

STAFF REPORT

DOCKET #: UDO 167

STAFF: David Reed

REQUEST

Zoning text amendment proposed by the City Engineering Department and Planning staff to amend Chapter D Subdivision Regulations of the *Unified Development Ordinances* relating to platting requirements.

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. Although most of the changes made to the platting process proved to work well, some adjustments were warranted to the specific requirements relating to the posting of sureties. As a result UDO 154 was adopted in April 2006 which modified the posting of sureties in regards to the differences between commercial and residential developments.

All of the changes to the Subdivision Regulations in the two Text Amendments cited above dealt with Major Subdivisions. Through the development of UDO 136 it became apparent that Minor Subdivision Review would also need to be updated for many of the same life safety reasons that were cited with major subdivision review. At present, Minor Subdivisions can be approved either by recording a summary plat or by recording a deed with a metes and bounds property description. The public safety departments for the city and county continue to have serious concerns about their ability to adequately serve properties approved through the Minor Subdivision review process. As a result, Planning staff modified the policies for Minor Subdivision review to include a requirement that lots being created on a private access easement serving two or more lots be reviewed by the Health Department if the site does not have access to public sewer or is in a Water Supply Watershed, by the City Engineer if the site is within the City of Winston-Salem, and by either the City or County Fire Department.

Additionally problematic to the existing process Planning staff must also review deeds which has proven to be a time consuming task, often involving multiple exchanges with the attorney's office regarding typographical errors. Although property owners are choosing the Summary Plat option, there are still several hundred deeds reviewed and approved each year. This requires that the survey be converted into a metes and bounds description, which then requires the Planning staff to review the written description and compare it to the survey. Due to Planning staff not having or being required to have a legal background, this added step is highly subject to errors in both the writing and editing of the description.

ANALYSIS

The modification in policy spoken of earlier that requires public safety agencies to sign a signature block on the face of the survey being prepared for the Minor Subdivision process has been in effect for over a year. Because this level of review is already occurring, moving to a plat format with signature blocks is an appropriate transition and is actually expected to facilitate the applicant in both time and convenience.

Removing the staff review component of metes and bounds descriptions and moving to a plat review format is also a more efficient use of staff resources. Numerous deeds are re-recorded (after being re-reviewed) to correct errors made through this process. By requiring Minor Subdivisions to be reviewed as plats, the entire process of converting the metes and bounds calls into a written description is eliminated. Planning staff can then focus on the more professionally appropriate task of reviewing plats rather than editing the work of those who write the metes and bounds descriptions.

This draft text amendment was presented to the Homebuilders Association of Winston-Salem and Winston-Salem Regional Association of Realtors as well as the Text Amendment distribution list. The Homebuilders and Realtors representative has indicated those organizations are agreeable to the amendment as drafted.

RECOMMENDATION

APPROVAL

Glynis Jordan presented the staff report.

PUBLIC HEARING

FOR:

Nancy Gould, Joint Government Affairs Director for Home Builders Association and Winston-Salem Regional Association of Realtors, 195 Executive Park Blvd., Winston-Salem, NC 27103

- The Home Builders have worked closely with Planning staff and I am here to commend them, especially on one item. Originally it was going to be a 15 day review process. It was because of one department that just said they had to have 15 days. Planning staff got very creative and managed to get it down to 5 days. We can live with that.
- Just wanted to say thank you to Planning staff for going that extra mile and finding creative ways of finding compromises there.
- The only other concern that the Home Builders had was a worry that as more departments look at these while they did not look so closely at Deeds, that more strict requirements might be put on. Russell Byrd has guaranteed that won't happen, but we'll probably want to report back to you in about six months if there are problems. We'll also talk to staff. We're hoping there won't be problems. We agree that this is a good professional step forward for our community.
- We are not against this at all.

AGAINST: None

WORK SESSION

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

1. Fees will remain the same. Ms. Gould stated that they have compared prices for the plat and they will range from \$150 - \$300 upwards for complicated plats. Since surveys are already required, it's not that much of a difference. Mr. Lambe disagreed and expressed the opinion that the price would be substantially more. Ms. Jordan indicated a lot of research had gone into the cost analysis and expressed that many more people are voluntarily asking for this process. Mr. Murphy noted that a survey is already required to be attached to a deed so the difference in cost is simply putting the survey on mylar. Aaron King noted that people bringing in multiple plats will be saving money by using this method rather than deeds which are charged per lot.

MOTION: Carol Eickmeyer moved approval of the zoning text amendment.

SECOND: Jerry Clark

VOTE:

FOR: Jerry Clark, Wesley Curtis, Carol Eickmeyer, Arnold King, Arthur King, Clarence Lambe, Paul Mullican, Brenda Smith

AGAINST: None

EXCUSED: None

A. Paul Norby, FAICP
Director of Planning

UDO-167
AN ORDINANCE AMENDING
CHAPTER D OF THE *UNIFIED DEVELOPMENT ORDINANCES*
TO MODIFY THE MINOR SUBDIVISION REGULATIONS

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

Section 1. Chapter D – Subdivision Regulations, Article 1.(K) is amended as follows:

(K) Appeal of Planning Staff Denial of Subdivision

The denial of any subdivision controlled under any section of these regulations by Planning staff as an administrative decision may be appealed to the Planning Board. The appeal request must be submitted to the Planning staff by the filing deadline of the next meeting of the Planning Board. Application requirements include a survey or drawing to scale of the appeal request, a letter explaining the reasons for the appeal request, and a fee of ~~fifty dollars (\$50)~~, payable to the City of Winston-Salem. If the application is complete, the appeal request will be placed on the next meeting of the Planning Board. The Planning staff will present a report and recommendation on the appeal request to the Planning Board at the meeting. The owner or owner's agent shall have a total of twelve (12) minutes to present the appeal request and the reasons for such request to the Planning Board. If the appeal request is denied, the Planning Board shall state the reasons under which the appeal request is ~~approved~~ denied. The Planning Board may require conditions of approval as deemed necessary.

Section 2. Chapter D – Subdivision Regulations, Article 2. is amended as follows:

(B) Approval Process

A subdivision exempted by State law or court judgments shall be presented to Planning staff at least ~~three (3)~~ five (5) working days prior to offering any portion for recording in the office of the Register of Deeds. Additional information may be needed by Planning staff to evaluate the proposed subdivision to see if the subdivision meets the requirements of this section. Once the additional information is received by Planning staff, the ~~three (3)~~ five (5) day review period will begin. If the subdivision complies with this section, Planning staff shall provide the approval in writing on the face of the deed or plat. Once the deed or plat has been approved, the owner or owner's agent may record the deed or plat in the office of the Register of Deeds.

(C) Application Requirements

The following are the application requirements for approval of subdivisions exempted by State law or court judgments:

- ~~(1) — Original deed for the property completely executed and ready for recording in the office of the Register of Deeds; or final plat (final plats require a review by Planning staff in accordance with Section D.4(H)(4);~~
- ~~(2) — Survey map of the lot(s) prepared by a surveyor licensed to practice Land Surveying in the State of North Carolina. No separate survey is required if a final plat is submitted; and,~~

- ~~(3) Application fee as adopted by the Planning Board per deed or plat payable to the City of Winston-Salem. Fee shall be paid to Planning staff after the deed or plat has been reviewed and approved.~~
- (1) Preliminary Review. Eight (8) paper print copies of the proposed final plat shall be submitted to the office of the Planning Board for preliminary review by Planning staff at least five (5) working days prior to the desired recording date. After the preliminary review, Planning staff will return to the applicant a copy of the proposed plat with any changes marked along with any other information needed to approve the final plat (see Section D.4(H)). The applicant shall return the marked copy to Planning staff when the final plat is brought in for recording to ensure all necessary corrections have been made. Verification that all necessary corrections have been made and stamping and signing of the verified final plat shall occur within one working day.
- (2) Final Plat. Two (2) archival mylar copies of the final plat shall be submitted for approval to the Planning staff. The final plat shall contain all the changes, corrections, and information required by Planning staff and shall conform to all the requirements of these regulations and any other recording requirements of local or State law.
- (3) Application Fee. Application fee as adopted by the Planning Board payable to the City of Winston-Salem shall be paid prior to Planning staff signing the final plat.

(D) Recording Minor Subdivision Plats

Plat(s) will be signed by Planning staff when all the following requirements have been met:

- (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).

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).

- (2) 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.
- (3) Wetlands. Any areas delineated by the United States Army Corps of Engineers as *Wetlands* shall be accurately identified on the final plat.
- (4) 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.
- (5) 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.
- (6) Street addresses must be shown on the final plat.

(E) Endorsement of Approval.

Upon approval of a final plat such approval shall be indicated by a statement to that effect on the print of the final plat with the signature of Planning staff. The approval statement shall read as follows:

MINOR SUBDIVISION PLAT APPROVAL

This is to certify that this plat meets the recording requirements of the Unified Development Ordinance Subdivision Regulations for Winston-Salem/Forsyth County.

I _____, Review Officer of Forsyth County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Approved _____
Director of Planning/Review Officer

This the ____ day of _____, 20__.

Forsyth County, North Carolina

(F) Signature Blocks.

Prior to approval of a minor subdivision plat the following statements shall be shown on the print of the final plat with the signature of the appropriate agency. The appropriate statements for a City or County plat shall be used and the statements shall read as follows:

City of Winston-Salem plats:

Certificate of the city engineer, as follows:

"I, _____, City Engineer, do hereby certify that the subject survey has been examined and found to comply with the engineering requirements set forth in the regulations governing subdivided land adopted by the Planning Board."

City Engineer

Certificate of the city fire department as follows:

"I, _____, Fire Marshal do hereby certify that the subject survey has been examined and found to comply with the fire prevention requirements set forth in this chapter governing subdivided land adopted by the City Council."

City Fire Marshal

Certificate of the city streets department as follows:

"I, _____, Director of Streets do hereby certify that the subject survey has been examined and found to comply with the street and stormwater requirements set forth in this chapter governing subdivided land adopted by the City Council."

Director of Streets

Certificate of the county fire department as follows:

"I, _____, Assistant Fire Marshal do hereby certify that the subject survey has been examined and found to comply with the fire prevention requirements set forth in this chapter governing subdivided land adopted by the county commission." Prior to any construction of structures on these lots, the following improvements shall be required for adequate fire protection and fire insurance coverage: A 20 foot wide all weather surface access road with overhead clearance of 13 feet 6 inches must be provided for fire apparatus access. If the road is over 150 feet long, an approved turnaround must be provided. Fire Hydrants must be within 1000 feet of dwelling. If public water is available at the adjoining street, you may be required to install a minimum of a 6 inch diameter water main with fire hydrants spaced every 700 feet.

Assistant County Fire Marshal

Section 3. Chapter D – Subdivision Regulations, Article 3.(C) is amended as follows:

(C) Approval Process

Approval for a minor subdivision shall be presented to Planning staff at least ~~three (3)~~ five (5) working days prior to offering any portion for recording in the office of the Register of Deeds. Additional information may be needed by Planning staff in order to evaluate the proposed subdivision to see if the subdivision meets the requirements of this section. Once the additional information is received by Planning staff, the review period will begin. If the minor subdivision complies with the standards in Section D.3(B), Planning staff shall provide the approval in writing on the face of the ~~deed or~~ plat. Once the ~~deed or~~ plat has been approved, the owner or the owner's agent may record the ~~deed or~~ plat in the office of the Register of Deeds.

Section 4. Chapter D – Subdivision Regulations, Article 3.(D) is amended as follows:

(D) Application Requirements

The following are the application requirements for approval of minor subdivisions; ~~are the same requirements as for subdivisions exempted by State law or court judgments in Section D.2(C).~~

Section 5. Chapter D – Subdivision Regulations, Article 3.(E) is amended as follows:

(E) Minor Subdivision Exception Requests

An exception request to the minor subdivision regulations may be submitted to the Planning Board for approval. Application requirements shall be the same requirements specified in Section D.1(K). In addition to the application requirements specified in Section D.1(K), the owner or owner's agent shall state the hardship as it relates to the property for the exception request. Financial hardships will not be considered by the Planning Board. The scheduling of the exception request and the hearing procedures for

the Planning Board meeting are the same requirements as specified in Section D.1(K). If the exception request is denied, the Planning Board shall state the reasons to the owner or owner's agent. If the exception request is approved, the Planning Board shall state the hardship under which the exception request is approved to the owner or owner's agent. In approving the exception request, ~~the Planning Board may require that~~ the land involved in the exception request shall be recorded on a final plat in the office of the Register of Deeds with a statement limiting future subdivision of the property without Planning Board approval. The Planning Board may require other conditions of approval as deemed necessary.

Section 6. Chapter D – Subdivision Regulations, Article 4.(H)(3) is amended as follows:

- (3) **Endorsement of Approval.** Upon approval of a final plat such approval shall be indicated by a statement to that effect on the print of the final plat with the signature of Planning staff. The approval statement shall read as follows:

~~FINAL SUBDIVISION PLAT APPROVAL~~

~~This is to certify that this plat meets the recording requirements of the *Subdivision Regulations* for Winston-Salem/Forsyth County and, if applicable, that a certificate of approval has been issued by the Division of Highways pursuant to Article 7, Chapter 136 of the General Statutes, State of North Carolina.~~

This the ____ day of _____, 19__.

(Signed) Director of Planning

Planning Department/Review Officer
Final Subdivision Plat Approval

This is to certify that this plat meets the recording requirements of the Unified Development Ordinance Subdivision Regulations for Winston-Salem/Forsyth County.

I _____, Review Officer of Forsyth County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Approved _____
Director of Planning/Review Officer

This the ____ day of _____, 20__.

Forsyth County, North Carolina

Section 7. Chapter D – Subdivision Regulations, Article 4.(H)(4)(a) and (b) are amended as follows:

- (a) Preliminary Review. ~~Five (5)~~ Eight (8) paper print copies of the proposed final plat shall be submitted to the office of the Planning Board for preliminary review by Planning staff at least fifteen (15) working days prior to the desired recording date. After the preliminary review, Planning staff will return to the applicant a copy of the proposed plat with any changes marked along with any other information needed to approve the final plat (see Section D.4(H)). The applicant shall return the marked copy to Planning staff when the final plat is brought in for recording to ensure all necessary corrections have been made. Verification that all necessary corrections have been made and stamping and signing of the verified final plat shall occur within one working day.
- (b) Final Plat. Two (2) archival mylar ~~and three (3) paper print~~ copies of the final plat shall be submitted for approval to the Planning staff. The final plat shall contain all the changes, corrections, and information required by Planning staff and shall conform to all the requirements of these regulations and any other recording requirements of local or State law.

Section 8. This ordinance shall be effective upon adoption.