

ACTION REQUEST FORM

DATE: March 17, 2010
TO: The Honorable Mayor and City Council
FROM: A. Paul Norby, FAICP, Director of Planning

COUNCIL ACTION REQUEST:

Request for Public Hearing on Zoning Text Amendment proposed by City County Planning Board staff

SUMMARY OF INFORMATION:

Text Amendment proposed by City County Planning Board staff to amend Chapter B of the *Unified Development Ordinances* to revise language relating to perimeter bufferyards in Planned Residential Developments (UDO-215).

PLANNING BOARD ACTION:

MOTION ON PETITION: APPROVAL
FOR: WESLEY CURTIS, ARNOLD KING, ARTHUR KING,
CLARENCE LAMBE, LYNNE MITCHELL, PAUL
MULLICAN,
AGAINST: BRENDA SMITH
SITE PLAN ACTION: NOT REQUIRED

STAFF REPORT

DOCKET # UDO-215
STAFF: [Kirk Ericson](#)

REQUEST

This text amendment is proposed by City-County Planning Board staff to Amend Chapter B of the *Unified Development Ordinances* (UDO) to revise language relating to perimeter bufferyards in Planned Residential Developments (PRDs).

BACKGROUND

The PRD ordinance was comprehensively revised in 2007 to place greater focus on the quality of open space being preserved within these developments. One provision of the revised PRD ordinance required a thirty foot wide bufferyard between new PRDs and adjacent residential zoning, where the lots within the PRD did not meet the area and dimensional requirements of the underlying zoning district. This provision was agreed on by both neighborhood advocates and the homebuilders and realtors association during the 2007 ordinance revision process.

As a result of the current slow-down in the real estate and construction industry, staff has reviewed few PRDs since the revised ordinance was adopted. While reviewing a recently proposed PRD site plan, City-County Inspections staff examined the current bufferyard provision and believed it to be unenforceable as currently written. The City Attorney's office agreed with Inspections that revised language was necessary, and helped Planning staff develop the revised ordinance language included in this text amendment.

ANALYSIS

The revised PRD ordinance language does not change the overall intent of the 2007 ordinance language. In the 2007 ordinance, thirty foot buffers were only required along sections of the PRD perimeter which were adjacent to lots within the PRD which did not meet the area and dimensional requirements of the underlying zoning district. Through conversation with the City Attorney's office, an easier to understand and more enforceable provision would be to require a thirty foot buffer around the entire perimeter of the PRD if any of the outermost lots within the PRD are substandard to minimum area and dimensional requirements.

Adoption of this text amendment is necessary for the thirty foot bufferyard component of the ordinance to be enforceable. This provision is essential in ensuring the development of PRDs which are positively integrated with surrounding residential neighborhoods. Staff recommends approval of this amendment.

RECOMMENDATION

APPROVAL

Kirk Ericson presented the staff report.

PUBLIC HEARING

FOR: None

AGAINST: None

WORK SESSION

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

1. Clarence Lambe: I think PRD's are definitely not integrated with developments around them and are made more exclusionary by having the perimeter buffer around them. I understand why we're suggesting it, but I have a problem in principle with putting a "fence" around these PRDs. Kirk Ericson responded that staff did not address that issue of whether a PRD should have a buffer at all. We were simply trying to address the rationale for the PRD open space and buffer revisions in 2007 and make that language more workable as per the concerns of Inspections and the Attorney's office.
2. Clarence Lambe: The complaint we always get is from the surrounding conventional size lot owners who don't want to see into this subdivision with smaller lots. Paul Norby: That is the complaint we've heard at Council meetings and also a complaint some citizens have made to County Commissioners.
3. Paul Mullican: Is this bufferyard going to be maintained by the PRD Homeowners' Association? Clarence Lambe: This is another thing I have a real problem with because how do you enforce it? We are constantly imposing conditions on corporations which may go defunct. Paul Norby: The flip side of that is when it's incorporated into each and every lot then the homeowner may not be aware of the requirement and may go clear the area out of their own initiative. Having to do piecemeal enforcement makes it very difficult for Inspections to do. Having a unified control really helps with that.
4. Paul Mullican: For smaller associations of homeowners, the buffer will probably be placed on "common ground". However for larger lots it would be on private ground.
5. Paul Norby: In a PRD the lots are smaller than the prevailing zoning requirement. The open space required for the PRD would actually be more than just the peripheral buffer right? Kirk Ericson stated that there would still be open space requirements and that the bufferyard would count as some of that space requirement. Paul Norby stated that the buffer would not be the only responsibility for the Homeowners' Association because there would be other open space which they would be required to maintain.

6. Brenda Smith: One of the things you're trying to balance out is that you have the larger lots but are trying to reduce those by this buffer is you're changing the value of the PRD to the developer somewhat. Why have to put a physical dimension to define the lot line? Kirk Ericson said that people usually put smaller lots in PRDs and it's very rare to see larger lots. The entire purpose of the PRD is to provide more use of the land than might be possible under a conventional subdivision.
7. Arnold King: What we have in the ordinance right now is something that we can't enforce so we need to clean it up and get something we can enforce. That's what staff has proposed to us.
8. Clarence Lambe: Can you meet all your open space requirement with the bufferyard? Kirk Ericson: You could not because 15% of open space has to be active open space

MOTION: Clarence Lambe moved approval of the zoning text amendment.

SECOND: Arthur King

VOTE:

FOR: Wesley Curtis, Arnold King, Arthur King, Clarence Lambe, Lynne Mitchell, Paul Mullican

AGAINST: Brenda Smith

EXCUSED: None

Written Comments Submitted by Planning Board Members:

Brenda Smith: Against

- 1) bufferyard between PRD lot and adjacent lot requires more for PRD than for other similar situations.
- 2) having to add bufferyard on "larger" PRD lots may take away incentive to have a diversity of lot sizes within the development.

I do not think this is the best alternative to solving the enforcement difficulty in defining where bufferyards would and would not be required. Bufferyard information would be recorded on the approved PRD and on deeds.

A. Paul Norby, FAICP
Director of Planning

UDO-215
AN ORDINANCE AMENDING
CHAPTER B OF THE *UNIFIED DEVELOPMENT ORDINANCES*
TO REVISE LANGUAGE RELATING TO PERIMETER BUFFERYARDS IN
PLANNED RESIDENTIAL DEVELOPMENTS

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 II – Zoning Districts, *Official Zoning Maps*, and Uses is hereby amended as follows:

Chapter B - Zoning Ordinance
Article II - Zoning Districts, *Official Zoning Maps*, and
Uses

2-5 USE CONDITIONS

2-5.60 PLANNED RESIDENTIAL DEVELOPMENT

(H) Development Standards

(7) Lot Dimensional Requirements and Spacing of Structures.

- (j) ~~Minimum Perimeter Lot Size. Perimeter lots within PRDs which are adjacent to existing single family zoning shall meet the minimum lot area and dimensional requirements of the underlying zoning district. Where perimeter lots in PRDs do not meet the minimum lot area and dimensional requirements of the underlying zoning district, a minimum thirty (30) foot type II Bufferyard is required between these lots and the adjacent single family zoning. Fifty percent (50%) of the bufferyard plantings required in Table B.3.15 shall consist of evergreen plants, with the remaining fifty percent (50%) consisting of deciduous trees. Additionally, the bufferyard plant spacing requirements of Section B.3.5.3(B)(2) shall not apply here. This bufferyard must be located on commonly owned land and shall be considered Passive Open Space as described in Section B.2.5.60(H)(9)(b)(ii). Where any individual lot in the PRD does not meet the dimensional and area requirements of the underlying zoning district and abuts existing single family zoning, the aforementioned bufferyard shall be required along the entire length of the PRD that abuts the existing development. The provisions of this section shall not apply to perimeter lots within PRDs which are adjacent to existing PRDs.~~

- (j) Perimeter Bufferyard. A minimum thirty (30) foot bufferyard, adjacent to the PRD perimeter on commonly owned land, is required between outermost lots within PRDs and an adjacent single family zoning district. This bufferyard shall include five (5) evergreen and five (5) deciduous plants meeting the size requirements of Section B.3-5.3(B)(1), per one hundred (100) linear feet. The bufferyard plant spacing requirements of Section B.3-5.3(B)(2) shall not apply. This bufferyard shall be considered Passive Open Space as described in Section B.2-5.60(H)(9)(b)(ii). This section shall not apply: (1) subject to the requirements of Section B.2-5.60(H)(9)(b)(iii), to outermost PRD lots which are adjacent to existing PRDs, to existing streets, or to proposed streets within the PRD; and (2) where all of the outermost lots within the PRD meet the minimum lot area and dimensional requirements of the underlying zoning district.

Section 2. This ordinance shall be effective upon adoption.