**ACTION REQUEST FORM**

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<th>DATE:</th>
<th>April 19, 2017</th>
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<tbody>
<tr>
<td>TO:</td>
<td>The Honorable Mayor and City Council</td>
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<tr>
<td>FROM:</td>
<td>A. Paul Norby, FAICP, Director of Planning</td>
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**COUNCIL ACTION REQUEST:**

Request for Public Hearing on an ordinance amendment proposed by Planning and Development Services.

**SUMMARY OF INFORMATION:**

A. Public hearing on an ordinance amendment proposed by Planning and Development Services amending Chapter B of the *Unified Development Ordinances* to modify the menu of design options for large-scale retail developments to allow a payment-in-lieu for public art (UDO-278).

B. Approval of Ordinance.

**PLANNING BOARD ACTION:**

MOTION ON PETITION: APPROVAL  
FOR: UNANIMOUS  
AGAINST: NONE  
SITE PLAN ACTION: NOT REQUIRED
STAFF REPORT

DOCKET #: UDO-278
STAFF: Chris Murphy

REQUEST

A Unified Development Ordinances (UDO) Text Amendment (UDO-278) proposed by the Planning and Development Services Department modifying the menu of design options for large-scale retail developments to allow a payment-in-lieu option for public art.

BACKGROUND AND ANALYSIS

The menu of design options for large-scale retail developments was placed in the UDO over a decade ago with the creation of the Major Retail Business Special Use (MRB-S) zoning district and the creation of the Large-Scale Retail Development design standards. To enhance the appearance of the site design for a large-scale retail development, a developer must choose five (5) items from a menu of nine (9) design options. One of the design options is the installation of public art on the site. At the time these provisions were placed in the UDO, there was no Public Art Commission. While public art on the development site works in some instances, given topographic constraints and other design considerations, sometimes the public art is hidden from view for most of the “public”.

In order to provide for more flexibility for the developer and to further ensure that public art can be enjoyed by a broader audience, staff, in consultation with the City Attorney’s Office, drafted this proposed text amendment which would allow the developer/property owner to make a payment-in-lieu for the public art instead of actually installing the public art — the payment would be made to the City of Winston-Salem for use by the Public Art Commission. As drafted, such a payment is not a requirement but is an option. They may commission and install the public art themselves, they may work with the Public Art Commission on the design of the art and place it on their own site or, if this text amendment is approved, they may make a payment-in-lieu to the Public Art Commission. There are no other changes proposed.

RECOMMENDATION

Approval
Chris Murphy presented the staff report.

PUBLIC HEARING

FOR: None
AGAINST: None

WORK SESSION

During discussion by the Planning Board, the following points were made:

The public art option requires 1% of the total construction budget.

Since the Large-Scale Retail Development Standards were established, a Public Art Commission has been created. This amendment allows payment-in-lieu to the Public Art Commission to allow public art to be placed off-site in a more visible location.

Clarence Lambe: That requirement was put there to make it tough for big box operators to move out and leave a site vacant.

MOTION: George Bryan moved approval of the text amendment.
SECOND: Allan Younger
VOTE:
  FOR: George Bryan, Melynda Dunigan, Jason Grubbs, Arnold King, Clarence Lambe, Chris Leak, Brenda Smith, Allan Younger
  AGAINST: None
  EXCUSED: None

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A. Paul Norby, FAICP
Director of Planning and Development Services
UDO-278
AN ORDINANCE PROPOSED BY PLANNING AND DEVELOPMENT SERVICES
STAFF AMENDING CHAPTER B OF THE UNIFIED DEVELOPMENT ORDINANCES
TO MODIFY THE PUBLIC ART PROVISIONS OF THE LARGE-SCALE RETAIL
DEVELOPMENT DESIGN STANDARDS TO ALLOW THE PUBLIC ART OPTION TO
BE SATISFIED THROUGH A PAYMENT-IN-LIEU FOR PUBLIC ART OFF-SITE

Be it ordained by the City Council of the City of Winston-Salem, North Carolina, that the
Unified Development Ordinances is hereby amended as follows:

Section 1. Chapter B, Article III – Section B.3-12 Large-Scale Retail Developments, Subsection
B.3-12.1(D) Façade Treatments, is hereby amended as follows:

(5) Public Art — Building. To further create an individual identity to the
community, artistic detailing such as tile work, murals, sculptures, and similar features,
which are integrated into the design of the structure are encouraged. If tile work or
murals, or similar detailing on the building is used, it must cover at least twenty percent
(20%) percent of that facade, which is not devoted to the entrance area(s). In lieu of
installation of public art directly by the developer, the developer may elect and is
encouraged to have a local arts organization coordinate the selection, placement and
installation of the public art as required in this subsection:

(a) One percent (1%) of the construction cost, as determined by the value of
the building permit, for the subject property shall be allocated and used to
purchase and install public art for the building(s).

(b) Calculation of the construction cost shall be verified by the Inspections
Department.

(c) The following expenses may be included in the public art allocation:

(i) The artwork itself, including the artist's fee for design,
structural engineering and fabrication;

(ii) Transportation and installation of the work at the site;

(iii) Identification plaques; and

(iv) Mountings, anchorages, containment, pedestals, bases or
other materials necessary for the installation of the artwork;

(d) The following expenses shall be excluded from the public art allocation:

(i) The cost of locating the artist;

(ii) Architect and landscape architect fees;
(iii) Land costs;
(iv) Landscaping, utility connections and fees associated with activating the artwork; and
(v) Publicity, public relations, photographs or dedication ceremonies.

(6) **Public Art — Site or Off-Site.** To further create an individual identity to the community, artistic detailing shall be integrated into the design of the site. In addition to sculpture, innovative locations for public art, such as at the architectural entrance to the site are encouraged. In lieu of installation of public art directly by the developer, the developer may elect and is encouraged to have a local arts organization coordinate the selection, placement and installation of the public art as required in this subsection. In lieu of placement on the site, the developer may make a payment-in-lieu to the City for the Public Art Commission to use on public art projects. The requirements of the subsection are:

(a) One percent (1%) of the construction cost, as determined by the value of the building permit for the subject property shall be allocated and used to purchase and install public art for the site.

(b) Calculation of the construction cost shall be verified by the Inspections Department.

(c) Expenses set forth in subparagraph Section B.12-1(D)(5)(c) may be included in the public art allocation.

**Section 2.** This ordinance shall be effective upon adoption.
APPROVAL
STATEMENT OF CONSISTENCY WITH COMPREHENSIVE PLAN
UDO TEXT AMENDMENT 278 AMENDING CHAPTER B, MODIFYING THE PUBLIC
ART PROVISIONS OF THE LARGE-SCALE RETAIL DEVELOPMENT DESIGN
STANDARDS TO ALLOW THE PUBLIC ART OPTION TO BE SATISFIED THROUGH A
PAYMENT-IN-LIEU FOR PUBLIC ART OFF-SITE

The proposed UDO Text Amendment 278 ("Text Amendment") amending Chapter B of the UDO
to allow a payment-in-lieu-option for public art is consistent with the Legacy Comprehensive Plan
and approval of the Text Amendment is reasonable and in the public interest because said Text
Amendment, if approved, will provide more flexibility to the developer while ensuring that public
art can be enjoyed by a broader audience.