

ACTION REQUEST FORM

DATE: April 19, 2006
TO: The Honorable Mayor and City Council
FROM: A. Paul Norby, AICP, Director of Planning

COUNCIL ACTION REQUEST:

Request for Public Hearing on Zoning Text Amendment proposed by the City Engineering Department

SUMMARY OF INFORMATION:

Zoning Text Amendment proposed by the City Engineering Department to amend various sections of Chapter D, Subdivision Regulations, of the Unified Development Ordinances relating to platting requirements. These changes are proposed to amend some of the language adopted in UDO-136 (UDO 154).

PLANNING BOARD ACTION:

MOTION ON PETITION: APPROVAL
FOR: UNANIMOUS
AGAINST: NONE
SITE PLAN ACTION: NOT REQUIRED

STAFF REPORT

DOCKET #: UDO 154

STAFF: David Reed

REQUEST

Zoning text amendment proposed by the City Engineering Department, City-County Utilities Department, City-County Inspections 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. Several months earlier, a number of City and County departments brought to the attention of the Planning staff problems relating to code enforcement, development review, timely installation of infrastructure, tax mapping, and public safety. An interdepartmental group came together to address the issues through a series of meetings over several months and UDO 136 was the result of that work. Although most of the changes made to the platting process proved to work well, some adjustments are warranted to the specific requirements relating to the posting of sureties. The City Engineer, who had worked closely with some of the local builders during the development of UDO 136, has drafted some modifications relating to the posting of sureties prior to platting. An interdepartmental group has reviewed the proposed changes and recommends that the Planning Board adopt the modifications.

ANALYSIS

Prior to the adoption of UDO 136, developers had the option to either build or post a surety for all public streets and infrastructure improvements. The practice put the public at risk both in terms of the ability to respond to emergencies and in terms of potentially assuming financial risk for the development. UDO 136 eliminated the option to post sureties for all but a small number of final improvements. Those requirements became effective in August 2005 and since that time a number of issues that have negatively impacted development transactions have become apparent. The proposed modifications will allow a greater opportunity for the posting of sureties while maintaining adequate life safety protection during development. The modifications will also better protect the public from financial burdens created in the event a surety must be called in. The other benefits of UDO 136 relating to address and PIN number assignments, street name and development name change policy, and street traffic sign and street name sign installation requirements remain intact. Staff is of the opinion that the flexibility proposed to allow a greater opportunity for the posting of sureties will be a benefit to the development community while maintaining the essential elements of UDO 136.

RECOMMENDATION

APPROVAL.

PUBLIC HEARING - March 9, 2006

FOR: None

AGAINST: None

WORK SESSION

MOTION: Clarence Lambe moved continuance of the zoning text amendment to April 13, 2006.

SECOND: Paul Mullican

VOTE:

FOR: Jerry Clark, Carol Eickmeyer, Arnold King, Clarence Lambe, Lynne Mitchell,
Paul Mullican, Brenda Smith

AGAINST: None

EXCUSED: None

PUBLIC HEARING - April 13, 2006

FOR: None

AGAINST: None

WORK SESSION

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

SECOND: Jerry Clark

VOTE:

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

AGAINST: None

EXCUSED: None

A. Paul Norby, AICP
Director of Planning

UDO-154
AN ORDINANCE AMENDING
CHAPTER D SUBDIVISION REGULATIONS OF
THE *UNIFIED DEVELOPMENT ORDINANCES*
REGARDING PLATTING REQUIREMENTS

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

Section 1. Chapter D, Subdivision Regulations, D.4.(H)(2)(a) is hereby amended as follows:

- (a) Street and Utilities Improvements. No final plat shall ~~receive approval~~ be approved by Planning staff until compliance with the requirements of the *Infrastructure Development Standards* developed by the Engineering Division of the City of Winston-Salem Department of Public Works ~~completion of all required street and infrastructure improvements have~~ 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.

Section 2. Chapter D, Subdivision Regulations, D.4.(H)(2), Required Information and Certification, is hereby amended by deleting Sections D.4.(H)(2)(b) and (c) as follows:

- ~~(b) — Prior to approval of a final plat, at a minimum, the following essential elements of the approved infrastructure SHALL be in place, functioning and acceptable for use:~~
- ~~[i] — Streets adequate to provide all weather access to all building lots/structures. This will include sub grade, stone base, two inches of asphalt, curbing and drainage.~~
 - ~~[ii] — Water and sewer mains and services, including off site outfalls/connections. Temporary pump and haul of sewage in lieu of outfall will not be allowed unless an exception due to a public health need is granted by the City County Utilities Commission staff.~~
 - ~~[iii] — Individual lot/home addresses, lot numbers, and property identification numbers shall be prominently placed to facilitate location of individual lots during construction of the homes/building.~~
- ~~(c) — Surety WILL be required for the completion of the following infrastructure items:~~
- ~~[i] — Final layer of asphalt on public streets,~~
 - ~~[ii] — Sidewalks and driveways within public rights of way,~~
 - ~~[iii] — Street trees (if required),~~
 - ~~[iv] — Seeding of public rights of way and easements.~~
 - ~~[v] — Miscellaneous punch list items identified by Engineering construction staff during inspections.~~

* Multifamily is defined as three (3) or more dwelling units in a single building and includes apartments, condominiums, townhouses, and urban dwellings.

NOTE: Items to be deleted are indicated with a ~~strikeout~~; items to be added are indicated with an underscore.

~~[vi] Miscellaneous items identified by the City-County Utilities Commission staff.~~

Section 3. Chapter D, Subdivision Regulations, D.4.(H)(2), Required Information and Certification, is hereby amended by adding Sections D.4.(H)(2)(b),(c), (d), and (e) as follows:

(b) Plat Recordation: Residential (Single Family; Duplex; Twin Home; and Multifamily*)

Prior to Recordation of Plat

- [i] Construction plans for infrastructure (public and private) approved by City Engineer and Utilities Director.
- [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.
- [iii] Detailed estimate of incomplete infrastructure, based on approved plans in [i] above, prepared by the design engineer and approved by the City Engineer.
- [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 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

- [i] Construction plans for infrastructure (public and private) approved by City Engineer and Utilities Director, 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, 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; and Multifamily*), and Non Residential

- [i] Complete sidewalks, if required, or repairs to sidewalks damaged during construction, and

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- [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: Section D.4.(H)(2)(d)[i - iv] above will be verified by the City-County Inspections Division with final acceptance and approval to be verified by the City Engineering Division during the Final Street and/or Utility Acceptance procedures of Section D.4(H)(2)(e) below.

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

- [i] Design Engineer Certification approved by the City Engineer. 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.
- [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.
- [iii] All public and private infrastructure completed and accepted by the City of Winston-Salem Engineering Division.

Section 4. Chapter D, Subdivision Regulations, D.4.(H)(2)(d) is hereby amended as follows:

- (df) The developer of 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 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 developer or design engineer shall prepare a detailed, unit price cost estimate for submittal to the City Engineer or his designee for review and approval. This estimate shall include a minimum of 25% contingency and shall be the basis for establishing the amount~~

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~~of the surety posted.~~ The surety ~~bond~~ shall be satisfactory to the ~~Attorney~~ 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 ~~suit which~~ an action may be instituted by the jurisdiction for breach of any term(s) or condition(s) ~~by the~~ 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 described above, so long as the local jurisdiction is named as a beneficiary of the surety posted.

Section 5. The remaining sections of Chapter D, Subdivision Regulations, D.4.(H)(2) shall be renumbered accordingly.

Section 6. This ordinance shall be effective upon adoption.

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