

STAFF REPORT

DOCKET # UDO-239

STAFF: [Aaron King](#)

REQUEST

A UDO Text Amendment proposed by City County Planning Board staff to amend Chapter D of the *Unified Development Ordinances* to eliminate the requirement for lienholder authorization of subdivision approval (UDO-239).

BACKGROUND

As part of the subdivision review process, the UDO requires that lienholders (when applicable) must grant their consent for the property owner to subdivide their property as intended. This requirement has been in the UDO since its creation in 1995. It is unclear why this requirement was added to the UDO; however, it could be assumed that the intent was to make lienholders aware of a pending subdivision action.

ANALYSIS

Staff recently began to re-evaluate the requirement for lienholder authorization when multiple surveyors questioned its need. Surveyors also expressed that this requirement caused additional time and expense for their clients during the approval process. It does not appear the requirement for lienholder authorization provides any benefit/protection for the City and County. Staff checked with surrounding municipalities and counties and found that no other planning office had this requirement. As part of the evaluation process, staff consulted with the City and County Attorney's offices- both offices concurred that removing this requirement from the UDO was logical. As a matter of reference, the UDO does not require lienholder authorization for rezonings or special use permits; both of which could be far more impactful on a piece of property than a subdivision.

Staff believes that removing the lienholder authorization requirement will make the subdivision review process much quicker and less burdensome on the applicants. At the same time, staff does not predict any negative consequences from the removal of this requirement.

Note: This requirement is located within Chapter D (Subdivision Regulations) of the UDO. The City-County Planning Board is the final approval authority for amendments to Chapter D.

RECOMMENDATION

APPROVAL

UDO-239

A UDO TEXT AMENDMENT PROPOSED BY CITY-COUNTY PLANNING BOARD STAFF TO AMEND CHAPTER D OF THE *UNIFIED DEVELOPMENT ORDINANCES* TO ELIMINATE THE REQUIREMENT FOR LIEN HOLDER AUTHORIZATION OF SUBDIVISION APPROVAL.

Be it ordained by the City-County Planning Board of Winston-Salem/Forsyth County, North Carolina, that the *Unified Development Ordinances* is hereby amended as follows:

Section 1. Chapter D, Subdivision Regulations, D.2.(D)(1)(b) of the UDO is amended as follows:

Chapter D – Subdivision Regulations

2. SUBDIVISIONS EXEMPTED BY STATE LAW OR COURT JUDGEMENTS

(D) Recording Minor Subdivision Plats

- (1) **Statement.** No subdivision shall be granted final approval until Planning staff has received a statement duly acknowledged before some officer authorized to take acknowledgment of deeds and signed and executed by each owner of the property and the owner's spouse, if any, (the word *owner* used herein is defined to include private corporations) to the effect that:
- (a) The subdivision plan and land shown on the final plat is made with the owner's free consent and in accordance with the owner's desires;
 - ~~(b) The property shown on the plat is not encumbered by a recorded deed of trust or mortgage or by a judgment rendered by any court. (If the property is encumbered by a recorded deed of trust or mortgage, a duly acknowledged statement containing the consent of the trustee and the holder of the lien shall be submitted. Proof of the satisfaction and discharge of any judgment shall be shown).~~
Reserved.

Such statements shall, after examination by Planning staff, be recorded on a separate document with the final plat or shall be shown on the face of the final plat which is recorded in the office of the Register of Deeds (see Planning staff for copies of appropriate dedication statements).

Section 2. Chapter D, Subdivision Regulations, D.4.(H)(2)(h) of the UDO is amended as follows:

Chapter D – Subdivision Regulations

4. MAJOR SUBDIVISIONS

(H) Recoding Final Plats

(2) Required Information and Certifications.

(h) **Statement.** No subdivision shall be granted final approval until Planning staff has received a statement duly acknowledged before some officer authorized to take acknowledgment of deeds and signed and executed by each owner of the property and the owner's spouse, if any, (the word *owner* used herein is defined to include private corporations) to the effect that:

- (i) The subdivision plan and land shown on the final plat is made with the owner's free consent and in accordance with the owner's desires;
- (ii) The dedication of streets or roads shown on the plat is freely offered to the public for public use;
- (iii) ~~The property shown on the plat is not encumbered by a recorded deed of trust or mortgage or by a judgment rendered by any court. (If the property is encumbered by a recorded deed of trust or mortgage, a duly acknowledged statement containing the consent of the trustee and the holder of the lien shall be submitted. Proof of the satisfaction and discharge of any judgment shall be shown).~~
Reserved.

Such statements shall, after examination by Planning staff, be recorded on a separate document with the final plat or shall be shown on the face of the final plat which is recorded in the office of the Register of Deeds (see Planning staff for copies of appropriate dedication statements).

Section 3. This ordinance shall be effective upon adoption.