



**Agenda Item Action Request
Apex Town Council**

**PUBLIC HEARING
No. 05**

Meeting Date: 05/21/2013

Requestor: Planning Department

Presenter(s): Lauren Simmons, Planning

Item Description

Public Hearing and possible motion for various amendments to the Unified Development Ordinance.

Information Detail

Recommend Approval:	<u>Yes</u>	By:	<u>Planning Department</u>
	<u>Yes</u>		<u>Planning Board</u>

UDO Amendment Summary:

1. Table 4.2.2-Use Table-Addition of use "Regional Recreation Complex" as allowed by Right and Special Use Permit for outdoor activities in Light Industrial Zoning District.
2. Section 4.3.4(Q)-Use Classifications-Recreational Uses-Definition of Regional Recreation Complex.
3. Section 4.4.4-Supplemental Standards for a Regional Recreation Complex to address alcohol sales, square footage, property size, size of outdoor structures and signage.
4. Table 5.1.2-Establishment of setbacks for a Regional Recreation Complex
5. Section 8.2.6(B)(4)(f)-Landscape Buffers between Land Uses-Establishment of a Regional Recreation Complex as a Class 6 Land Use for the purposes of buffering.
6. Section 8.6.4(K)-Lighting for a Regional Recreation Complex-Establishment of specific lighting standards for a Regional Recreation Complex.
7. Section 4.6.1(C)(8)(9)-Temporary Uses and Structures-Permit Required-Establishment of a section that allows for Temporary heated pool structures to enable the use of outdoor pools in the cold weather months.

The Planning Board reviewed this item during their May 13, 2013 meeting and recommended approval.

Attachments

- Staff report
- Ordinance
- Planning Board report to Town Council

Approved as to Form: Yes

STAFF REPORT

Amendments to the Unified Development Ordinance

May 21, 2013 Town Council Meeting



SUMMARY OF THE REQUEST: Proposed amendments to the Unified Development Ordinance.

May UDO Amendments:

1) Section 4.2.2 Use Table

Use Type	Definition Section	Zoning Districts											Standards Section(s)
		Business						Planned Development			Other		
		O & I	B 1	B 2	P C	L I	T F	M E C	T N D	P U D	C B	S D	
...													
Recreational Uses													
...													
Regional Recreation Complex	4.3.4(Q)	...				P/S							4.4.4(F)

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2) Section 4.3.4(Q) Use Classifications-Recreational Uses

4.3.4 Recreational Uses

...

Q) Regional Recreation Complex-A large, for-profit facility typically composed of a variety of indoor and outdoor recreation and amusement activities such as but not limited to: bowling, laser tag, go-carts, zip lines, ropes courses, bungee jumping, rock climbing, arcades, sports courts, skating, trampolines, and similar uses. Accessory uses may include restaurant with bar (see Section 4.4.4), concession stands, equipment rental counters, and event rooms. The use does not allow for traditional amusement parks or theme parks where the majority of the rides are outdoor thrill rides, such as roller coasters. Outdoor recreation and amusement activities that are part of a regional recreation complex must be approved under a Special Use Permit as an accessory use to an indoor facility.

3)

Section 4.4.4 Recreational Uses-**An establishment in the recreational uses category may sell unfortified wine and malt beverages provided that the establishment meets all the requirements of an Alcoholic Beverage Control Commission permit and the establishment's on- premise alcohol sales do not exceed 10% of the establishment's quarterly gross receipts.**

4) Section 4.4.4(F) Supplemental Standards-Recreational Uses

4.4.4 Recreational Uses

...

F) Regional Recreation Complex

All regional recreation complexes shall comply with all the following standards:

- 1) **The square footage of the regional recreation complex shall be a minimum of 100,000 square feet of indoor activities and accessory uses.**
- 2) **The property shall be a minimum of 10 acres in size.**
- 3) **Any outdoor recreation and amusement activities must be accessory to an indoor facility sited on the same property.**
- 4) **A Special Use Permit shall be required for all outdoor recreation and amusement activities.**
- 5) **Outdoor structures shall not exceed 100 feet in height and any outdoor structures shall have a fall zone equal to or greater than the height of the structure.**
- 6) **Structures erected to support and function as operational elements of outdoor amusement activities such as, but not limited to, bungee jumping, ropes courses, and zip-lines are not considered buildings for the purpose of applying the Town's sign ordinances.**
- 7) **Signs for the regional recreation complex use are limited to typical building mounted and ground signs per Section 8.7 Signs of the UDO.**
- 8) **Identification, directional and warning type signs are allowed to be mounted to rides and structures provided that they are designed to be for the benefit of pedestrians, internal to the site, and specific to the amusement. Signs mounted to the ride's mobile components are allowed for the purpose of identification and may be lit in accordance to Section 8.7.**

5)

5.1.2 Table of Intensity and Dimensional Standards-Business Districts

Use	Average Lot Size	Minimum Lot Width (Feet)	Minimum Setbacks (Feet)				Max. Height (Feet)	Max. Built-Upon Area (%) [*]	Max. Floor Area Ratio (FAR)	Max Density (Gross Units per Acre)	Additional Regulations
			Front	Side	Rear	Other/ Buffer					
LI											
Regional Recreation Complex	---	—	20	20	20		60	70	—		Section 4.4.4(F)

^{*} See Sec 6.1, Watershed Protection Overlay Districts
^{**} These setbacks are for the perimeter of entire project only.
^{***} Projects submitted prior to April 1, 2008 shall be governed by the Minimum Front Setbacks in place at the time of submittal.

6)

8.2.6 (B)(4)(f)-Landscape Buffers Between Land Uses

4) *Land Use Classes*

The 6 land use classes appearing in Table 1 include the following uses:

...

f) *Class 6*

Recycling collection station

Recycling plant

Regional Recreation Complex

Repair and maintenance, general

Repair services, limited

7)

8.6.4 (K) Lighting for a Regional Recreation Complex

K) Illumination for a Regional Recreation Complex

- 1) Unless specifically exempted or amended below, all exterior lighting must meet the standards found in Section 8.6 Exterior Lighting of the UDO. Structures erected to support and function as operational elements of outdoor amusements such as, but not limited to, bungee jumping, ropes courses, and zip lines may be illuminated.
- 2) Lights shall not be used to illuminate entire portions of building(s), landscape, or site features.
- 3) Building mounted lights such as wall-pack and goose-neck type fixtures shall be fully shielded, true cutoff type fixtures (concealed lamp/light source). The lighting must be directed downward, and the wattage must not exceed 100 watts.
- 4) Awnings and canopies used for building accents over doors, windows, and etc. shall not be internally lit (e.g. from underneath or behind). If lit from above, the lighting must be spaced sparingly so that only limited portions of awnings and canopies are accented.
- 5) Critical areas associated with an outdoor amusement activity, such as but not limited to, entrances and exits, approaches and mounting areas, queue and waiting areas, ticket booths or similar service facilities, and observation areas must be reasonably sized for the purpose they serve and identified and laid out on plans in close proximity to the outdoor amusement activities that they serve. Illumination standards for these areas shall not exceed a horizontal illuminance average of 5.0 foot candles and a uniformity ratio of 4/1 (average/minimum) and height of 35 feet.
- 6) Except as allowed under Section 8.6.4 (F) Building, Ground Mounted Fixtures and Accent Lighting, all up-lighting, spot lights, and floodlights are prohibited.
- 7) Lights that flash, move, revolve, rotate, scintillate, blink, flicker, vary in intensity or color, or use intermittent electrical pulsation are prohibited. Continuous lighting such as, but not

limited to, tubes or strings of lights on rooflines, building edges, and outdoor amusement activities are allowed (see also Section 8.7.2(l) Prohibited Signs).

8)

4.6.1(C) Temporary Uses and Structures-Permit Required

- 8) **Temporary heated pool structures. Temporary heated pool structures, such as but not limited to tents, are allowed provided that:**
 - a) **The pool to be covered by the temporary heated pool structure is a community pool owned by a non-profit organization or neighborhood.**
 - b) **The structure is erected for less than 180 days per year.**
 - c) **The structure is erected for the sole purpose of allowing swimming in heated pools to occur during cold weather months.**
- 9) ~~8)~~ *Other temporary uses.* The Planning Director may approve other temporary uses and activities or special events if it is determined that such uses would not jeopardize the health, safety, or general welfare, or be injurious or detrimental to properties adjacent to, or in the vicinity of, the proposed location of the activity.

AN ORDINANCE TO AMEND CERTAIN SECTIONS OF THE UNIFIED DEVELOPMENT ORDINANCE

BE IT ORDAINED by the Town Council of the Town of Apex as follows:

Section 1. Subsection 4.2.2 of the Unified Development Ordinance is amended as shown immediately below with new text being shown as bold underlined:

Use Type	Definition Section	Zoning Districts											Standards	
		Business					Planned Development			Other			Section(s)	
		O & I	B 1	B 2	P C	L I	T F	M E C	T N D	P U D	C B	S D		S T C
Recreational Uses														
...														
<u>Regional Recreation Complex</u>	<u>4.3.4(Q)</u>	...				<u>P/S</u>								<u>4.4.4(F)</u>

Section 2. Subsection 4.3.4 (Q) of the Unified Development Ordinance is amended as shown immediately below with the new text being shown as bold underlined:

4.3.4 Recreational Uses

...

Q) Regional Recreation Complex-A large, for-profit facility typically composed of a variety of indoor and outdoor recreation and amusement activities such as but not limited to: bowling, laser tag, go-carts, zip lines, ropes courses, bungee jumping, rock climbing, arcades, sports courts, skating, trampolines, and similar uses. Accessory uses may include restaurant with bar (see Section 4.4.4), concession stands, equipment rental counters, and event rooms. The use does not allow for traditional amusement parks or theme parks where the majority of the rides are outdoor thrill rides, such as roller coasters. Outdoor recreation and amusement activities that are part of a regional recreation complex must be approved under a Special Use Permit as an accessory use to an indoor facility.

Section 3. Subsections 4.4.4 and 4.4.4(F) of the Unified Development Ordinance are amended as shown immediately below with the new text being shown as bold underlined:

4.4.4 Recreational Uses-An establishment in the recreational uses category may sell unfortified wine and malt beverages provided that the establishment meets all the requirements of an Alcoholic Beverage Control Commission permit and the establishment's on- premise alcohol sales do not exceed 10% of the establishment's quarterly gross receipts.

...

F) Regional Recreation Complex

All regional recreation complexes shall comply with all the following standards:

- 1) The square footage of the regional recreation complex shall be a minimum of 100,000 square feet of indoor activities and accessory uses.
- 2) The property shall be a minimum of 10 acres in size.
- 3) Any outdoor recreation and amusement activities must be accessory to an indoor facility sited on the same property.
- 4) A Special Use Permit shall be required for all outdoor recreation and amusement activities.
- 5) Outdoor structures shall not exceed 100 feet in height and any outdoor structures shall have a fall zone equal to or greater than the height of the structure.
- 6) Structures erected to support and function as operational elements of outdoor amusement activities such as, but not limited to, bungee jumping, ropes courses, and zip-lines are not considered buildings for the purpose of applying the Town's sign ordinances.
- 7) Signs for the regional recreation complex use are limited to typical building mounted and ground signs per Section 8.7 Signs of the UDO.
- 8) Identification, directional and warning type signs are allowed to be mounted to rides and structures provided that they are designed to be for the benefit of pedestrians, internal to the site, and specific to the amusement. Signs mounted to the ride's mobile components are allowed for the purpose of identification and may be lit in accordance to Section 8.7.

Section 4. Table 5.1.2 of the Unified Development Ordinance is amended as shown immediately below with the new text being shown as bold underlined:

Use	Average Lot Size	Minimum Lot Width (Feet)	Minimum Setbacks (Feet)				Max. Height (Feet)	Max. Built - Upon Area (%)*	Max. Floor Area Ratio (FAR)	Max Density (Gross Units per Acre)	Additional Regulations
			Front	Side	Rear	Other/ Buffer					
...											
LI											
....											
<u>Regional Recreation Complex</u>	---	—	<u>20</u>	<u>20</u>	<u>20</u>		<u>60</u>	<u>70</u>	---		<u>Section 4.4.4(F)</u>
* See Sec 6.1, Watershed Protection Overlay Districts ** These setbacks are for the perimeter of entire project only. *** Projects submitted prior to April 1, 2008 shall be governed by the Minimum Front Setbacks in place at the time of submittal.											

Section 5. Subsection 8.2.6(B)(4)(f) of the Unified Development Ordinance is amended as shown immediately below with the new text being shown as bold underlined:

4) *Land Use Classes*

The 6 land use classes appearing in Table 1 include the following uses:

...

f) *Class 6*

- Recycling collection station
- Recycling plant
- Regional Recreation Complex**
- Repair and maintenance, general
- Repair services, limited

Section 6. Subsection 8.6.4(K) of the Unified Development Ordinance is amended as shown immediately below with the new text being shown as bold underlined:

8.6.4 (K) Lighting for a Regional Recreation Complex

K) Illumination for a Regional Recreation Complex

- 1) Unless specifically exempted or amended below, all exterior lighting must meet the standards found in Section 8.6 Exterior Lighting of the UDO.**

Structures erected to support and function as operational elements of outdoor amusements such as, but not limited to, bungee jumping, ropes courses, and zip lines may be illuminated.

- 2) Lights shall not be used to illuminate entire portions of building(s), landscape, or site features.
- 3) Building mounted lights such as wall-pack and goose-neck type fixtures shall be fully shielded, true cutoff type fixtures (concealed lamp/light source). The lighting must be directed downward, and the wattage must not exceed 100 watts.
- 4) Awnings and canopies used for building accents over doors and windows shall not be internally lit (e.g. from underneath or behind). If lit from above, the lighting must be spaced sparingly so that only limited portions of awnings and canopies are accented.
- 5) Critical areas associated with an outdoor amusement activity, such as but not limited to, entrances and exits, approaches and mounting areas, queue and waiting areas, ticket booths or similar service facilities, and observation areas must be reasonably sized for the purpose they serve and identified and laid out on plans in close proximity to the outdoor amusement activities that they serve. Illumination standards for these areas shall not exceed a horizontal illuminance average of 5.0 foot candles and a uniformity ratio of 4/1 (average/minimum) and height of 35 feet.
- 6) Except as allowed under Section 8.6.4 (F) *Building, Ground Mounted Fixtures and Accent Lighting*, all up-lighting, spot lights, and floodlights are prohibited.
- 7) Lights that flash, move, revolve, rotate, scintillate, blink, flicker, vary in intensity or color, or use intermittent electrical pulsation are prohibited. Continuous lighting such as, but not limited to, tubes or strings of lights on rooflines, building edges, and outdoor amusement activities are allowed (see also Section 8.7.2(l) *Prohibited Signs*).

Section 7. Subsection 4.6.1(C) of the Unified Development Ordinance is amended as shown immediately below with deleted text being shown as struck-through and new text being shown as bold underlined:

- 8) *Temporary heated pool structures.* Temporary heated pool structures, such as but not limited to tents, are allowed provided that:
 - a) The pool to be covered by the temporary heated pool structure is a community pool owned by a non-profit organization or neighborhood.
 - b) The structure is erected for less than 180 days per year.
 - c) The structure is erected for the sole purpose of allowing swimming in heated pools to occur during cold weather months.

- 9) ~~8~~) *Other temporary uses.* The Planning Director may approve other temporary uses and activities or special events if it is determined that such uses would not jeopardize the health, safety, or general welfare, or be injurious or detrimental to properties adjacent to, or in the vicinity of, the proposed location of the activity.

Section 8. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to such section, paragraph, subdivision, clause or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.

Section 9. This amendment shall not apply to the completion of projects for which site plan approval or subdivision plan approval or both have been obtained before the enactment of this ordinance.

Section 10. The ordinance shall be effective upon enactment on the 21st day of May 2013.

Introduced by Council Member _____

Seconded by Council Member _____

Attest:

TOWN OF APEX

Donna B. Hosch, CMC, NCCMC
Town Clerk

Keith H. Weatherly
Mayor

Approved As To Form:

Henry C. Fordham, Jr.
Town Attorney

PLANNING BOARD REPORT TO TOWN COUNCIL
Unified Development Ordinance Amendments

May 13, 2013 Planning Board Meeting



Report

Requirements:

Per NCGS 160A-387, all proposed amendments to the zoning ordinance or zoning map shall have a written report provided from the Planning Board to the Town Council within 30 days of referral of the amendment to the Planning Board, or the Town Council may proceed in its consideration of the amendment without the Planning Board report. Furthermore, in no case is the Town Council bound by the recommendations, if any, of the Planning Board.

Planning Board

Recommendation:

- Approval of the proposed UDO amendment(s)
- Approval of the proposed UDO amendment(s) with the following conditions:

- Denial of the proposed UDO amendment(s)

This report reflects the recommendation of the Planning Board, 13th day of May, 2013
this the

Introduced by Planning Board member: Lisa Carley

Seconded by Planning Board member: Tommy Morgan

Attest:

PLANNING BOARD REPORT TO TOWN COUNCIL
Unified Development Ordinance Amendments

May 13, 2013 Planning Board Meeting



David J. Hooks

David Hooks, Planning Board Chair

Dianne F. Khin

Dianne Khin, Planning Director