

Explanation of Changes to the Draft NPO

January 11, 2017

Note that the heading numbers/letters in the explanations below conform to those in the NPO text itself.

B. Applicability

The Applicability clause in the NPO specifies when and how the NPO would be applied. As written, it was not clear whether the NPO would apply if someone decides to “enclose” an existing carport, screen porch, etc. As originally drafted, it only applied if there was an “addition”.

To respond to this ambiguity, a clause was added that says the NPO will apply when there is: Enclosure by more than two walls of formerly unenclosed spaces. This language was chosen because we have a number of garage/shed structures in the neighborhood that have 3 walls but an open front. This new language clarifies that these 3-sided structures would be covered by the NPO, whereas gazebos, screen porches, or other open structures would not be covered.

1. Primary & Accessory Structure Bulk (Floor Area Ratio)

Understandably, this is the component that has generated the most interest. While some have asked for a higher FAR and more flexibility, others have expressed that they are pleased with the 30% FAR and don't wish it to go any higher. This has been the most difficult area in which to strike a balance. But it is important to remember that there is overwhelming acceptance of the idea that protecting neighborhood character requires SOME limit on bulk – it is just a matter of reaching consensus on what that limit should be.

Six changes were made to this component of the NPO. These are discussed individually below. Each of these adds greater flexibility to the earlier NPO proposal, while still preventing or discouraging some of the most over-scaled outcomes that could occur with our existing zoning.

a.) The FAR limitation has been increased from 30% to 32.5%. This is a compromise responding to some requests for more allowance on the FAR. Though some had requested an even higher FAR limit the Working Group was uncomfortable going farther than this for the following reasons.

First, a solid majority (52 out of 85) of the respondents at the November 8th meeting indicated they were either satisfied with the 30% FAR level or would like it even lower. While we are trying to be as flexible as practical for homeowners to adapt to changing life circumstances, we don't want to alienate those who have expressed approval for a lower FAR limitation. In other words, while even more leniency may be favored by some neighbors, there is another contingent of neighbors who are strongly opposed to this because they don't want to see a large mega-house popping up next door or across their back fence. This is a balance...

Second, some of the properties neighbors have expressed great concern about (as examples of what seems truly out of character for our neighborhood) were quite close to the 35% FAR level that some advocated for. Moving allowable FAR as high as 35% would explicitly allow similar structures to be built.

With these considerations in mind, the Working Group settled on the compromise value of 32.5% This extra 2.5% adds 188 sq ft of buildable area to the median size 7,500 sq ft lot compared to a FAR of 30%.

On a side note - there was some discussion by the Working Group of the sliding scale methodology recently proposed by a neighbor. We did not move in that direction for several reasons. First and foremost, it added a level of complexity that many homeowners would be uncomfortable with. We heard feedback from a local architect that similar complex zoning restrictions in some jurisdictions (such as Chapel Hill) make things so complicated that the average homeowner may need to hire an architect for the sole purpose of sorting through what is allowable. City officials also expressed skepticism about the difficulty in administering complex regulations, particularly when homeowners may not understand them. Lastly, it is clear the greatest benefit of such a sliding scale is for small lots – and we decided to address that in a simpler and more direct way (see item b. below.)

a) *(This point also applies to the FAR cap)* Defining what is included in the FAR Calculation. To address ambiguities in what areas of Accessory Structures will be included in the FAR calculation, the language was modified to read: (new text is underlined)

For purposes of this NPO only, floor area is defined as the heated square footage of the primary structure plus the total square footage (heated or unheated) of any garage, accessory dwelling unit, or any accessory structure that requires a building permit and is enclosed on more than two sides.

Tying back to the Applicability discussion above, this clarifies that open/screened porches, carports, gazebos etc. will not be included in the FAR, but 3-sided structures large enough to require a building permit will be.

To clarify a question on the list serve last month about chicken coops - they are not included in the FAR calculation since they do not require a Building Permit (though they do require an agricultural permit.) Also, as a reminder, single story tool sheds or other small accessory buildings up to 150 sq ft (approximately 12' x 12') are not included in the FAR calculation since they generally do not require a building permit.

b. Special allocation for small lots. This directly addresses the many requests we received to allow more flexibility for smaller lots. Regardless of the calculated FAR, each parcel shall be allowed a minimum of 2,000 sq ft of floor area. This has been increased from 1,400 sq ft. This substantial increase was made because of the numerous comments received and because the Working Group did not feel it would significantly impact neighborhood character – the primary objective of the NPO.

c. Allow conversion of EXISTING enclosed, unheated space to heated space even if that would exceed the FAR limitation. This will be allowed as long as the conversion does not add to the bulk of the building. The wording for this new clause is:

Provided that the structural footprint and height remain unchanged from {effective date of this ordinance}, a FAR may be exceeded by converting unheated, fully enclosed square footage to heated square footage.

The reason this change is limited to existing square footage is to prevent it from being circumvented by new construction that adds oversized (but unheated) attic or porch areas with the idea of later finishing these areas without it counting towards the FAR calculation.

There was some discussion whether addition of dormers should be allowed under this scenario. There was general agreement in the Working Group that adding dormers should not be allowed since some dormers (eg shed dormers) add considerable bulk. Also, it is not legal for the NPO to prescribe certain design elements, so we were advised it would be problematic to allow certain types of dormers but not others.

d. Heated area in below grade areas (such as basements) shall not be included in the FAR calculation.

The rationale for those requesting this change is that below grade areas do not significantly contribute to perceived bulk. The Working Group agreed to this change and the new wording is:

Heated square footage from a floor built below grade shall be exempt from the FAR calculation provided the exposed foundation wall is not more than 3 feet above grade at any point along any street facing façade.

f. The calculation of square footage in Accessory Structures with sloped ceilings is now defined.

In calculating the heated square footage of the Primary Structure (the house), the County Tax Assessor uses a well-accepted method that counts only the square footage of areas that have a ceiling height of five feet or more. For areas with sloped ceilings (such as the second floor of one-and-a-half story houses) this may reduce the overall area included in the FAR calculation. For example, the low ceiling areas behind “kneewalls” will generally not be counted. This same methodology will apply to Accessory Structures when calculating the Floor Area Ratio. (This clarification is added since the NPO has been modified to accommodate one-and-a-half story accessory structures that may have sloped ceilings – see below.)

2. Primary & Accessory Structure Height

a. Primary Structure Apex Height is increased to 31’. There were a small number of requests to consider a higher height allowance for Primary Structures (houses.) The Working Group met with a local architect who has a portfolio of homes built in our area. He assured us that the 30’ proposed standard for apex height is reasonable and two-story homes can be easily accommodated. In fact, he recently built two full 2-story homes in Watts-Hillandale that both came in under that height. But he also said he would prefer bumping it up by a foot (to 31’) to allow more design flexibility. Our discussions with him assured us that going higher than 31’ is unnecessary, would create more looming structures, and would invite three story structures. With these factors in mind, we accepted his recommendation to increase the height to 31’.

b. One-and-a-half story Accessory Structures are now accommodated. A number of neighbors suggested allowing a second floor in Accessory Structures. This may reduce the footprint and the attendant impact of these structures. The downside of two-story ADUs is that - since they are allowed to be within 5’ of the side and back property lines - they can create privacy issues for neighbor backyards. Also, since they are so close to property lines, they can easily loom over neighbor backyards

and create shading issues. While increasing setbacks is one suggested way to handle this, given the small lot sizes, this is not practical for many lots.

The Working Group recommends a compromise that accommodates one-and-one-half story Accessory Structures. This style of building (with an occupied second floor under the roof line, often with dormers) is not uncommon in the neighborhood now. Full two-story structures are quite uncommon and the only Accessory Structures with two stories are recent additions that have been problematic with neighbors. For this reason we attempted to accommodate one-and-one-half story Accessory Structures, but not full two-story structures which give the impression of considerably more bulk.

The Working Group met with a neighborhood architect and developed the following language for this change: (6.12.1 Height is equivalent to “midpoint height.”)

The height of an accessory structure, as calculated in paragraph 6.12.1, Height, shall not exceed 20' and its apex height shall not exceed 24'.

c. Greater setbacks required for taller Accessory Structures. To address privacy and shading concerns, the Working Group recommends increased setbacks for taller structures, while retaining existing setback standards (five feet) for single story structures. The language for this requirement reads:

If the apex height of an accessory structure exceeds 16', then the structure must be set back at minimum of 10 feet from any property line, except where that property line abuts a dedicated right of way, undeveloped land, or a non-residential land use.

3. Lot Dimensions

Feedback has been overwhelmingly in favor of the language in the original Draft NPO and no changes have been made.

4. Trees

With few exceptions, feedback about the Tree component has largely been to provide more protection for the tree canopy. The Working Group strongly agrees with this sentiment, but as stated previously, we do not see a way for the NPO to do this without creating standards that will be viewed as onerous by many. So while we strongly encourage neighbors to take actions supporting trees and green space, we made no changes to the draft NPO regarding trees. Working with groups such as Keep Durham Beautiful, Trees Across Durham, and the City Arborist, Alex Johnson is encouraged. In the past 5 years, over 200 new trees have been planted in the neighborhood with support from these groups.

5. Vehicular Use Area and Off-Street Parking Requirements

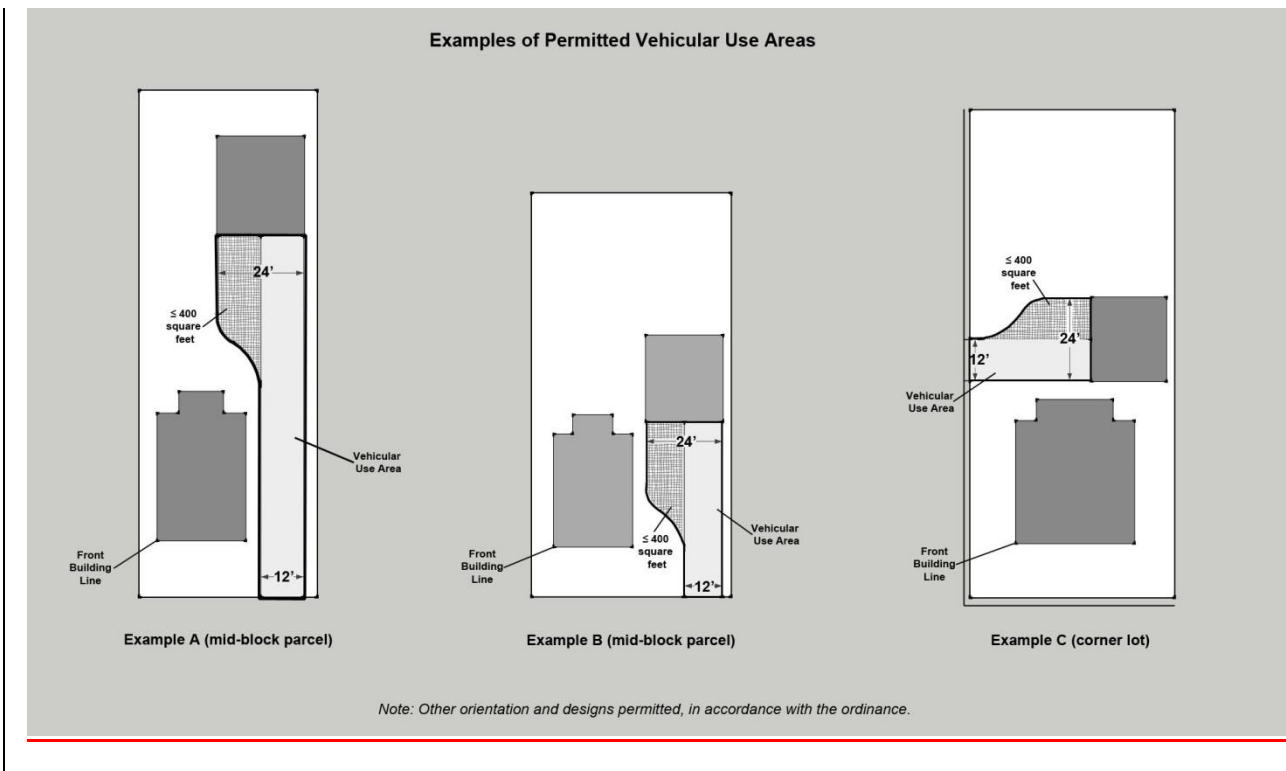
Feedback on this item was largely positive. One slight change (discussed below) was made to the possible location of the Parking Pad area. This is accompanied by an expanded chart showing examples of acceptable parking pad configurations. In these examples, case the front of the lot is at the bottom.

c. The original draft NPO requires that any expanded parking pad area be placed behind the house, while the new language says it may be placed beside the house, but no closer than 20' from the front property line. As a practical matter, this will only be possible for extra wide lots, but in those cases, this change may reduce overall paving since the driveway would not have to be extended to the rear of the house before expanding to create a parking pad. New parking pad areas are still not allowed in front of the house.

The new language now reads:

The maximum width of the vehicular use area shall be 12'; however, the vehicular use area may expand up to 24' in width to accommodate garage access and parking. The total additional vehicular use area beyond 12' in width shall:

- (1) Be behind the front building line;*
- (2) Be not less than 20' from the front property line; and*
- (3) Not exceed 400 square feet.*



Map Changes

Lastly, there has been a slight adjustment to the NPO Boundary map. As you may recall, the NPO is composed of two components. A set of neighborhood protections listed out in text and a map that shows the boundary where these new protections will apply. The newly adjusted map excludes a couple areas that are shown in Future Land Use maps as either Office Area or Commercial.

A pdf of the newly adjusted NPO boundary is attached. This document shows the NPO boundary lines plotted over our existing zoning as well as over the Future Land Use map.

One change was made to the map at the south end of Iredell near its intersection with Green St. In this area, eleven properties were removed from the previously distributed map because a) they are shown in Durham's Future Land Use map as zoned for Office; b) this area is sandwiched between Commercial properties on Ninth St. and Broad St.; and c) we received requests from a number of the property owners in this affected area. For reference, the area referred to is at the southeast (lower right) corner of the attached maps. In the Future Land Use Map (the lower map), the lots are highlighted in pink indicating areas intended for future Office space.

Also excluded from the NPO boundary are two properties just north of White Star Laundry (908 and 910 Ninth St.) These properties are shown in red in the Future Land Use Map indicating they are intended to be zoned Commercial in the future.