

January 20, 2010

Windsor Contracting, LLC  
c/o Mike Sears  
P. O. Box 9205  
Greensboro, NC 27429

RE: ZONING TEXT AMENDMENT UDO-212

Dear Mr. Sears:

The attached report is sent to you at the request of the City-County Planning Board.

The Planning Board approved the text amendment on Thursday, January 14, 2010.  
Copies of the staff report and the approved ordinance are attached.

Sincerely,

A. Paul Norby, FAICP  
Director of Planning

Attachment

## STAFF REPORT

DOCKET # UDO-212

STAFF: [David Reed](#)

### REQUEST

UDO text amendment proposed by Windsor Contracting, LLC to amend Chapter D (Subdivision Regulations) of the *Unified Development Ordinances* regarding the platting requirements for multifamily developments.

### BACKGROUND

In June 2005 the Planning Board adopted UDO 136 in an effort to improve the coordination of the development review process and ensure public safety and the responsible use of public resources as properties are being developed. UDO 136 eliminated the option to post sureties for all but a small number of final improvements. When those requirements became effective in August 2005, a number of issues that negatively impacted development transactions became apparent. In April 2006 the Planning Board adopted UDO 154 to allow a greater opportunity for the posting of sureties while maintaining adequate life safety protection during development. The major difference in UDO 154 was that nonresidential sites could be developed as one construction project rather than requiring the infrastructure be in place prior to the issuance of individual building permits. The subject request would allow multifamily developments to be treated like nonresidential developments in regard to the timing of the infrastructure.

### ANALYSIS

The subject request to include multifamily developments with nonresidential developments for the purpose of platting was sent to Planning staff in advance of the formal submittal for review and feedback. Planning staff, which includes the Address Coordinator, met with Emergency Services and both City and County Fire Departments to discuss the proposal. After discussion, the representatives from those departments were comfortable with the proposed change provided language was included to clarify their requirements for site accessibility and public water availability. The proposed language began with the petitioner's request to simply include multifamily with the nonresidential platting requirements and was modified to include the language proposed by Emergency Services and the Fire Departments. Other clarifications proposed by Planning staff are also included relating to terminology.

The amendment appeared to meet the requirements of Section B.6-2.1(E) of the UDO relating to the waiver of fees for text amendments because it had general applicability to similar situations beyond those experienced by the petitioner. Accordingly, the Planning Director recommended to the Planning Board that the fees be waived and the Planning Board waived the fees at their December 10, 2009 meeting.

### RECOMMENDATION

### APPROVAL

David Reed presented the staff report.

**PUBLIC HEARING**

FOR:

Mike Sears, 4910 Century Oaks Lane, Winston-Salem, NC 27106

- We are the contractor for a new apartment complex. We had trouble with obtaining building permits.
- On this particular project we had a 3-4 month delay which cost a couple hundred thousand dollars.
- We appreciate your help.

AGAINST: None

**WORK SESSION**

MOTION: Wesley Curtis moved approval of the zoning text amendment.

SECOND: Paul Mullican

VOTE:

FOR: Wesley Curtis, Arnold King, Arthur King, Clarence Lambe, Darryl Little, Lynne Mitchell, Paul Mullican, Brenda Smith

AGAINST: None

EXCUSED: None

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A. Paul Norby, FAICP  
Director of Planning

**UDO-212**  
**AN ORDINANCE PROPOSED BY WINDSOR CONTRACTING, LLC**  
**AMENDING CHAPTER D OF THE *UNIFIED DEVELOPMENT ORDINANCES***  
**TO AMEND THE PLATTING REQUIREMENTS**  
**FOR MULTIFAMILY DEVELOPMENTS**

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, Article IV of the UDO is amended as follows:

## **Chapter D – Subdivision Regulations**

### **Article IV – Major Subdivisions**

#### **4. Major Subdivisions**

**(C) Approval Process for Preliminary Subdivision Approval**

The following is the process for preliminary subdivision approval:

- (1)** Applications shall be submitted by the owner or owner’s agent in the office of the Planning Board at least thirty-one (31) calendar days before the next regularly scheduled monthly meeting. The Planning Board shall act on the preliminary subdivision plat within a reasonable period of time, but shall not exceed ninety (90) days from the date of application without the written consent of the subdivider.
- (2)** Applications for preliminary subdivision approval shall be reviewed by the Planning staff site plan committee, the interdepartmental site plan committee, and/or the Planning Board site plan subcommittee. These committees shall forward a recommendation to the Planning Board for consideration at its monthly public hearing.
- (3)** Modifications to the original preliminary subdivision plat may be required by Planning staff prior to the Planning Board meeting. Revised plats must be received ~~no later than two (2) days prior to the Planning Board meeting~~ by the date shown on the Planning Board Calendar of Significant Dates so that the plans can be reviewed, prepared and distributed for the meeting.
- (4)** The Planning Board shall give careful study to the preliminary subdivision plat taking into consideration the applicable recommendations of *Legacy*, the plans of the jurisdictions, requirements of the community and the best possible use of the land to be subdivided, together with the prospective character, whether residential, business, or industrial. Attention shall be given to street widths, arrangement, and circulation, surface drainage and sanitation, lot sizes and arrangement, and, if acceptable to the jurisdiction, neighborhood and community requirements such as parks, schools, and playgrounds.

**(H) Recording Final Plats**

The final or record subdivision plat shall be prepared and submitted to Planning staff by the owner or owner's agent and recorded in the office of the Register of Deeds within two (2) years after the approval of the preliminary subdivision plat by the Planning Board or an extension of preliminary subdivision approval as provided in Section D.4(E) or a revised preliminary subdivision approval as provided for in Section D.4(F) must be granted. Plat(s) will be signed by Planning staff when all the following requirements have been met:

- (1) Conformance of Final Plat.** The final plat shall conform to the preliminary subdivision plat and the conditions as approved by the Planning Board, the recording requirements of State law and shall meet the requirements as listed in Chapter 1235, 1959 Session Laws (General Statutes 47-30 as amended) General Assembly of North Carolina.
- (2) Required Information and Certifications.** Final plats will not be signed by Planning staff until all of the following information or certifications are received, if applicable:
  - (a) Street and Utilities Improvements. No final plat shall be approved by Planning staff until the compliance with the requirements of NCDOT standards or the *Infrastructure Development Standards* developed by the Engineering Division of the City of Winston-Salem Department of Public Works has been certified to the Planning staff by the Assistant City Manager – Public Works, City Engineer, and/or the District Engineer of the North Carolina Department of Transportation.
  - (b) Plat Recordation: Residential (Single Family; Duplex; Twin Home; Triplex; and Townhouse ~~and Multifamily~~)

Prior to Recordation of Plat

- (i) Construction plans for infrastructure (public and private) approved by ~~City Engineer and Utilities Director~~ the appropriate jurisdiction, and
- (ii) Complete all utilities (unless City-County Utilities Director has agreed to surety in lieu of construction for off-site sewer outfalls), drainage, curbing, stone base and street signs to be in place and functioning. In lieu of placing first/bottom layer of asphalt, developer shall protect manholes, inlets, pipes, valves, hydrants, and curb during building construction, and
- (ii) Detailed estimate of incomplete infrastructure, based on approved plans in [i] above, prepared by the design engineer and approved by the ~~City Engineer~~ holder of the surety, and
- (iv) Form and conditions of surety for incomplete infrastructure approved by the City Attorney to be held until final acceptance of streets, drainage, and utilities.

NOTE: For ~~Duplex; Triplex; Townhouse; and Multifamily~~ development, two stage platting will be allowed. The final plat will verify common wall and infrastructure as-built locations.

(c) Plat Recordation: Non Residential and Multifamily:

- (i) Construction plans for infrastructure (public and private) approved by ~~City Engineer and Utilities Director~~ the appropriate jurisdiction, and
- (ii) Detailed estimate, for incomplete infrastructure construction, based on approved infrastructure construction plans in [i] above prepared by the design engineer and approved by the ~~City Engineer~~ holder of the surety and
- (iii) Form of surety for all or incomplete infrastructure approved by City Attorney to be held until final acceptance of streets, drainage, and utilities.

(d) Certificate of Occupancy: Residential (Single Family; Duplex; Twin Home; ~~Triplex; and Townhouse and Multifamily~~), and Non Residential and Multifamily:

- (i) Complete sidewalks, if required, or repairs to sidewalks damaged during construction, and
- (ii) Install street trees, if required, and
- (iii) Install driveway from street with a smooth and level transition from the sidewalk, if provided across the driveway, and
- (iv) Complete street to the building/lot including in front of the subject building/lot with at least the first/bottom layer of asphalt on public and private streets (not parking lots or access easements).

NOTE: Sections D.4.(H)(2)(d)(i)–(iv) will be verified by the City-County Inspections Division with final acceptance and approval to be verified by the ~~City Engineering Division~~ appropriate jurisdiction during the Final Street and/or Utility Acceptance procedures of Section D.4(H)(2)(e).

(e) Final Street and/or Utility Acceptance: Residential (Single Family; Duplex; Twin Home; ~~Triplex; and Townhouse; and Multifamily~~), and Non Residential and Multifamily:

- (i) Design Engineer Certification approved by the ~~City Engineer~~ appropriate jurisdiction. Certification statement shall be placed on each sheet of the record drawings and shall include all public and private streets, drainage, water and sewer infrastructure on the approved construction plans, and

- (ii) Infrastructure Record Drawings approved by City of Winston-Salem Engineering Division Records Center. These record drawings will include all “as-constructed” location, size, length, slope, invert/top elevations, and pipe material used. The record drawings shall also include phases/sections (current and previous), street names, lot lines, lot numbers, addresses, street rights-of-way, and easements (on and off-site) as approved and/or as recorded, and
- (iii) All public and private infrastructure completed and accepted by the ~~City of Winston-Salem Engineering Division~~ appropriate jurisdiction.
- (f) The developer ~~of~~ or design engineer shall, based upon the approved infrastructure plans and in accordance with the Infrastructure Development Standards, prepare a detailed, unit price cost estimate to complete the approved infrastructure for submittal to the ~~City Engineer~~ holder of the surety for review and approval. To this approved estimate shall be added a minimum 25% contingency plus an amount estimated by the City Engineer to reimburse the City for its administrative costs to process the completion of the approved infrastructure. The amount of surety posted shall not be less than the sum of the estimated infrastructure costs, the contingency amount, and the estimated administrative enumerated above. The surety shall be satisfactory to the attorney of the jurisdiction as valid, sufficient and enforceable. Such surety shall be conditioned upon the performance of all work necessary to make the specified improvements within a stipulated period not to exceed two (2) years from the date of the surety. Such surety shall provide that an action may be instituted by the jurisdiction for breach of any term(s) or condition(s) upon failure of the principal to perform the obligation(s) in all respects within one year from the end of the stipulated period during which the work required is to be performed. A bond, an irrevocable letter of credit issued by a bank in a form approved by the Attorney of the jurisdiction or a deposit of funds in escrow may be accepted under the same terms and conditions applicable to sureties. The bond, letter of credit, or deposit may be released by the jurisdiction when the specified improvements covered by the bond have been completed and approved by the Director of Public Works as being in accordance with the jurisdiction’s standards and specifications. Notwithstanding the above requirements, if a development is financed in whole or in part through aid from the Federal Housing Authority or another agency of the federal or State governments, and said federal or State agency requires the filing of performance and payment bonds to insure completion of the specified improvements in accordance with approved plans, the filing of said performance and payment bonds is to be accepted in lieu of the sureties describe above, so long as the local jurisdiction is named as a beneficiary of the surety posted.

- (g) Private Utilities. No final plat shall receive approval unless the following private utilities have either been constructed or approved plans prepared and, if applicable, the execution guaranteed by a good and sufficient surety as discussed in Section D.4(H)(2):
- (i) For all subdivisions which propose to use private water systems or private septic systems, those facilities shall be installed in conformance with the standards of the Public Health Department. For private septic systems, lots will be approved only if they are at least twenty thousand (20,000) square feet in area and have been certified in writing by the Public Health Department to be *Provisionally Suitable* or *Unsuitable* for on-site sewage disposal. Larger lot sizes may be required by other local or state land regulatory ordinances.
- (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).

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).

- (i) Platting Urban Residential Buildings. Urban residential buildings with all units retained in common ownership may be platted without individual units defined.
- (j) Floodway and Floodway Fringe. All floodway or floodway fringe areas and base flood elevations shall be accurately delineated and identified on the final plats according to the Federal Emergency Management Agency (FEMA) maps, where available.

- (k) Wetlands. Any areas delineated by the United States Army Corps of Engineers as *Wetlands* shall be accurately identified on the final plat.
- (l) Utility or Other Easements. All public or private utility easements, drainage easements, sight distance easements, and, if contemplated in the development, sign easements for subdivision markers shall be shown on the final plat.
- (m) Greenway or Other Public Easements or Dedication of Public Lands. Any greenway or other public easements or fee simple dedication of public lands or public right-of-way required as a condition of preliminary subdivision approval shall be accurately delineated on the final plat.
- (n) Existing Trees to be Retained. Any existing trees to be retained shall be shown on the final plat and protected in accordance with Section D.4(B)(4)(h).
- (o) Statements of Fact. Any statements of fact required in Section D.4(B)(4)(i) and made a condition of preliminary subdivision approval, shall be shown on the final plat. Any statements of fact which may become obsolete or are no longer required for public notification, may be removed by Planning staff from the final plat after notification of the Planning Board. A new final plat must be recorded to remove these statements of fact.
- (p) Street Traffic Signs. Street traffic signs (e.g., stop signs, etc.) shall be installed in accordance with the specifications of either the Public Works Department of the City of Winston-Salem or the North Carolina Department of Transportation, whichever is the appropriate agency, prior to signing final plats.
- (q) Street Name Signs. Street name signs shall either be installed in the subdivision in accordance with the specifications of the Traffic Maintenance Division of the City Department of Transportation or provisions made with staff for the installation of said signs prior to signing final plats.

(Note: In subdivisions in applicable areas in Forsyth County, the owner or the owner's agent must install the street signs).

- (r) Subdivision Phasing and Illogical Phasing Determinations by Planning Staff. The final plat shall represent the full plan of development for the subdivision or the subdivision may be developed in phases or sections. If developed in phases or sections, each plat shall denote phase or section numbers in numerical order as the subdivision is developed. The Planning staff may determine that a phase or section of the development is illogical due to its proximity to adjoining property or for other valid reasons. The reasons for any illogical phasing determination by the Planning staff must be stated to the owner or owner's agent. The owner or owner's agent may appeal the Planning staff's illogical phasing determination to the Planning Board in accordance with Section D.1(K).

- (s) Public Recordation of landfill. Any portion of a site used for a landfill.
- (t) Tax pin numbers must be shown on the final plat.
- (u) Street addresses must be shown on the final plat.
- (v) Minumum infrastructure for Non Residential and Multifamily Plats. A twenty foot (20') wide roadway designed to support 75,000 pounds with a Fire Department approved turnaround shall be installed and either a temporary or permanent water line shall be installed to the requirements of the Fire Department prior to signing final plats.

**Section 2.** This ordinance shall become effective upon adoption.