

ACTION REQUEST FORM

DATE: April 19, 2017
TO: The Honorable Mayor and City Council
FROM: A. Paul Norby, FAICP, Director of Planning

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

**CITY-COUNTY PLANNING BOARD
PUBLIC HEARING
MINUTES FOR UDO-278
APRIL 13, 2017**

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

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 façade, 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.