ordinance were mere zoning text changes, the sufficiency of legal notice provided for the legislative hearings required by N.C.G.S. §160D-601 (Plaintiffs contend that proper legal notice was not given; Defendants contend to the contrary);

ii. Whether the changes reflected by the Frequent Transit Ordinance should have been adopted using the procedures for zoning map amendments required by N.C.G.S. §160D-602 and corresponding UDO sections (Plaintiffs contend that the Frequent Transit Ordinance changed the prior zoning districts or was so comprehensive and substantial that the City should have actually amended its zoning map (which it did not do) and sent out individualized mailings to affected property owners or followed the large-scale zoning map amendment options; Defendants contend to the contrary);

iii. Whether the Frequent Transit Ordinance's employment of a so-called map within the Comprehensive Plan, rather than a zoning map, to describe the

affected areas is authorized or was adopted following proper procedures (Plaintiffs contend that only zoning maps can be used to fix boundaries of properties regulated by zoning with the exception of maps authorized to be incorporated by reference per N.C.G.S. §160D-105; Defendants contend to the contrary);

iv. Whether appropriate statements of consistency or reasonableness were adopted by the City's Planning Board and City Council (Plaintiffs contend that they were not; Defendants contend to the contrary);

v. Whether zoning uniformity requirements were violated (Plaintiffs contend that they were; Defendants contend to the contrary);

vi. Whether the Frequent Transit Ordinance is invalid or void (Plaintiffs contend that it is; Defendants contend to the contrary); and

vii. Whether the Project to the extent enabled by the Frequent Transit Ordinance, including its 22 May 2024 Approval, is also invalid or void (Plaintiffs contend that it is; Defendants contend to the contrary).

54. By virtue of the City's failure to comply with statutory or UDO requirements referenced above, the Frequent Transit Ordinance is invalid and void and should be stricken.

55. The Plaintiffs request that the Court enter declaratory relief for the parties and against the Defendants, declaring that the Frequent Transit Ordinance, the 22 May 2024 Approval and any other City development approvals for the Site or Project dependent upon said ordinance are invalid and void.

SECOND CLAIM FOR RELIEF
(Deprivation of Constitutional Rights)

56. The allegations of Paragraphs 1-55 above are re-alleged and incorporated herein.

57. As a guarantee of due process under Article I, Section 19 of the North Carolina Constitution and the 14th Amendment of the U.S. Constitution, parties whose rights are to be affected are entitled to be heard, including property owners like the Plaintiffs when zoning changes occur that apply to or affect their properties. Due process requires adequate notice and an opportunity to be heard. *Frizzelle v. Harnett County*, 106 N.C. App. 234, 239, 416 S.E.2d 421, 423 (1992). The notices given for the legislative hearings for the ordinance changes referred to above in terms of size of the published notice and the vagueness or generalities of wording were not reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and to afford them an opportunity to present their objections. *Id*; *In re Appeal of McElwee*, 304 N.C. 68, 81, 283 S.E.2d 115, 123-124 (1981).

58. Plaintiffs possess a legitimate claim of entitlement that if the City changes its zoning laws it will comply with the related enabling legislation, including providing them with an opportunity to participate in a debate as to the reasonableness of changes and to guide the appropriate boards in making the correct decisions. A failure to do so as here violates Plaintiffs' constitutionally protected property interests.

59. The Plaintiffs do not have an adequate state remedy to preserve its constitutionally protected property interests.

60. The Court should declare the Frequent Transit Ordinances and the Project approvals that relied upon it a nullity due to the violation of Plaintiffs' constitutional due process rights.

THIRD CLAIM FOR RELIEF
Permanent Injunctive Relief

61. The allegations of Paragraphs 1-60 above are re-alleged and incorporated herein.

62. Based on the illegality of the Frequent Transit Ordinance, Plaintiffs will be irreparably harmed if the Project, which was purportedly authorized by said ordinance is allowed to proceed. Plaintiffs have no adequate remedy at law to enforce their rights pertaining to the development regulations in dispute in this case and equitable relief must be afforded to them to enjoin further application of the Frequent Transit Ordinance as well as the Project being further developed pursuant to the 22 May 2024, which was given in reliance upon the illegally enacted zoning amendment. Plaintiffs request that this Court enter injunctive relief to enforce its declaratory rulings. *Zopfi*, 273 N.C. at 433; N.C.G.S. §7A-245(a)(1).

WHEREFORE, Plaintiffs respectfully pray the Court:

1. Enter a judgment declaring that the Frequent Transit Ordinance and the byproducts of that change related to the Site and Project, including the 22 May 2024 Approval, are invalid and void;

2. Enter injunctive relief as requested above;

3. For costs and attorney's fees as allowed by law; and
4. For such other and further relief as to the Court deems just and proper.

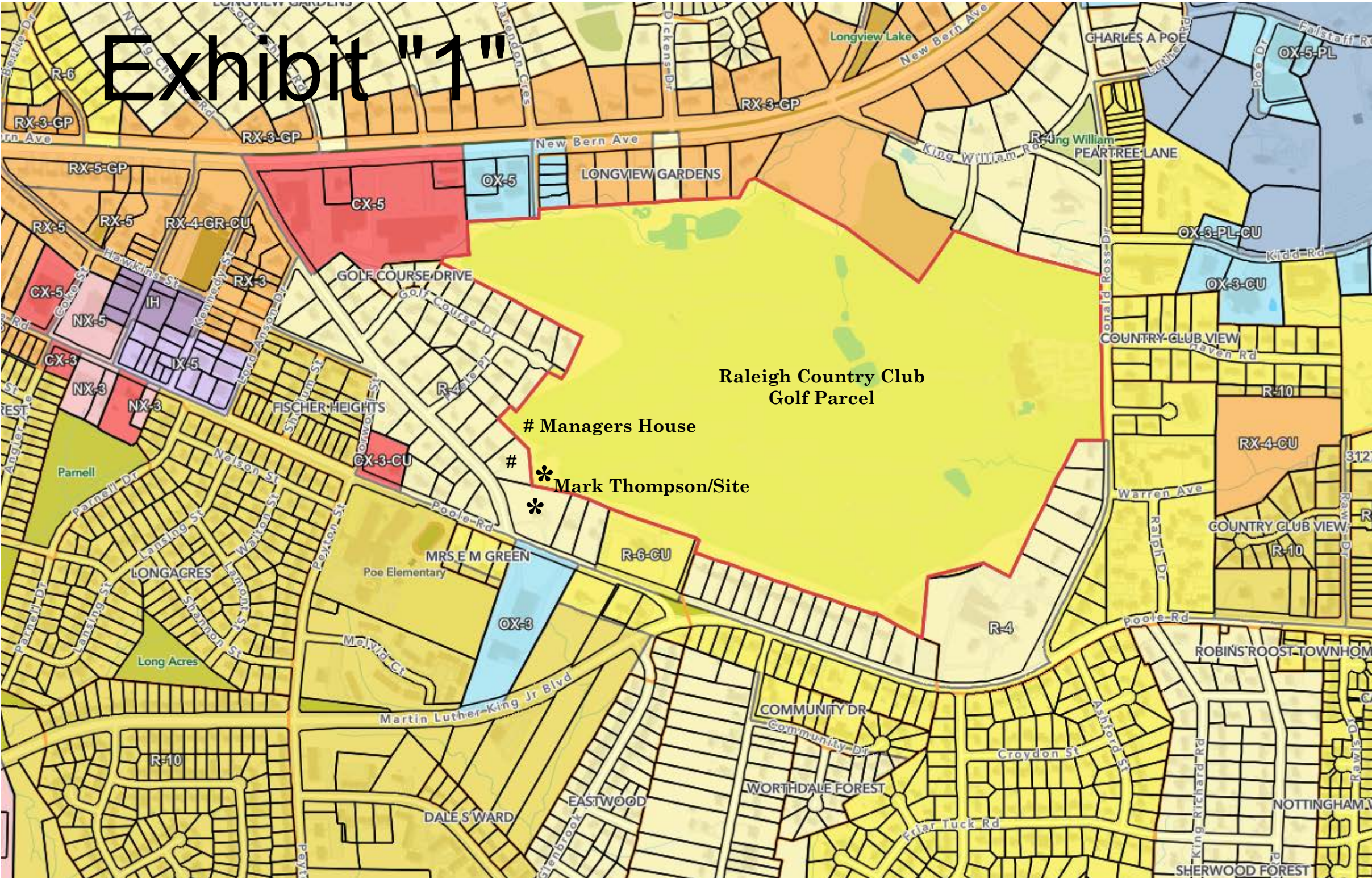
Respectfully submitted, this 8th day of May 2025.

WILKERSON JUSTUS PLLC



Craig D. Justus
NC Bar #18268
PO Box 54
Asheville, NC 28802
Telephone: 828-373-0462
Email: cjustus@wilkersonjustus.com
Attorneys for Plaintiffs

Exhibit "1"



Raleigh Country Club
Golf Parcel

Managers House

* Mark Thompson/Site

MRS E M GREEN

Poe Elementary

Melvin Ct

Martin Luther King Jr Blvd

DALE'S WARD

EASTWOOD

WORTHDALE FOREST

Prior Tuck Rd

Croydon St

Asford St

SHERWOOD FOREST

NOTTINGHAM V

King Richard Rd

ROBIN'S ROOST TOWNHOM

poole Rd

Ralph Dr

Warren Ave

COUNTRY CLUB VIEW

RX-4-CU

R-10

COUNTRY CLUB VIEW

OX-3-CU

OX-3-PL-CU

PEAR TREE-LANE

King William Rd

New Bern Ave

RX-3-GP

LONGVIEW GARDENS

OX-5

GOLF COURSE DRIVE

OX-3-CU

FISCHER HEIGHTS

RX-4-GR-CU

NX-3

LONGACRES

Long Acres

R-10

RX-5-GP

CX-5

NX-5

CX-3

NX-3

IX-5

IX-5

IX-5

IX-5

IX-5

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Exhibit "2"

Administrative Approval Action

Case File / Name: ASR-0014-2023
DSLC - CHAILYN'S COTTAGES

City of Raleigh
Development Services Department
One Exchange Plaza
Raleigh, NC 27602
(919) 996-2492
currentplanning@raleighnc.gov
www.raleighnc.gov

LOCATION:

The site is located at 2501 Poole Rd specifically PIN # 1713769914, the site is zoned Residential-4 (R-4) with the King Charles (South) Neighborhood Conservation District (-NCOD) and is in a Frequent Transit Area as designated by the Comprehensive Plan. The property is bordered to the east with a single-family residential dwelling (2507 Poole Road) and to the north by two properties, a single-family residential dwelling (329 South King Charles Road) and the southwest corner of Raleigh Country Club (400 Donald Ross Drive). The property fronts Poole Road to the south and South King Charles Road to the west.

REQUEST:

The application is requesting approval for a Townhome development project which includes 8 residential structures (16 dwelling units) designed per the Townhouse building type (UDO 1.4.1.C), outdoor amenity area, associated infrastructure, off-street parking, parking lot, and street trees. The applicant is using the Frequent Transit Development Option (UDO 2.7), including criteria for establishing affordable housing units, and King Charles (South) (UDO 5.4.3.F.6) as the development standards. The Frequent Transit Development Option permits the construction of more than 12 dwelling units when 20% of the units over 12 meet affordable housing standards. One affordable dwelling unit will be required with this development. Access to the off-street parking is shown off South King Charles Road. An internal pedestrian area is proposed to allow residents to walk directly to Poole Road. Submitted architectural plans (sheets A1 and A2) show the elevations of the proposed townhomes and the site plan (sheet C-3.00) shows the location of each proposed townhome building. The Administrative Approval and Approved Site Plans can be reviewed on the City's Development Approval webpage.

DESIGN

ADJUSTMENT(S)/

ALTERNATES, ETC: N/A

FINDINGS:

City Administration finds that this request, with the below conditions of approval being met, conforms to the Unified Development Ordinance. This approval is based on a preliminary plan dated March 20, 2024 by JOHN A EDWARDS AND CO.

CONDITIONS OF APPROVAL and NEXT STEPS:

This document must be applied to the second sheet of all future submittals except for final plats. This is a preliminary plan and as such no permits have been issued with this approval. To obtain permits and/or completion of the project, the following steps are required:

☒ **SITE PERMITTING REVIEW** - For land disturbance of 12,000 square feet or greater, public or private infrastructure, shared stormwater devices, etc. Site Permitting Review may be submitted upon receipt of this signed approval document.

The following items are required prior to approval of Site Permitting Review plans:

General

1. Identify the number of retaining walls proposed with this development. Provide details of the walls. Permits will be issued at SPR application.



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2. If applicable, provide a lighting plan to meet UDO 7.4 including a photometric plan and cut sheets of the proposed lights. The lighting plan (if applicable) will need to be reviewed and approved prior to Site Permit Plan Approval.
3. A demolition permit shall be issued prior to Site Permit Review approval.
4. The extra services into units 11 & 12 must be removed prior to SPR approval. There shall be one service per building, not per unit.

Engineering

5. A public infrastructure surety shall be provided to City of Raleigh Transportation – Development Engineering Division (UDO 8.1.3) in the amount of 100% of the improvement cost for the NCDOT portion and 125% of the improvement cost for the City of Raleigh infrastructure.

Stormwater

6. A surety equal to of the cost of clearing, grubbing and reseeding a site, shall be paid to the City (UDO 9.4.4).
7. A stormwater control plan with a stormwater operations and maintenance manual and budget shall be approved (UDO 9.2).
8. A nitrogen offset payment must be made to a qualifying mitigation bank (UDO 9.2.2.B).

Urban Forestry

9. Tree protection fence must be inspected by Urban Forestry staff prior to the issuance of a grading permit.
10. Submit a final tree conservation plan that includes metes and bounds descriptions of all tree conservation areas and tree protection fencing as required (UDO 9.1.5).

☒ **LEGAL DOCUMENTS** - Email to legaldocumentreview@raleighnc.gov. Legal documents must be approved, executed, and recorded prior to or in conjunction with the recorded plat on which the associated easements are shown. Copies of recorded documents must be returned to the City within one business day of recording to avoid withholding of further permit issuance.

<input checked="" type="checkbox"/>	Right of Way Deed of Easement Required
-------------------------------------	---

<input checked="" type="checkbox"/>	Utility Placement Deed of Easement Required
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☒ **RECORDED MAP(S)** - Submit plat to record new property lines, easements, tree conservation areas, etc.). Plats may be submitted for review when the Site Permitting Review plans, if required, have been deemed ready for mylar signature.

The following items must be approved prior to recording the plat:

Engineering



Administrative Approval Action

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City of Raleigh
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1. A public street right-of-way deed of easement, in addition to a plat showing the location of the easement, shall be submitted to the Planning and Development Services Department for review, and if acceptable, approved for recordation. Approved plats must be recorded at the Wake County Register of Deeds Office on or before the 14th day following approval by the City. The 14-day expiration date shall be clearly indicated on the plat. By the end of the next business day following recordation of the plat, all required legal instruments (including deeds of easement) shall be recorded, and recorded copies of the plat and all legal instruments required by the City in association with development approval shall be provided to the City. (Reference: UDO 8.1.7.A; 10.2.5.F.4.d)
2. A fee-in-lieu for 1' of sidewalk along Poole Road and King Charles is paid to the City of Raleigh (UDO 8.1.10).
3. A 5' utility placement easement deed of easement, in addition to a plat showing the location of the easement, shall be submitted to the Planning and Development Services Department for review, and if acceptable, approved for recordation. Approved plats must be recorded at the Wake County Register of Deeds Office on or before the 14th day following approval by the City. The 14-day expiration date shall be clearly indicated on the plat. By the end of the next business day following recordation of the plat, all required legal instruments (including deeds of easement) shall be recorded, and recorded copies of the plat and all legal instruments required by the City in association with development approval shall be provided to the City. (Reference: UDO 8.1.7.A; 10.2.5.F.4.d)

Public Utilities

4. Site Permit Review plans (SPR) must be approved by the City of Raleigh Public Utilities Department for all public water, public sewer and/or private sewer extensions.

Stormwater

5. All stormwater control measures and means of transporting stormwater runoff to and from any nitrogen and stormwater runoff control measures shall be shown on all plats for recording as private drainage easements (UDO 9.2).
6. If demolition causes a land disturbance of more than 12,000 sf, a mass grading permit will be required. (UDO 9.4.6)

☒ **BUILDING PERMITS** - For buildings and structures shown on the approved plans. Commercial building permit plans must include the signed, approved Site Permitting Review plans attached, if applicable. Permit sets may be reviewed prior to the recordation of required plats, but cannot be approved.

The following items must be approved prior to the issuance of building permits:

Public Utilities

1. A plat must be recorded at the Wake County Register of Deeds office for all utility easement dedications.



Administrative Approval Action

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Stormwater

2. A surety equal to 125% of the cost of the construction of a stormwater device shall be paid to the Engineering Services Department (UDO 9.2.2.D.1.d).
3. All stormwater control measures and means of transporting stormwater runoff to and from any nitrogen and stormwater runoff control measures shall be shown on all plats for recording as private drainage easements (UDO 9.2).

Urban Forestry

4. A public infrastructure surety for 16 street trees shall be provided to City of Raleigh Transportation – Development Engineering Division (UDO 8.1.3) in the amount of 125% of the improvement cost for the City of Raleigh infrastructure.
5. A tree impact permit must be obtained for the approved streetscape tree installation in the right of way. This development proposes 11 street trees along King Charles Rd and 5 street trees along Poole Rd.
6. A tree conservation plat shall be recorded with metes and bounds showing the designated tree conservation areas (UDO 9.1). This development proposes .217 acres of tree conservation area.

The following are required prior to issuance of building occupancy permit:

General

1. All Water, Sanitary Sewer and Reuse facilities shall be installed, inspected, tested and accepted by the City of Raleigh Public Utilities Department for operations and maintenance.
2. Final inspection of all tree conservation areas and right of way street trees by Urban Forestry Staff.
3. Development shall comply with UDO Section 2.7.1.G4 and any other relevant sections and requirements related to affordable housing as a Frequent Transit Development Option (FTDO) development. A number of units equal to at least twenty percent (20%) shall be affordable for households earning sixty percent (60%) of the Area Median Income or less for a period of no less than 30 years from the date of issuance of a certificate of occupancy. The rent and income limits will follow the Affordable Housing Standards determined annually by the City of Raleigh Housing & Neighborhoods Department. An Affordable Housing Deed Restriction in a form approved by the City shall be filed and recorded in the property's chain of title by the property owner in the Wake County Register of Deeds prior to the project receiving a certificate of occupancy. The property owner of development approved under this section shall provide an annual report to the City to demonstrate compliance with the requirements of this section. The report shall utilize a form prescribed by the City and shall be submitted in accordance with a schedule set by the City. Affordable units used to meet the requirements of this section shall be constructed concurrently with the project's market rate units.

Stormwater



Administrative Approval Action

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4. As-built impervious survey is accepted by the Engineering Services Department (UDO 9.2).
5. As-built drawings and associated forms for all Stormwater devices are accepted by the Engineering Services Department (UDO 9.2.2.D.3).

EXPIRATION DATES: The expiration provisions of UDO Section 10.2.8 E, including the ability to request extensions in the expiration date, apply to this site plan. If significant construction has not taken place on a project after administrative site review approval, that approval may expire and be declared void, requiring re-approval before permits may be issued. To avoid allowing this plan approval to expire the following must take place by the following dates:

3-Year Expiration Date: May 30, 2027

Obtain a valid building permit for the total area of the project, or a phase of the project.

4-Year Completion Date:

Within four years after issuance of the first building permit for the site plan, the construction of the entire site plan must be completed unless an applicant has been granted vested rights. Failure to complete construction within this specified time frame shall automatically void the approved site plan for which no building permits have been issued.

I hereby certify this administrative decision.

Signed: _____ Date: 05/22/2024
Development Services Dir/Designee
Staff Coordinator: Jermon Purifoy

Exhibit "3"

ORDINANCE NO. (2022) 362 TC 466

TC-20-21 MISSING MIDDLE 2.0 - MORE HOMES, MORE CHOICES

AN ORDINANCE TO INCREASE HOUSING OPTIONS BY EXPANDING THE ALLOWABLE BUILDING TYPES, ADJUSTING MINIMUM LOT AND SITE DIMENSIONAL STANDARDS ACROSS RESIDENTIAL ZONING DISTRICTS ALLOWING HIGHER DENSITY DEVELOPMENT NEAR HIGH-FREQUENCY TRANSIT

WHEREAS, the Unified Development Ordinance currently restricts the 3+ unit Townhouse building type to the R-6 and R-10 residential zoning districts; and

WHEREAS, the Unified Development Ordinance currently restricts the Apartment building type to the R-6 and R-10 residential zoning districts; and

WHEREAS, the Unified Development Ordinance currently restricts the various building types to varying lot width requirements uniformly across the City absent a zoning overlay district; and

WHEREAS, the Unified Development Ordinance currently regulates lot size and dimensional standards that are not reflective of the smaller land areas needed to support many smaller dwelling options; and

WHEREAS, the Unified Development Ordinance currently restricts townhouse building type lots from having Accessory Dwelling Units and it limits lots developed with either detached house, tiny house or attached house building types to only one Accessory Dwelling Unit per lot, even if proximate to high-frequency transit; and

WHEREAS, because missing middle housing types are an important means of reaching the city's goal of reducing carbon emissions and other air pollutants. This occurs in two ways. First, because missing middle units share walls or ceilings with other units, they are substantially more energy-efficient than detached houses. According to the Department of Energy, a unit in a two-to-four-unit apartment uses half the energy of a detached house, and a townhouse uses about two-thirds of that amount. Secondly, when these residences are allowed in places that are close to jobs and shopping they produce shorter car trips and more walking and transit trips than the average home in the region. This means carbon output from transportation, a major source of emissions, is substantially reduced; and

WHEREAS, the Unified Development Ordinance currently regulates Residential Infill Compatibility requirements in such a way that may not be conducive to constructing higher-density infill missing-middle housing options near high-frequency transit areas; and

WHEREAS, the City Council finds it in the public interest to promote housing choice, address housing affordability, and increase residential density in areas planned for high-frequency transit.



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

Section 1. Section 1.4.1. of the Part 10 Raleigh Unified Development Ordinance, Building Type Descriptions, is hereby amended by deleting the language shown in strikethrough and adding the language shown in underline:

I. Tiny House

A building ~~with a building footprint no greater than 800 square feet and no greater than 600~~ 1200 square feet gross floor area constructed to accommodate 1 or 2 principal dwelling units on a single lot. A series of tiny homes as part of a cottage court may be located on a single lot.

Section 2. Section 1.4.2. of the Part 10 Raleigh Unified Development Ordinance, Building Types Allowed by District, is hereby amended by editing the table as detailed below and deleting the language shown in strikethrough and adding the language shown in underline:

For the row titled "Residential-2 (R-2)" in the column titled "Townhouse" replace "□" with "□(1)". For the row titled "Residential-4 (R-4)" in the column titled "Townhouse" replace "□(1)" with "□(2)" in the column titled "Apartment" replace "--(1)" with "--(2)". For the row titled "Residential-6 (R-6)" in the column titled "Townhouse" replace "■(1)" with "■"; in the column titled "Apartment" replace "□(1)" with "□(3)"

□ = Building type may be aAllowed as Part of an Approved Compact, Conservation or Cottage Court Development. Refer to Chapters 2 and 3 for more information.

(1) In R-2, townhouse developments are restricted to a maximum of two dwelling units, however, 3+ dwelling unit townhouse developments, and apartments, are allowed in the -TOD overlay.

(1)-(2) In R-4, townhouse developments are restricted to a maximum of two dwelling units, however and R-6, 3+ dwelling unit townhouses developments, and apartments, are allowed as part of an approved development in the -TOD overlay or as part of a Frequent Transit Development.

(3) In R-6, apartments are allowed in the -TOD overlay or as part of a Frequent Transit Development.

Section 3. Section 1.5.2.B. of the Part 10 Raleigh Unified Development Ordinance, Lot Area, is hereby amended by deleting the language shown in strikethrough and adding the language shown in underline:

B. Lot Area

Lot area is the area included within the rear, side and front lot lines. It does not include existing or proposed right-of-way, whether dedicated or not dedicated to public use. District density applies,

and may require larger lots than those required for an individual building type. ~~For any lot developed with a Detached House or Tiny House used for Single-unit Living or an Attached House or Tiny House used for Two-unit Living; however, one accessory dwelling unit is permitted per lot, regardless of underlying density designation.~~

Section 4. Section 1.5.2.F.2. of the Part 10 Raleigh Unified Development Ordinance, Density, is hereby amended by adding the language shown in underline:

1. Although minimum lot sizes may allow additional units, density, where applicable, serves as the maximum number of principal units per acre. For any lot developed with a Detached House or Tiny House used for Single-unit Living, or an Attached House or Tiny House used for Two-unit Living; one accessory dwelling unit is permitted per lot, regardless of underlying density, minimum lot size, minimum lot area per dwelling unit, or minimum site area per dwelling unit designations. For any lot developed with a Detached House or a Tiny House or an Attached House in a Frequent Transit Area, two accessory dwelling units are permitted per lot, regardless of underlying density, minimum lot size, minimum lot area per dwelling unit, or minimum site area per dwelling unit designations. For any lot developed with a Townhouse, one accessory dwelling unit is permitted per townhouse lot regardless of underlying density, minimum lot size, minimum lot area per dwelling unit, or minimum site area per dwelling unit designations.

Section 5. Section 2.1.1. of the Part 10 Raleigh Unified Development Ordinance, District Intent Statements, is hereby amended by insertion of the following underlined text:

B. Residential-1 (R-1)

1. Subject to the density restriction of 1 unit per acre, R-1 allows single-unit living in a detached house, or tiny house, and two-unit living in a tiny house with a minimum lot size of 40,000 square feet.
2. Smaller minimum lot sizes are permitted as part of a compact development.
3. Additional building types, smaller lot sizes and increased density as part of a conservation development are allowed in exchange for preserving common open space.

C. Residential-2 (R-2)

1. R-2 allows single-unit living in a detached house, or tiny house, and two-unit living in an attached house or tiny house with a minimum lot size of 20,000 square feet.
2. Decreased minimum lot sizes are permitted as part of a compact development.
3. Additional building types and smaller lot sizes as part of a conservation development or cottage court are allowed in exchange for preserving common open space.

D. Residential-4 (R-4)

1. R-4 allows single-unit living in a detached house, or tiny house and two-unit living in an attached house or tiny house with a minimum lot size of 10,000 square feet.
2. Decreased minimum lot sizes and additional building types are permitted as part of a compact development.
3. ~~Shape~~ Additional building types, and smaller lot sizes as part of a conservation development or cottage court are allowed in exchange for preserving common open space.
4. Dimensional standards, maximum density, allowed building types, and allowed uses may be modified for the R-4 district within the TOD overlay or Frequent Transit Areas identified in the City's Comprehensive Plan to enable transit oriented development.

E. Residential-6 (R-6)

1. R-6 allows single-unit living in a detached house, or tiny house and two-unit living in an attached house or tiny house with a minimum lot size of 6,000 square feet. Multi-unit living is also allowed in a townhouse.
2. Smaller minimum lot sizes are permitted as part of a compact development.
3. Additional building types, and smaller lot sizes as part of a conservation development or cottage court are allowed in exchange for preserving common open space.
4. Dimensional standards, maximum density, allowed building types, and allowed uses may be modified for the R-6 district within the TOD overlay or Frequent Transit Areas identified in the City's Comprehensive Plan to enable transit oriented development.

F. Residential-10 (R-10)

5. R-10 allows single-unit living in a detached house, or tiny house and two-unit living in an attached house or tiny house with a minimum lot size of 4,000 square feet. Multi-unit living is also allowed in a townhouse.
6. Smaller minimum lot sizes are permitted as part of a compact development.
7. Additional building types, and smaller lot sizes as part of a conservation development or cottage court are allowed in exchange for preserving common

open space.

8. Dimensional standards, maximum density, allowed building types, and allowed uses may be modified for the R-6 district within the TOD overlay or Frequent Transit Areas identified in the City's Comprehensive Plan to enable transit oriented development.

Section 6. Section 2.1.2. of the Part 10 Raleigh Unified Development Ordinance, Housing Options, is hereby amended by insertion of the following text at the end of the section:

D. Frequent Transit Development Option

1. A Frequent Transit Area as designated in the City's Comprehensive Plan encourages density and growth in areas served by high-frequency transit, defined as bus or other transit service where the time between vehicles will be 15 minutes or less during peak service periods. The Frequent Transit Development Option permits higher-density development than the underlying zoning might otherwise allow.
2. The Frequent Transit Development Option encourages transit-oriented development by allowing for smaller lot dimensions and site area per dwelling unit standards.

Section 7. Section 2.1.3.C. of the Part 10 Raleigh Unified Development Ordinance, Additional Housing Patterns, is hereby amended by insertion of the following underlined text:

C. Accessory Dwelling (See Sec. 2.6.3.)

The Accessory Dwelling housing pattern provides for the development of one accessory dwelling unit on a lot with an existing Detached House or Tiny House as an accessory use to a principal use of Single-unit Living or on a lot with an existing Attached House or Tiny House as an accessory use to a principal use of Two-unit Living.

Section 8. Section 2.1.3. of the Part 10 Raleigh Unified Development Ordinance, Additional Housing Patterns, is hereby amended by insertion of the following text at the end of the section:

D. Flag Lot

A Flag Lot is an irregularly shaped property with a narrow portion of land fronting on a street where no buildings are permitted that provides access to a larger portion of the lot where buildings are permitted. The creation of a flag lot typically results in an adjacent residual lot with greater frontage along the same street. Flag lots promote efficient use of land for residences. In exchange for some alternative minimum dimensional standards, only Tiny Houses are permitted on flag lots. ADUs are not permitted on flag lots.

Section 9. Section 2.2.3., Townhouse, is hereby amended by adding a columns for R-2 and R-4 as well as adding the language as shown underlined and removing language shown in strikethrough, as follows:

Sec. 2.2.3. Townhouseⁱ				
	R-2ⁱⁱ	R-4ⁱⁱ	R-6	R-10
A. Site Dimensions				
A1 Net site area/unit (min)	<u>10,000 sf</u>	<u>5,000 sf</u>	4,500 sf	3,000 sf
A2 Width (min)	<u>80'</u>	<u>65'</u>	60' <u>50'</u>	45'
A3 Outdoor amenity area(min)	<u>n/a</u>	<u>n/a</u>	10%	10%
B. Lot Dimensions				
B1 Area (min)	<u>n/a</u>	<u>n/a</u>	n/a	n/a
B2 Width (min)	<u>16'</u>	<u>16'</u>	16'	16'
C. Principal Building/Structure Setbacks				
C1 From primary street (min)	<u>20'</u>	<u>20'</u>	10'	10'
C2 From side street (min)	<u>20'</u>	<u>20'</u>	10'	10'
C3 From side site boundaryline (min)	<u>10'</u>	<u>10'</u>	10'	6'
C4 From rear site boundaryline (min) ⁱⁱⁱ	<u>30'</u>	<u>30'</u>	20'	20'
C5 From alley (min) ^{ivv}	<u>4' or 20' min</u>	<u>4' or 20' min</u>	4' or 20' min	4' or 20' min
C6 Internal building separation(min)	<u>10'</u>	<u>10'</u>	10'	10'
C7 Residential infill rules may apply (see Sec. 2.2.7.)	<u>yes</u>	<u>yes</u>	yes	yes
D. Parking Setbacks^{iv}				
D1 From primary street (min)	<u>20'</u>	<u>20'</u>	20'	20'
D2 From side street (min)	<u>10'</u>	<u>10'</u>	10'	10'
D3 From side lot line (min)	<u>0'</u>	<u>0'</u>	0'	0'
D4 From rear lot line (min)	<u>3'</u>	<u>3'</u>	3'	3'
D5 From alley, garage only(min)	<u>4'</u>	<u>4'</u>	4'	4'
D6 Residential infill rules may apply (see Sec. 2.2.7.)	<u>yes</u>	<u>yes</u>	yes	yes
E. Height				
E1 Principal building (max)	<u>40'/3 stories</u>	<u>40'/3 stories</u>	45'/3 stories	45'/3 stories
E2 Accessory structure	<u>25'</u>	<u>25'</u>	25'	25'

(max)				
E3 Residential Infill rules may apply (See Sec. 2.2.7.)	<u>yes</u>	<u>yes</u>	yes	yes

ⁱ A townhouse development containing only two dwelling units shall be regulated by the standards of Sec. 2.2.2., Attached House, however: (a) a minimum site area per unit of one-half the area required by Sec. 2.2.2.A1. is required; (b) Sec. 2.2.3.B. shall still control provided a minimum site width equal to the dimensions specified by Sec. 2.2.2.A2. is met; and (c) Sec. 2.2.2.B3. shall only apply to the non-party wall side lot line.

ⁱⁱ In R-2 and R-4 districts, a townhouse development can only contain a maximum of two dwelling units.

ⁱⁱⁱ A permanently recorded open lot or common area lot of at least 20 feet in width may be used to satisfy Sec.2.2.3.C.4.

ⁱⁱⁱ Garages (or a portion thereof) must either be located 4 feet from the travel lane of an alley or rear access drive or be a minimum of 20 feet from the alley or rear access drive. Where 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 travel lane of an alley or rear access drive.

^{iv} Parking setbacks shall not apply to driveways serving individual dwelling units or shared between two dwelling units.

Section 10. Section 2.2.4.A.2, Apartment – Lot Dimensions, is hereby amended by adding the following language as shown underlined and removing language shown in strikethrough, as follows:

Sec. 2.2.4. Apartment	
	R-10
A. Lot Dimensions	
A2 Lot width (min)	80' <u>45'</u>

Section 11. Section 2.2.8. of the Part 10 Raleigh Unified Development Ordinance, Conventional Development Option – Tiny House, is hereby amended by adding the following language as shown underlined and removing the language shown in strikethrough, as follows:

Sec. 2.2.8. Tiny House					
	R-1	R-2	R-4	R-6	R-10
A. Lot Dimensions					
A1 Area (min)	40,000 sf	15,000 sf	7,500 sf	4,500 <u>3,000</u> sf	3,000 <u>2,000</u> sf
A2 Lot width (min)	100'	60'	50'	35'	25'
A3 Depth (min)	100'	75'	75'	60'	45'

				<u>50'</u>	
A4 Density (max)	1	n/a	n/a	n/a	n/a
B. Principal Building Setbacks					
B1 From primary street (min)	20'	20'	20'	10'	10'
B2 From side street (min)	20'	20'	20'	10'	10'
B3 From side lot line (min)	10'	10'	10'	5'	5'
B4 From rear lot line (min)	30'	30'	30'	20' <u>10'</u>	20' <u>10'</u>
B5 Residential infill rules may apply (see Sec. 2.2.7.)	no	no	yes ¹	yes ¹	yes ¹
C. Accessory Structure Setbacks See Section 6.7.2					
D. Height					
D1 Principal building (max)	26' ¹ / ₂ stories	26' ¹ / ₂ stories	26' ¹ / ₂ stories	26' ¹ / ₂ stories	26' ¹ / ₂ stories
D2 Accessory structure (max)	25'	25'	25'	25'	25'
D3 Residential Infill rules may apply (see Sec. 2.2.7)	no	no	no	no	no
See Sec. 1.5.4.D "Building Setbacks" for specific building elements requirements.					

¹The property owner may elect to either adhere to the primary street setback range set forth in Section 2.2.7, if applicable, or follow only the applicable zoning district's minimum primary street setback regulation.

E. Additional Requirements for Manufactured Homes to Qualify as Tiny Houses

A Tiny House may be a Manufactured Home as defined in Article 12.2. if it meets all of the following:

1. The predominant roofline shall have a pitch of 5:12 or greater.
2. The eave projections of the roof must not be less than ten inches (excluding roof gutters) unless the roof pitch is 8:12 or greater.
3. The minimum height of the first-story exterior wall must be at least seven feet, six inches.
4. Materials used as exterior wall covering shall be of a non-reflective material.
5. Foundation skirting shall comply with the requirements set forth in Section 4.5.3.D.
6. The Manufactured Home is no greater than 600 square feet in gross floor area.

Section 12. Section 2.3.4.A. Compact-Townhouse – Site Dimensions, is hereby amended by adding the following language shown underlined and removing language shown in strikethrough, as follows:

Sec. 2.3.4. Townhouseⁱ			
	R-4	R-6	R-10

A. Site Dimensions			
A1 Net site area/unit (min)	6,000 sf	3,500 sf	2,500 sf
A2 Width (min)	70' <u>65'</u>	52' <u>50'</u>	45'
A3 Outdoor amenity area (min) ⁱⁱ	5%	5%	5%

Section 13. Section 2.3.5.A., Compact - Apartment – Lot Dimensions, is hereby amended by adding the following language shown underlined and removing language shown in strikethrough, as follows:

Sec. 2.3.5. Apartment	
	R-10
A. Lot Dimensions	
A2 Lot width (min)	80' <u>45'</u>

Section 14. Section 2.4.4.A., Conservation-Townhouse – Site Dimensions, is hereby amended by adding the following language shown underlined and removing language shown in strikethrough, as follows:

Sec. 2.4.4. Townhouseⁱ				
	R-2	R-4	R-6	R-10
A. Site Dimensions				
A1 Net site area/unit (min)	7,500 sf	4,500 sf	3,000 sf	2,250 sf
A2 Width (min)	78' <u>65'</u>	70' <u>50'</u>	52' <u>45'</u>	40' <u>30'</u>

Section 15. Section 2.4.5.A., Conservation-Apartment-Site Dimensions, is hereby amended by adding the following language shown underlined and removing language shown in strikethrough, as follows:

Sec. 2.4.5. Apartment		
	R-6	R-10
A. Lot Dimensions		
A1 Area (min)	8,000 sf	6,000 sf
A2 Width (min)	80' <u>45'</u>	80' <u>30'</u>
A3 Lot area per unit (min)	2,000 sf	1,500 sf

Section 16. Section 2.6.1. of the Part 10 Raleigh Unified Development Ordinance, Cottage

Court, is hereby amended by adding the language shown in underline removing the language shown in strikethrough:

...

B. Districts Allowed In

R-2, R-4, R-6, R-10, ~~RX, OX, NX, CX~~

...

D. Site and Lot Dimensions

	R-2	R-4	R-6	R-10	RX, OX, NX, CX
D1 Net Site Area (min)	53,200 sf	26,600 sf	16,000 sf	13,000 sf	13,000 sf
D2 Site Width (min)	140'	140'	120'	90'	90'
D3 Site depth (min)	120'	120'	100'	90'	90'
D4 Site area per non-Tiny House dwelling unit over four (min)	13,300 sf	6,650 sf	4,000 sf	2,650 sf	2,400 sf
D5 Site area per Tiny House dwelling unit over four (min)	10,000 sf	5,000 sf	3,000 sf	2,000 sf	1,800 sf
D6 Dwelling units per site (max)	30	30	30	30	30
D7 Dwelling unit gross floor area (max) ¹	1,800 sf	1,800 sf	1,800 sf	1,800 sf	1,800 sf
D8 Detached accessory structure footprint	450 sf	450 sf	450 sf	450 sf	450 sf

(max) ²					
D9 Individual lot area (min)	No min.	No min.	No min.	No min.	No min.

¹ A Tiny House may be no larger than 800 sf in building footprint and no more than 1200 600 sf in gross floor area.

² A detached accessory structure must be less than the gross floor area of the principal dwelling.

E. Internal Courtyard

	R-2	R-4	R-6	R-10	RX, OX, NX, CX
E1 Area (min)	4,000 sf	3,250 sf	2,600 sf	2,100 sf	1,600 sf
E2 Width as measured parallel to primary street for first 15' of site depth (min) ¹	60'	50'	40'	30'	20'
E3 Courtyard area per non- Tiny House unit over four (min)	1,000 sf	850 sf	700 sf	550 sf	400 sf
E4 Courtyard area per Tiny House unit over four (min)	750 sf	425 sf	350 sf	225 sf	200 sf
E5 Setback from primary street (max)	0'	0'	0'	0'	0'

F. Principal Building/Structure Setbacks (Site)

	R-2	R-4	R-6	R-10	RX, OX, NX, CX
F1 From primary street (min)	20'	20'	10'	10'	10'

F2 From side street (min)	15'	15'	10'	10'	10'
F3 From side site line (min)	10'	10'	10'	10'	10'
F4 From rear site line (min)	20'	20'	20'	20'	20'
F5 From alley (min)	5'	5'	5'	5'	5'
F6 Building Separation (min)	6'	6'	6'	6'	6'

Residential infill rules (Sec. 2.2.7.) do not apply

F. Principal Building/Structure Setbacks (Lots)

F7 From internal cottage court lot line (min)	3'	3'	3'	3'	3'
F8 From shared internal townhouse lot line (min)	0'	0'	0'	0'	0'

G. Surface Parking Setbacks

	R-2	R-4	R-6	R-10	RX, OX, NX, CX
G1 From primary street if not screened from primary street by C3 yard or principal structure (min)	90'	90'	90'	90'	90'

G2 From primary street if screened from primary street by C3 yard or principal structure (min)	50'	50'	50'	50'	50'
G3 From side street (min)	10'	10'	10'	10'	10'
G4 From side lot line (min)	5'	5'	5'	5'	5'
G5 From rear lot line (min)	5'	5'	5'	5'	5'
G6 From alley (min)	0'	0'	0'	0'	0'

Parking setbacks shall not apply to driveways serving individual dwelling units or shared between two dwelling units.

H. Height

	R-2	R-4	R-6	R-10	RX, OX, NX, CX
H1 Non-Tiny House building height (max)	30'	30'	30'	30'	30'
H2 Tiny House building height (max)	26'	26'	26'	26'	26'
H3 Accessory structure height (max)	17'	17'	17'	17'	17'

Residential infill rules (Sec. 2.2.7.) do not apply

...

Section 17. Section 2.6.3.A., Accessory Dwelling – Purpose and Objectives, is hereby amended by adding the following language as shown underlined and removing the language shown in strikethrough:

Sec. 2.6.3. Accessory Dwelling

A. Purpose and Objectives

The Accessory Dwelling housing pattern provides for the development of ~~one~~ an accessory dwelling unit or units on a lot with an existing Detached House or Tiny House as an accessory use to a principal use of Single-unit Living, or on a lot with an existing Attached House, Townhouse or Tiny House as an accessory use to a principal use of Two-unit Living, or on a lot developed with an existing Townhouse as an accessory use to a principal use of Multi-unit Living.

Section 18. Section 2.6.3.D.2., Accessory Dwelling Regulations, is hereby amended by adding the following language shown underlined:

2. There shall be no more than one ADU on the same lot as a principal dwelling unless it is located in a Frequent Transit Area as shown on the City's Comprehensive Plan which would then allow for up to two ADUs on the same lot as a principal dwelling. However, in the Frequent Transit Area, only one ADU can be attached to the principal dwelling. In the case of a townhouse development only one ADU is permitted per townhouse lot whether within a Frequent Transit Area or not.

Section 19. Section 2.6.3.D., Accessory Dwelling Regulations, is hereby amended by adding the following underlined language:

D. Accessory Dwelling Unit Regulations

In accordance with this section, an accessory dwelling unit shall conform with the following development regulations:

1. An ADU shall be located on the same lot as a principal dwelling and meet both of the following:
 - a. The gross floor area of the accessory dwelling shall be less than the gross floor area of the total principal dwelling; and
 - b. Shall be affixed to or constructed on a permanent foundation and not be a manufactured home or moveable structure except as specified in Sec. 2.6.3.D.6. below.
2. There shall be no more than one ADU on the same lot as a principal dwelling;
3. It shall be accessed by a lockable external entrance;
4. Ownership of an ADU shall not be transferred apart from its principal dwelling unit;
5. It shall meet all relevant standards and requirements of the UDO, provided however accessory dwelling units shall not be subject to Article 6.7 Accessory Uses and Structures and Sec. 7.1.2.C Parking Requirements by Use.
6. An Accessory Dwelling Unit may be a Manufactured Home as defined in Article 12.2 if it meets all of the following:
 - a. The predominant roofline shall have a pitch of 5:12 or greater.

- b. The eave projections of the roof must not be less than ten inches (excluding roof gutters) unless the roof pitch is 8:12 or greater.
 - c. The minimum height of the first-story exterior wall must be at least seven feet, six inches.
 - d. Materials used as exterior wall covering shall be of a non-reflective material.
 - e. Foundation skirting shall comply with the requirements set forth in Section 4.5.3.D.
 - f. The Manufactured Home is no greater than 600 square feet in gross floor area.
7. Unless attached thereto by a common wall, an ADU must be separated by at least 6' from any other building on the lot.
8. All ADU entrances must be externally accessible by pedestrians from either the driveway, street and/or alley from which the lot takes access.
9. ADUs are not permitted on Flag Lots

Section 20. Section 2.6.3.F., Accessory Dwelling – Districts Allowed In, is hereby amended by removing the language shown in strikethrough:

F. Districts Allowed In

R-1, R-2, R-4, R-6, R-10, ~~RX~~, ~~OX~~, ~~NX~~, ~~CX~~, ~~DX~~

Section 21. Section 2.6.3.H. Accessory Dwelling – Detached ADU Setbacks, is hereby amended by adding the language shown in underline and removing the language shown in strikethrough:

	> 40,000 sf	20,000 to 39,999 sf	10,000 to 19,999 sf	6,000 to 9,999 sf	4,000 to 5,999 sf
G. Lot Specifications					
Gross Floor Area (max)	1,000	800	800	800	800
H. Detached ADU Setbacks					
H1 From primary street (min)	Must be located behind rear wall of house <u>at or behind the front wall of the house.</u>				
H2 From side street (min)	15'20'	15'20'	15'20'	10'	10'
H3 From side lot line (min) ¹	10'	5'	5'	5'	5'
H4 From rear lot line (min) ²	10'	5'	5'	5'	5'
H5 From alley (min)	2'4' without parking / 20' with parking	2'4' without parking / 20' with parking	2'4' without parking / 20' with parking	2'4' without parking / 20' with parking	2'4' without parking / 20' with parking

¹ For townhouse lots, H3 shall only apply to the side site boundary.

² For townhouse lots, H4 shall only apply to the rear site boundary.

Section 22. Article 2.6., Additional Housing Patterns, is hereby amended by adding the following sections to the end of the Article:

Section 2.6.4. Flag Lots

A. Districts Allowed		
A.1 Zoning Districts	R-4, R-6, R-10	
B. Building Types Allowed		
B1 Flag Lot	Tiny House	
B2 Residual Lot	Determined by base zoning district	
C. Flag Lot Dimensions	Non-Frequent Transit Areas	Frequent Transit Areas
C1 Lot Width (min)	10'	10'
C2 Lot Depth (min)	R-4: 70' R-6: 50' R-10: 40'	R-4: 70' R-6: 50' R-10: 40'
C3 Lot Area (min)	3,500 SF	2,500 SF
D. Flag Lot Principal Building Setbacks	Non-Frequent Transit Areas	Frequent Transit Areas
D1 From Primary Street (min)	R-4: 20' R-6: 10' R-10: 10'	R-4: 20' R-6: 10' R-10: 10'
D2 From Side Street (min)	R-4: 20' R-6: 10' R-10: 10'	R-4: 20' R-6: 10' R-10: 10'
D3 From Side Lot Line (min)	5'	5'
D4 Residual Lot Boundary Line (min)	5'	5'
D5 From Rear Lot Line (min)	10'	10'
D6 Setback - From Alley (min)	4' or 20' min	4' or 20' min

D7 Residential Infill Rules may apply (See Sec. 2.2.7)	no		no
E. Flag Lot Driveway	Non-Frequent Transit Areas		Frequent Transit Areas
E1 Driveway Treatment	Only Ribbon style or Permeable Surface.		Only Ribbon style or Permeable Surface.
E2 Driveway Spacing	See Sec. 8.3.5.C.2.		See Sec. 8.3.5.C.2.
E3 Driveways and Cross Access	See Article 9.5 of the Raleigh Street Design Manual		See Article 9.5 of the Raleigh Street Design Manual
E4 Residential Infill Rules may apply (See Sec. 2.2.7)	Yes, however driveway spacing only applicable adjacent to lots external to the flag lot subdivision.		Yes, however driveway spacing only applicable adjacent to lots external to the flag lot subdivision.
F. Residual Lot Dimensions (min)	R-4	R-6	R-10
F1 Lot Width (min)	48'	33'	25'
F2 Lot Depth (min)	70'	50'	40'
G. Residual Lot Setbacks (min)	R-4	R-6	R-10
G1 Rear setback to Flag Lot (min). However, standard District Rear Yard Setbacks (min) for the Principal Structure must be maintained to all rear yard properties external to the flag lot subdivision/recombination.	5'	5'	5'
G2 Side setback to Flag Lot Pole (min) ¹	5'	5'	5'

G3 Residential Infill Rules may apply (See Sec. 2.2.7)	Yes	yes	yes
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Unless provided for above, refer to applicable building type regulations set forth in Articles 2.2

¹ G2 may be less than 5' if a no-build easement is recorded on the adjacent Flag Lot Pole. The width of the setback on the residual lot plus the width of the no-build easement must be a minimum of 10'.

Section 23. Insert an entirely new Article labeled as Article 2.7, Frequent Transit Development Option into the Part 10 Raleigh Unified Development Ordinance as shown below:

The Frequent Transit Development Option allows for additional housing in locations near current and planned frequent transit service. A Frequent Transit Area refers to areas slated for bus or other transit service where the time between vehicles will be 15 minutes or less during peak service periods and must be mapped in the City's Comprehensive plan as such. Where a regulation in this section conflicts with a regulation of a Neighborhood Conservation Overlay District (NCOD), the NCOD regulation shall control.

	R-4	R-6	R-10
Sec. 2.7.1. Frequent Transit Development Option			
A. Building Types			
A1 Applicable Building Types	Tiny House, Detached House, Attached House, Townhouse, Apartment	Detached House, Attached House, Townhouse, Apartment	Detached House, Attached House, Townhouse, Apartment
B. Lot Dimensions			
B1 Area (min)	6,500 sf	4,000 sf	2,500 sf
B2 Lot width (min)	65'	50'	45'
B3 Depth (min)	100'	80'	60'
B4 Density (max)	n/a	n/a	n/a
B5 Outdoor Amenity Area (min) for Townhouse (3+ units) and Apartment	10%	10%	10%
C. Lot Area Required per Unit¹			
C1 Single-unit living (min)	6,500 sf	4,000 sf	2,500 sf

C2 Two-unit living (min)	2,500 sf	1,500 sf	1,000 sf
C3 Multi-unit living (min)	2,000 sf	1,200 sf	800 sf
D. Principal Building Setbacks			
D1 From primary street (min)	10'	10'	10'
D2 From side street (min)	10'	10'	10'
D3 From side lot line (min) ²	5'	5'	5'
D4 From rear lot line (min) ³	25'	15'	15'
D5 From Alley (min) ⁴	4' or 20'	4' or 20'	4' or 20'
D6 Residential infill rules may apply (see Sec. 2.2.7.) ⁵	yes	yes	yes
E. Height			
E1 Detached/Attached Principal Building (max)	40'/3 stories	40'/3 stories	40'/3 stories
E2 Townhouse/Apartment Principal Building (max)	45'/3 stories	45'/3 stories	45'/3 stories
E3 Tiny House (max)	26'/2 stories	26'/2 stories	26'/2 stories
E4 Accessory Structure (max)	25'	25'	25'
E5 Residential Infill rules may apply (see Sec. 2.2.7)	No	No	No
F. Parking Setbacks⁶			
F1 From Primary Street (min)	10'	10'	10'
F2 From Side Street (min)	10'	10'	10'
F3 From Side Lot Line (min)	0'	0'	0'
F4 From Rear Lot Line (min)	3'	3'	3'
F5 From Alley (min)	4' or 20' min	4' or 20' min	4' or 20' min
F6 Residential Infill rules may apply (see Sec. 2.2.7)	No	No	No
G. Additional Requirements			
G1 ADU Regulations	There shall be no more than one ADU on the same lot as a principal building unless it is located in a Frequent Transit Area as shown on the City's Comprehensive Plan which would then allow for up to two ADUs on the same lot as a principal dwelling, including attached ADUs. However, in a Frequent Transit Area, only one ADU can be attached or internal to the principal building. In the case of a townhome development only one ADU is permitted per principal dwelling. See Sec. 2.6.3 for additional regulations.		
G2	This development option cannot be used in concert with Compact or Conservation Development option.		
G3	Lots utilizing this option shall have at least a portion of each lot within the mapped Frequent Transit Area in		

	order to take advantage of any regulations listed herein.
G4 ⁷	A development site utilizing this option in a residential zoning district shall contain no more than twelve (12) residential units; however, a development site may contain additional residential units provided a number of units equal to at least twenty percent (20%) of the residential units over twelve (12) established within the development site shall be affordable for households earning sixty percent (60%) of the Area Median Income or less for a period of no less than 30 years from the date of issuance of a certificate of occupancy.

See Sec. 1.5.4.D "*Building Setbacks*" for specific building elements requirements.

¹ For Townhouse buildings, this standard shall apply to site area and not lot area.

² For Townhouse buildings, C3 shall only apply to the side site boundary.

³ For Townhouse buildings, C4 shall only apply to the rear site boundary. A permanently recorded open lot or common area lot of at least 20 feet in width may be used to satisfy Sec. 2.5.1.C.4.

⁴ Garages (or a portion thereof) must either be located 4 feet from the travel lane of an alley or rear access drive or be a minimum of 20 feet from the alley or rear access drive. Where 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 travel lane of an alley or rear access drive.

⁵ The property owner may elect to either adhere to the primary street setback range set forth in Section 2.2.7, if applicable, or follow only the applicable zoning district's minimum primary street setback regulation.

⁶ Parking setbacks shall not apply to driveways serving individual dwelling units or shared between two dwelling units.

⁷ The rent and income limits will follow the Affordable Housing Standards determined annually by the City of Raleigh Housing & Neighborhoods Department. An Affordable Housing Deed Restriction in a form approved by the City shall be filed and recorded in the property's chain of title by the property owner in the Wake County Register of Deeds prior to the project receiving a certificate of occupancy. The property owner of development approved under this section shall provide an annual report to the City to demonstrate compliance with the requirements of this section. The report shall utilize a form prescribed by the City and shall be submitted in accordance with a schedule set by the City. Affordable units used to meet the requirements of this section shall be constructed concurrently with the project's market rate units.

Section 24. Article 3.2.9. of the Part 10 Raleigh Unified Development Ordinance, Base Dimensional Standards – Tiny House, is hereby amended by adding the following language shown underlined and removing the language shown in strikethrough:

Sec. 3.2.9. Tiny House		
	RX-, OX-, NX-, CX-	DX-
A. Lot Dimensions		
A1 Area (min)	3,000 <u>2,000</u> sf	n/a
A2 Width (min)	25'	n/a
B. Principal-Building Setbacks		
B1 From primary street(min)	10'	5'
B2 From side street (min)	10'	5'
B3 From side lot line (min)	5'	3'
B4 From rear lot line (min)	20' <u>10'</u>	10'
B5 From alley	<u>4' or 20' min</u>	<u>4' or 20' min</u>
C. Accessory-Structure Setbacks		
C1 From primary street(min)	50'	30'
C2 From side street (min)	10'	5'
C3 From side lot line (min)	5'	3'
C4 From rear lot line (min)	5'	3'
C4 From alley	4' or 20' min	4' or 20' min
D. Height		
D1 Principal building(max)	26'/2 stories	26'/2 stories
D2 Accessory structure(max)	25'	25'
See Sec. 1.5.4.D. "Building Setbacks" for specific building element requirements.		

Section 25. Insert the following footnote "1" referenced to Section 3.4.4.G1, Detached Frontage – Height Limitations, at the bottom of Section 3.4.4.:

¹Height limitations not applicable to buildings utilizing the Frequent Transit Development Option Height Bonus.

Section 26. Insert an entirely new Article labeled as Article 3.6, Additional Housing Patterns, as shown below and renumber the subsequent Articles in Chapter 3 accordingly in numerical order:

Article 3.6. Additional Housing Patterns

Sec 3.6.1. Cottage Court

A. Cottage Court

A cottage court is a group of small detached houses, attached houses, townhouses (two-unit maximum per building), or tiny houses sharing a common courtyard. The courtyard enhances the character of the area through the provision of consolidated open space. A cottage court may be developed on individual lots or with a common form of ownership.

B. Districts Allowed In

RX-, OX-, NX-, CX

C. Building Types Allowed

Detached house, attached house, townhouse (two-unit maximum per building), tiny house

D. Site and Lot Dimensions

	RX-, OX- ,NX-,CX-
D1 Net Site Area (min)	13,000 sf
D2 Site Width (min)	90'
D3 Site depth (min)	90'
D4 Site area per non-Tiny House dwelling unit over four (min)	2,400 sf

D5 Site area per Tiny House dwelling unit over four (min)	1,800 sf
D6 Dwelling units per site (max)	30
D7 Dwelling unit gross floor area (max) ¹	1,800 sf
D8 Detached accessory structure footprint (max) ²	450 sf
D9 Individual lot area (min)	No min.

¹ A Tiny House may be no larger than 800 sf in building footprint and no more than 1200 sf in gross floor area.

² A detached accessory structure must be less than the gross floor area of the principal dwelling.

E. Internal Courtyard

	RX-, OX- ,NX-,CX-
E1 Area (min)	1,600 sf
E2 Width as measured parallel to primary street for first 15' of site depth (min) ¹	20'
E3 Courtyard area per non- Tiny House unit over four (min)	400 sf

E4 Courtyard area per Tiny House unit over four (min)	200 sf
E5 Setback from primary street (max)	0'

F. Principal Building/Structure Setbacks (Site)

	RX-, OX-,NX-,CX-
F1 From primary street (min)	10'
F2 From side street (min)	10'
F3 From side site line (min)	10'
F4 From rear site line (min)	20'
F5 From alley (min)	5'
F6 Building Separation (min)	6'

F. Principal Building/Structure Setbacks (Lots)

F7 From internal cottage court lot line (min)	3'
F8 From shared internal townhouse lot line (min)	0'

G. Surface Parking Setbacks

	RX-, OX- ,NX-,CX-
G1 From primary street if not screened from primary street by C3 yard or principal structure (min)	90'
G2 From primary street if screened from primary street by C3 yard or principal structure (min)	50'
G3 From side street (min)	10'
G4 From side lot line (min)	5'
G5 From rear lot line (min)	5'
G6 From alley (min)	0'

H. Height

	RX-, OX- ,NX-,CX-
H1 Non-Tiny House building height (max)	30'
H2 Tiny House building height (max)	26'
H3 Accessory structure height (max)	17'

I. Courtyard Requirements and Restrictions

1. At least 60% of the courtyard must be one contiguous open space.
2. Courtyard may not be parked or driven upon.
3. One common building (detached house building type) not to exceed 3,000 square feet in gross floor area may be permitted in the courtyard under the following conditions:
 - a. The common building may not be used as a dwelling.
 - b. Uses within the common building must be accessory to the cottage court development.
 - c. The common building shall not count towards the maximum number of dwelling units per site (*Sec. 3.6.1.D.6.*)
 - d. Notwithstanding the forgoing, the common building must comply with all other requirements of Section 3.6.1.
4. Inclusive of the common building, up to 20% of the minimum internal courtyard area (*Sec. 3.6.1.E.1.*) may be covered, however only 10% of the minimum internal courtyard area (*Sec. 3.6.1.E.1.*) may be enclosed.
5. Stormwater detention wet ponds and dry ponds shall not count towards the minimum internal courtyard area (*Sec. 3.6.1.E.1.*) Green Stormwater Infrastructure (GSI) practices may be used to meet up to 50% of the minimum internal courtyard area (*Sec. 3.6.1.E.1.*)
6. Tree Conservation Areas shall not be included as part of the minimum internal courtyard area (*Sec. 3.6.1.E.1.*)
7. Retaining walls within the courtyard may be no taller than 4' in height. Retaining walls that are 2' or less in height may be spaced as close as 10' apart. All other retaining walls must be spaced a minimum of 20' apart.
8. Pedestrian Access meeting the requirements of Section 8.3.5. shall be provided from each dwelling unit to the courtyard and any other common areas.

J. Additional Requirements for Manufactured Homes to Qualify as Tiny Houses

A Tiny House may be a Manufactured Home as defined Article 12.2. if it meets all of the following:

1. The predominant roofline shall have a pitch of 5:12 or greater.
2. The eave projections of the roof must not be less than ten inches (excluding roof gutters) unless the roof pitch is 8:12 or greater.
3. The minimum height of the first-story exterior wall must be at least seven feet, six inches.
4. Materials used as exterior wall covering shall be of a non-reflective material.
5. Foundation skirting shall comply with the requirements set forth in Section 4.5.3.D.
6. The Manufactured Home is no greater than 600 square feet in gross floor area.

Sec. 3.6.2. Accessory Dwelling

A. Purpose and Objectives

The Accessory Dwelling housing pattern provides for the development of accessory

dwelling units on a lot as an accessory use to a principal use.

B. Base Standards Apply

Except as specifically set forth in this section, the allowed uses, the dimensional requirements, height limits and general development standards of the underlying zoning district apply.

C. Definition

An Accessory Dwelling Unit (ADU) is a self-contained dwelling unit that is located on the same lot as another principal use. Accessory Dwelling Units may be detached, attached, or internal to the principal use. Only residential uses are permitted in Accessory Dwelling Units.

D. Accessory Dwelling Unit Regulations

In accordance with this section, an accessory dwelling unit shall conform with the following development regulations:

1. An ADU shall be located on the same lot as a principal use and meet both of the following:
 - a. The gross floor area of the accessory dwelling shall be less than the gross floor area of the total principal use; and
 - b. Shall be affixed to or constructed on a permanent foundation and not be a manufactured home or moveable structure except as specified in Sec. 3.2.6.D.6. below;
2. There shall be no more than one ADU on the same lot as a principal use unless it is located in a Frequent Transit Area as shown on the City's Comprehensive Plan which would then allow for up to two ADUs on the same lot as a principal use. However in the Frequent Transit Area, only one ADU can be attached to the principal building. In the case of a townhouse development only one ADU is permitted per townhouse;
3. It shall be accessed by a lockable external entrance;
4. Ownership of an ADU shall not be transferred apart from its principal building;
5. It shall meet all relevant standards and requirements of the UDO, provided however accessory dwelling units shall not be subject to Article 6.7 Accessory Uses and Structures and Sec. 7.1.2.C Parking Requirements by Use
6. An Accessory Dwelling Unit may be a Manufactured Home as defined in Article 12.2 if it meets all of the following:
 - a. The predominant roofline shall have a pitch of 5:12 or greater.
 - b. The eave projections of the roof must not be less than ten inches (excluding roof gutters) unless the roof pitch is 8:12 or greater.
 - c. The minimum height of the first-story exterior wall must be at least seven feet, six inches.
 - d. Materials used as exterior wall covering shall be of a non-reflective material.

- e. Foundation skirting shall comply with the requirements set forth in Section 4.5.3.D.
 - f. The Manufactured Home is no greater than 600 square feet in gross floor area.
7. Unless attached thereto by a common wall, an ADU must be separated by at least 6' from any other building on the lot.
 8. All ADU entrances must be externally accessible by pedestrians from either the driveway, street and/or alley from which the lot takes access.

E. Description

An Accessory Dwelling Unit (ADU) is a self-contained dwelling unit that is located on the same lot as a principal building that meets the regulations identified in Section 3.3.2. An ADU may be located above a garage. ADUs may be detached, attached, or internal to the principal building. Only residential uses are permitted in ADUs.

F. Districts Allowed In

RX-, OX-, NX-, CX-, DX-

Gross Floor Area (max)	800
H1 From primary street (min)	Must be located at or behind the front wall of the principal building
H2 From side street (min)	10'
H3 From side lot line (min) ¹	5'
H4 From rear lot line (min) ²	5'
H5 From alley (min)	4' without parking / 20' with parking
I1 Overall height (max)	26'

¹ For townhouse lots, H3 shall only apply to the side site boundary.

² For townhouse lots, H4 shall only apply to the rear site boundary.

Section 27. Insert a new Article labeled as “Article 3.7, Frequent Transit Development Option, in the Part 10 Raleigh Unified Development Ordinance:

Article 3.7 Frequent Transit Development Option

1. The Frequent Transit Development Option allows for additional housing and employment space in locations near current and planned frequent transit service. A Frequent Transit Area refers to areas slated for bus or other transit service where the time between buses will be 15 minutes or less during peak service periods and must be mapped in the City’s Comprehensive plan as such.
2. The option allows for an additional two stories of height, up to a maximum of five stories, for apartment and mixed use building types. It allows only one additional story of height, up to a maximum of four stories, for general buildings. This additional height applies in Frequent Transit Areas, but not BRT Areas.
3. The option also includes requirements to improve walkability. Any building that incorporates the additional height must adhere to the Urban Limited frontage unless otherwise mapped with the Urban General, Shopfront, Green or Green Plus frontage which then controls. Any building that incorporates the height bonus may not incorporate a drive-thru.

Section 3.7.1. Frequent Transit Development Option	RX-, OX-, NX-, CX-, IX-,
1. Building Types	
A1 Applicable Building Types	Detached House, Attached House, Townhouse, Apartment, Mixed Use Building, and General Building types
B. Lot Dimensions	
B1 Area (min)	2,000 sf
B2 Lot width (min)	45'
B3 Depth (min)	60'
B4 Density (max)	n/a
B5 Outdoor Amenity Area (min) (Does not apply to Tiny House, Detached House, or Attached House)	10%
C. Principal Building Setbacks	
C1 From primary street (min)	10'
C2 From side street (min)	10'
C3 From side lot line (min) ¹	0' or 5'
C4 From rear lot line (min) ²	15'
C5 From Alley (min) *	4' or 20'
D. Height	
D1 Detached/Attached Principal Building (max)	40'/3 stories

D2 Townhouse/Apartment Principal Building (max)	Set by District
D3 Tiny House (max)	26'2 stories
D4 Accessory Structure (max)	25'
D5 Height Bonus for properties zoned for 3-stories ⁴	<p>The Apartment and Mixed-Use building types containing residential uses may be a maximum of five stories not to exceed 80' in height. For developments containing residential uses, a number of units equal to at least twenty percent (20%) of the residential units established in newly allowed stories as the result of this height bonus shall be affordable for households earning sixty percent (60%) of the Area Median Income or less for a period of no less than 30 years from the date of issuance of a certificate of occupancy. The General Building type may be a maximum of four stories not to exceed 68' in height.</p> <p>The height bonus shall not apply to areas zoned –TOD or in a BRT Area as mapped in the Comprehensive Plan. When a property is also zoned with the - Detached frontage, the height bonus shall control.</p>
D6 Frontage and Drive-Thrus	<p>Any building that uses the Height Bonus in D5 above must also adhere to the Urban Limited frontage unless otherwise mapped with the Urban General, Shopfront, Green or Green Plus frontage which then controls. Drive-thrus are not permitted on a site when the D5 height bonus is used. A 5 story building utilizing the height bonus herein shall also conform to the requirements for urban plazas set forth in Section 1.5.3.C.</p>
E. Parking Setbacks³	
E1 From Primary Street (min)	10'
E2 From Side Street (min)	10'
E3 From Side Lot Line (min)	0'
E4 From Rear Lot Line (min)	3'
E5 From Alley (min) ⁵	4' or 20' min
F. Floor Heights	
	As prescribed by the Building Type in

	Chapter 3
G. Transparency	
	As prescribed by the Building Type in Chapter 3
F. Additional Requirements	
F1 ADU Regulations	There shall be no more than one ADU on the same lot as a principal building unless it is located in a Frequent Transit Area as shown on the City's Comprehensive Plan which would then allow for up to two ADUs on the same lot as a principal dwelling, including attached or internal ADUs. However in a Frequent Transit Area, only one ADU can be attached to the principal building. In the case of a townhome development only one ADU is permitted per principal dwelling.
F2	This development option cannot be used in concert with Compact or Conservation Development option
F3	Lots utilizing this option shall have at least a portion of each lot within the mapped Frequent Transit Area in order to take advantage of any regulations listed herein.

See Sec. 1.5.4.D "*Building Setbacks*" for specific building elements requirements.

¹ For Townhouse buildings, C3 shall only apply to the side site boundary.

² For Townhouse buildings, C4 shall only apply to the rear site boundary. A permanently recorded open lot or common area lot of at least 20 feet in width may be used to satisfy Sec. 2.5.1.C.4.

³ Parking setbacks shall not apply to driveways serving individual dwelling units or shared between two dwelling units.

⁴ The rent and income limits will follow the Affordable Housing Standards determined annually by the City of Raleigh Housing & Neighborhoods Department. An Affordable Housing Deed Restriction in a form approved by the City shall be filed and recorded in the property's chain of title by the property owner in the Wake County Register of Deeds prior to the project receiving a certificate of occupancy. The property owner of development approved under this section shall provide an annual report to the City to demonstrate compliance with the requirements of this section. The report shall utilize a form prescribed by the City and shall be submitted in accordance with a schedule set by the City. Affordable units used to meet the requirements of this section shall be constructed concurrently with the project's market rate units.

⁵ Garages (or a portion thereof) must either be located 4 feet from the travel lane of an alley or rear access drive or be a minimum of 20 feet from the alley or rear access drive. Where 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 travel lane of an alley or rear access drive.

Section 28. Section 6.1.4. Allowed Principal Use Table, is hereby amended by adding “Frequent Transit Development Option” as a new “specific use” in the “Use Category” column and noting it as a “Limited Use” by inserting it as a row underneath the Residential “Compact Development Option” row in the table and noting it with an “L” in the following Zoning Districts: R-4, R-6, R-10, RX-, OX-, NX-, CX-, IX- and cross reference it in the rightmost column of the table, “Definitions/Use Standards” to Sec. 6.1.2.K. In the row titled “Two-unit Living” in the column titled “R-1”, replace the “-“ with a “L”.

Section 29. Section 6.2.1. of the Part 10 Raleigh Unified Development Ordinance, Household Living, is hereby amended by removing the language shown in strikethrough and adding the language shown in underline:

B. Two-Unit Living

1. Defined

Two dwelling units in a single-principal structure

2. Use Standards

In the R-1 district, two-unit living is only permitted in association with the Tiny House building type.

...

D. Multi-Unit Living

1. Defined

Three or more dwelling units in a single principal structure. Multiple principal buildings are allowed on the same lot.

2. Use Standards

- a. In a Residential District where multi-unit living is allowed as a limited use, it is allowed only in a compact-~~or~~, conservation, or frequent transit development (see Article 2.3. Compact Development, ~~and~~ Article 2.4. Conservation Development, or Sections 2.7.1 Frequent Transit Development).
- b. In an IX- District where multi-unit living is allowed as a limited use, it is allowed only in the upper stories of a building. A lobby or other entrance is allowed on the ground floor.

...

K. Frequent Transit Development Option

1. Defined

A development where higher density and relaxed district standards may be utilized if the subject property is located within a Frequent Transit Area as designated in the City's Comprehensive Plan encouraging higher density development as a way to focus density and growth towards areas with more intensive transit networks.

2. Use Standards

- a. This option may only be applied to properties shown within a Frequent Transit Area as designated in the City's Comprehensive Plan.
- b. The development must meet the standards of either Sections 2.7.1. or 3.7.1., as applicable.

Section 30. Section 8.3.5.C.2. of the Part 10 Raleigh Unified Development Ordinance, Driveways for Residential Use, is hereby amended by adding the following language shown in underline:

Unless modified by a zoning condition contained in an adopted conditional zoning ordinance or a design alternate authorized in this UDO, the regulations in subsection C.2 shall apply.

- a. When an improved alley with a width of at least 20 feet is provided, all vehicular access shall take place from the alley. Access may be taken from the side street on corner lots.
- b. Except for townhouse lots, tiny house lots and flag lots (including their residual lots), all lots 40 feet or less in width platted after the effective date of this UDO are required to take vehicular access from an alley or a driveway shared with another lot.
- c. No residential lot may have more than 2 driveways on the same street. Multiple driveways that service 1 lot may be no closer than 40 feet to each other.
- d. Non-alley loaded driveways may intersect a street no closer than 20 feet from the intersection of 2 street rights-of-way.
- e. Parking and driveway areas shall not constitute more than 40% of the area between the front building line and the front property line with the exception of lots used for Tiny Houses (including Flag Lots).
- f. A driveway serving a tiny house lot or flag lot (including their residual lots) shall either be shared with another lot or meet the minimum spacing requirements as specified in the Raleigh Street Design Manual.

Section 31. Section 9.2.2.A.1.b.i. of the Part 10 Raleigh Unified Development Ordinance, Active Stormwater Control Measures - Exemptions - Grandfathered Lots, is hereby amended by adding the language shown in underline:

- i. A grandfathered lot of any size, including grandfathered lots that are recombined with other grandfathered lots, used for any detached house or tiny house used for single-unit

living or any attached house, tiny house or two unit townhouse development used for two unit living, including accessory uses.

Section 32. Section 9.2.2.A.2.b.i. of the Part 10 Raleigh Unified Development Ordinance, Active Stormwater Control Measures - Exemptions - Subdivided Lots, is hereby amended by adding the language shown in underline:

- i. Any detached house or tiny house used for single-unit living or any attached house, tiny house or two unit townhouse development used for two-unit living, including their accessory uses, situated on a subdivided lot that was part of a subdivision of one acre or less in aggregate size, including subdivided lots that are recombined with other similar subdivided lots.

Section 33. Section 9.2.2.A.4. of the Part 10 Raleigh Unified Development Ordinance, Active Stormwater Control Measures - Exemptions – Impervious Surfaces Limitations and Other Regulations, is hereby amended by deleting the language shown in strikethrough:

...

Notwithstanding the impervious surface limitations of this subsection, any lot with either an existing detached house ~~or tiny house~~ used for single-unit living or an existing attached house used for two-unit living shall be entitled to a one-time 400 square foot increase of impervious surface area without providing the additional stormwater control measures required by this subsection. This one-time exemption shall only be allowed if the qualifying structure (i) existed prior to the application of this ordinance, and (ii) the qualifying structure exists when the one-time exemption is applied to the property. However, the exemption once used shall remain with the property even if the qualifying structure is later demolished, voluntarily or involuntarily, from the property. This exemption, if not used, shall be inapplicable if the qualifying structure is voluntarily demolished from the property.

Section 34. Section 9.2.2.B.2.b.i. of the Part 10 Raleigh Unified Development Ordinance, Residential Development, is hereby amended by adding the language shown in underline:

- i. For any detached house or tiny house used for single-unit living or any attached house, or tiny house or two unit townhouse development used for two-unit living, a one-time offset payment may be paid to the North Carolina Riparian Buffer Restoration Fund to reduce the nitrogen export load of up to 6 pounds per acre per year to 3.6 pounds per acre per year.

Section 35. Section 10.3.5. of the Part 10 Raleigh Unified Development Ordinance, Nonconforming Lots of Record, is hereby amended by adding the following language shown in underline:

A. Authority to use For Single-Unit or Two-Unit Living

In any district in which a single-unit living detached house or two-unit living attached house is allowed as a permitted use, notwithstanding the regulations imposed by any other provisions of this UDO, a single-unit living detached house, or tiny house, or two-unit living attached house or tiny 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, depth, 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, width, and depth at such location would not have been prohibited by any building type requirement, zoning or other ordinance.

B. Regulations for Single Unit Living or Two-Unit Living 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 or tiny house, or two-unit living attached house or tiny house and permitted accessory uses and structures. Construction of the single-unit living detached house or tiny house, or two-unit living attached house or tiny house shall comply with all the regulations, except lot area, depth, or width, applicable to the detached, tiny or attached house in the district in which the lot is located, unless a variance is granted pursuant to *Sec. 10.2.10.*

Section 36. Chapter 12 of the Part 10 Raleigh Unified Development Ordinance, Definitions, is hereby amended by adding the following definition:

Ribbon Driveway

Also called “strip driveway,” a driveway that consists of two parallel strips of permanent non-erodible material (see *Sec. 7.1.9*) with groundcover or similar pervious material in between. One of the strips may be no more than 2’ wide while the other may be up to 4’ wide to accommodate pedestrian access and a 3’ wide median shall be maintained in either scenario.

Section 37. This text change has been reviewed by the Raleigh Planning Commission.

Section 38. This ordinance has been adopted following a duly advertised legislative hearing of the Raleigh City Council.

Section 39. This ordinance has been provided to the North Carolina Capital Planning Commission as required by law.

Section 40. 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 41. This ordinance is effective 90 days after adoption.

Adopted: May 10, 2022

Effective: August 8, 2022

Distribution: Young, Bowers, Crane, Walter; Waddell, Rametta, McDonald, Hodge, York, Puccini,
Taylor, Sheppard
City Attorney DL