March 17, 2005

Community Appearance Commission
c/o Jones Abernethy
2945 Buena Vista Road
Winston-Salem, NC  27106

RE:  ZONING TEXT AMENDMENT UDO-122

Dear Mr. Abernethy:

The attached report of the Planning Board to the Forsyth County Board of Commissioners and City of Winston-Salem City Council is sent to you at the request of the Commissioners and Council Members.

When the text amendment is scheduled for public hearing, you will be notified by Jane Cole, Clerk to the County Commissioners and Renee Henderson, City Secretary, of the date on which the Commissioners and City Council will hear this petition.

Sincerely,

A. Paul Norby, AICP
Director of Planning

Attachment

pc:  Jane Cole, County Manager's Office
     Renee Henderson, City Secretary

NOTE: Items to be deleted are indicated with a strikeout; items to be added are indicated with an underscore.
FORSYTH COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: _______________________ AGENDA ITEM NUMBER: __________

SUBJECT:-

A. Request for Public Hearing on Zoning Text Amendment by the Community Appearance Commission to establish tree preservation standards in the UDO [Zoning Docket UDO-122(A) and UDO-122(B)].

B. Ordinances amending the Forsyth County Zoning Ordinance and Official Zoning Map.

COUNTY MANAGER’S RECOMMENDATION OR COMMENTS:-

SUMMARY OF INFORMATION:-

See attached staff report.

After consideration, the Planning Board recommended denial of the zoning text amendment.

ATTACHMENTS:–       X YES       ___ NO

SIGNATURE: ________________________________ DATE:
**ACTION REQUEST FORM**

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<tr>
<td>TO:</td>
<td>The Honorable Mayor and City Council</td>
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<tr>
<td>FROM:</td>
<td>A. Paul Norby, AICP, Director of Planning</td>
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**COUNCIL ACTION REQUEST:**

Request for Public Hearing on Zoning Text Amendment by the Community Appearance Commission

**SUMMARY OF INFORMATION:**

Zoning Text Amendment by the Community Appearance Commission to establish tree preservation standards in the UDO [Zoning Docket UDO-122(A) and UDO-122(B)].

**PLANNING BOARD ACTION:**

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<tr>
<td>FOR:</td>
<td>CLARK, FOLAN, KING, LAMBE, MULLICAN, NORWOOD, SMITH</td>
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<tr>
<td>AGAINST:</td>
<td>EICKMEYER, GLENN</td>
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<td>SITE PLAN ACTION:</td>
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NOTE: Items to be deleted are indicated with a strikeout; items to be added are indicated with an underscore.
Staff Report
UDO-122

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NOTE: Items to be deleted are indicated with a strikeout; items to be added are indicated with an underscore.
UDO-122 January 2005
DOCKET #: UDO-122
STAFF: Chris Murphy


REQUEST

Request made by the Community Appearance Commission (CAC) along with the Garden Club Council, Keep Winston-Salem Beautiful, the West Salem Neighborhood Association, the West End Neighborhood Association and the Washington Park Neighborhood Association, to establish street tree and tree preservation standards within the UDO.

BACKGROUND

In 1999, the Land Sensitive Development Memorandum of Understanding (MOU) was signed between the Forsyth County Commissioners and the Home Builders Association of Winston-Salem, Inc. and the Winston-Salem Regional Association of Realtors, Inc. This document included emphasis on voluntary tree preservation and environmentally sound land use practices, however it was vaguely worded and proved difficult to use in expressing what kinds of specific expectations there were of developers submitting plans. More recent discussions have focused on the need for regulatory action to be taken if tangible results are to be achieved. In 2001, Legacy was adopted and included recommendations for the preservation of natural features and topography. In 2003, the Winston-Salem City Council expressed an increased interest in the area of tree preservation. Relevant activity from late Summer 2003 to early Spring 2004 include a presentation from a Charlotte representative, Richard Roti, concerning their tree preservation program at the CAC Appearance Awards Program, and a follow-up meeting with some elected officials, County administration, planning staff, CAC representatives and Homebuilders/Realtors representatives.

At this meeting, some concern was expressed about the need to relate this initiative to other needed changes with storm water, sedimentation and erosion control regulations, and the upcoming street standards overhaul. However, the petitioners decided that the need to focus on tree preservation was urgent enough to initiate a stand-alone text amendment proposal which was submitted on May 10, 2004. Prior to this date, preliminary ordinance drafts were also submitted to staff and others for informal review and comment. The CAC agreed to table the request so that they could work with the Homebuilders/Realtors Association to address their concerns and refine/develop a revised draft ordinance. The official version was submitted via email on Monday, November 8, 2004 and staff has worked with the petitioner to refine the official version since that time. The Planning Board has continued the public hearing from October 14, 2004 to January 13, 2005.
ORDINANCE OVERVIEW

The proposed text amendment would add street tree and tree preservation language to Chapter B, Article III of the UDO, in a new section, Section 3-13, Street Trees and Tree Preservation [UDO-122 (A)]. Additionally, the text amendment proposes to modify Section 3-4.10, Suggested Plant Materials List, of the UDO by adding some species and eliminating others [UDO-122(B)]. Some of the stated goals include: the provision of tree lined boulevards and establishment of street tree canopy within ten (10) years of construction; slowing storm water runoff and increasing its absorption into the water table; buffering new developments from existing development; moderating the climate; and increasing/enhancing property values. These objectives would essentially be achieved through preserving existing trees on commercial development sites and requiring the planting of new street trees on commercial and residential development sites.

Some highlights of the proposed ordinance:

• Patterned generally after Greensboro’s ordinance;
• Tree Save Area (TSA) requirement for all commercial projects (with very few exceptions)-between 5-10% of land area. Generally preferred along street and bufferyards, although alternative areas can be proposed;
• TSA width requirements at periphery of property increase with size of project (up to a max of 25’ for tracts of 10 acres or more);
• TSAs can be located elsewhere on the site upon request;
• Ability to use smaller-sized trees when specified sized trees are not available (with trade-off concerning amount of area required);
• Standards established for selection of TSA areas and preservation of critical root zones;
• TSA areas not required on sites that do not have existing vegetation;
• Street tree planting requirements at rate of 3 to 5 trees per 100’ for commercial areas and 1 tree per lot for residential areas;
• An expanded list of recommended trees for planting as well as a list of prohibited(non-credited) trees for planting;
• Tree protection plan and permit required before permit issuance; and
• Administered through a new, currently unfunded position called “Tree Inspections Officer” in the Inspections Division.

ANALYSIS

Planning staff is very supportive of preserving stands of mature trees and seeing that canopy trees line more of our new and existing streets. As Forsyth County urbanizes, more and more natural systems and vegetative cover are lost to impervious surfaces such as rooftops, driveways, parking areas, and streets. Between 1992 and 1997, rural land in North Carolina was developed at a rate of 18 acres/hour with a total of over 781,500 acres of rural land converted for development. The environmental, psychological, and economic benefits of trees are numerous and include: cooler temperatures, cleaner air, increased rainfall, reduced storm water runoff and runoff temperatures, enhanced flood and erosion control, wildlife habitat, reduced road and traffic anxiety, and increased property values. An average tree absorbs approximately 36 lbs of
carbon dioxide annually and has an obvious benefit in regard to air quality, which should be important in the region due to the need for proactive efforts to implement the Early Action Compact.

Currently the UDO does require bufferyards of various widths and planting intervals to separate different land uses. Streetyards of ten feet (10’) in width are required between any public street and motor vehicle parking or circulation areas. Planting areas within new parking areas are also required. However, while existing trees can be used to fulfill these planting requirements, the current ordinance does not require or even significantly encourage the preservation of existing tree stands or individual specimen trees. Similarly, street trees for new commercial and residential developments are currently not required although Planning staff has recently been requesting more attention to street trees and tree preservation in its recommendations concerning special use district zoning petitions for developments.

As demonstrated by the MOU signed in 1999, Forsyth County has long regarded trees and their preservation important goals for the community. Trees provide not only intangible positive effects upon all of our qualities of life, but also provide tangible economic and environmental benefits to the property owner, neighborhood, and community at large. Therefore, planning staff applauds the work done by the petitioners as part of this request and appreciates their willingness to work with staff to refine the document.

It should be noted that several major jurisdictions in North Carolina have street tree and tree preservation ordinances including, Asheville, Cary, Charlotte, Durham, Greensboro, and Raleigh. Tables 1 and 2 (pages 11 and 12, respectively) compare the commercial and residential tree preservation and street tree standards of the eight (8) largest municipal and/or County governments in North Carolina to the proposed ordinance (UDO-122). Most, but not all, have tree preservation requirements and street tree standards similar to the requirements of the proposed UDO-122.

It is the position of staff that UDO-122 would be a more comprehensive measure for tree preservation if it contained requirements pertaining to tree preservation for single-family residential subdivisions and had additional enforcement provisions. However, staff does believe that the tree preservation and street tree standards of UDO-122 are very positive improvements to our minimal existing standards. Even with the standards proposed as part of UDO-122, staff believes it appropriate to revisit these provisions over the next several years to determine the effectiveness of the ordinance and whether additional measures are needed.

**Current status of process:**

Staff has been working with the applicants, a representative of the Homebuilders/Realtors Association, and an extensive list of organizations and entities that are part of our text amendment distribution list, to address any remaining concerns and/or inconsistencies with UDO-122. Such collaboration has resulted in the single version of UDO-122 requested by the Planning Board (as opposed to a petitioner and staff version).
Remaining issues:
The remaining issues with the current draft of UDO-122 are outlined below. The comments are categorized by Department/Division/Agency/Entity:

**Comments from City-County Inspections Division**

- As mentioned previously, a one year delay from the adoption date to the effective date of implementation would allow time to hire new staff and develop the necessary permitting/office procedures and enforcement policies; and

- The Inspections Division would need at least two additional staff to enforce the new regulations. It is estimated that at least four visits to each site to enforce new ordinance will be needed.

**Comments from City Attorney**

- General Comments from reviewing the proposal:
  
  ➢ So long as these requirements are not triggered until development is applied for, in whatever way that may be, special legislation may not be required prior to the enactment of this ordinance.

**Comments from November 11, 2004 Planning Board Hearing and Subsequent Emails**

- This item was on the agenda as a discussion/update item at the November 11, 2004 Planning Board Hearing. There were several questions/issues raised by Planning Board members that are listed below, as well as some questions/concerns that were emailed to, and answered by, the applicant. The identified issue/question from the Planning Board is listed in bold followed by a response from the applicant in italics:

  1. **Cost/benefit analysis.** We would like to see the five most recent text amendments, and the cost/benefit analyses which were required for each. Please include the recent 'big box' cost benefit analysis. Please send in Microsoft word format so I can use as a basis to organize information.

  2. **How many staff persons will this take?** The Inspections Department is projecting that two (2) persons be hired to administer the Ordinance at a cost of approximately $130,000 per year (all equipment, benefits, salaries, etc.). Please note that Greensboro/Guilford County hired Melissa Begley to enforce their ordinance.

  3. **Who was involved in ordinance preparation/stakeholders – does not appear to be a diverse group of stakeholders?** The Ordinance is proposed by: The Community Appearance Commission; The Garden Club Council; Keep Winston-Salem Beautiful; The Forsyth Chapter of the American Society of Landscape Architects; Washington Park Neighborhood Association; and West End

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Neighborhood Association. It was stated at the public hearing that the Neighborhood Alliance, The Home Builders Association support the measure. These organizations cut across racial, socioeconomic, geographic boundaries and have members from the entire community. I know of no other text amendment in recent years which has such broad support, or as many co-sponsors.

4. **Follow-up on the above issue.** The Public Hearings to be conducted at the Planning Board and Governing body levels are intended to give anyone else an opportunity to comment. The Planning Board has had the Tree ordinance before them for several months, held a work session, and has discussed the proposal at a number of public meetings. We are certain that anyone who wishes to be heard will be given an opportunity to comment.

Public streets are narrow, linear corridors with narrow open spaces between the right of way and buildings and parking lots constructed along the streets. Planting corridors are narrow, offering limited opportunities for grouping trees into groves. The established method of re-vegetating Urban streets, in cities all over the world, is to plant street trees along the street rights of way. Our proposal is a minimum standard, to which developers may add as they see fit. The standards are flexible, and allow each property owner to submit a Tree planting plan to fit the needs of the site. We hope that property owners will plant more trees than the minimums proposed.

When people speak of 'cookie-cutter development' they are referring to the practice of cutting down all trees, scraping the land flat with grading machines, and erecting featureless, cheap-looking boring boxes along the streets. In my 29 years as a Landscape Architect, city planner, and Planning Director, I have never once heard a member of the public refer to street trees as examples of 'cookie cutter' development. Street trees, like the Streetyard and Parking lot landscaping sections of the UDO provide the opportunity to block views of cookie cutter development.

5. **Question about deleting Pin Oaks.** Pin oaks -Quercus palustris-are problematic trees in our region. The Agricultural Extension service does not recommend planting Pin oaks in Piedmont North Carolina. For this reason, staff recommended that Pin oaks not be on the approved tree list. Willow oaks-Quercus phellos-are excellent native trees with narrow leaves which remain on the approved tree list.

6. **How does this affect street scaping with signs, lights and traffic signals? How will this affect or be affected by the Street Standards ordinance? Which will take precedence? If the Street Standards one takes precedence then why are we considering the Tree Ordinance before it?** The Tree Ordinance is a Text amendment proposed by CAC, et al, and is unrelated to Street standards. The Tree Ordinance is a text amendment and is subject to NC Statutes and the UDO requirements which establish time granted for review and recommendation by the Planning Board. Coordination and enforcement of Street standards and the Tree ordinance, if and when adopted, will be the job of the Inspections Department.

NOTE: Items to be deleted are indicated with a *strikeout*; items to be added are indicated with an *underscore*.
7. I don't understand why single family homes seem to be exempted from the ordinance. I'm sure that there is a reason for this but it doesn't make sense to me, at this time. Single family homes are required to plant one street tree per lot. Staff felt that enforcement of single-family tree save requirements would be very costly and time consuming—(I heard 'double or triple' the costs, but no one knows). Home builders and Board of Realtors oppose single family tree save requirements for these reasons. Guilford County/Greensboro does not require single family tree save areas.

8. Are there any penalties for not following the ordinance? I see incentives. Have I missed the penalties? If there are no penalties, what difference will it make if someone chooses not to follow the ordinance? Penalties for non-compliance of all sections of the zoning ordinance are established in the UDO, into which this ordinance will fit, when adopted. Penalties would be the same as any other zoning violation. Furthermore, Building permits and Certificates of occupancy are not required if the Ordinance is violated during construction, which are far more effective incentives for compliance.

9. Does this have any affect on an individual who may choose to cut down a tree on her property for any reason at all? No.

10. What about cultural differences? What if someone wants to "farm" their lawn or create a putting green or install a swimming pool? Can they cut down their trees to accommodate these things—Yes or can they forgo the planting of required trees No knowing that they want to do those things as soon as they can? BTW (By the way), I have never heard of anyone cutting down street trees to 'farm' their lawn. Can anyone provide documented examples where this has taken place?

11. The other item was about costs. There's a good bit of email on that subject so I think it is safe to assume that there will be information about this concern of mine. See response under comment #1.

INITIAL RECOMMENDATION(S) – June 10, 2004

The applicant requested that their proposed ordinance not be scheduled for a Planning Board public hearing until they do some more work on their proposal with outside parties. The Planning Board agreed that at the petitioner’s request, the hearing process would not be started until they requested it. It was originally anticipated that the September 9, 2004 Planning Board hearing date would be the date that the hearing process would begin. Therefore, staff recommended a CONTINUANCE to the September 9, 2004 Planning Board meeting.

As part of the Planning Board’s action to allow the petitioner’s request to delay the public hearing until September 9, 2004, the Planning Board also directed staff to prepare a more detailed staff report and recommendations on the draft ordinance. In response, staff developed an alternative ordinance, which addressed the comments from various impacted departments/agencies and sought additional feedback from these departments/agencies (as well as others). We addressed many of these comments/concerns and have worked with the petitioner to ensure that these comments have been addressed in the final version.

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WORK SESSION

MOTION: Jerry Clark moved delay of the initial public hearing on the zoning text amendment, at the applicant’s request, until September 9, 2004, with the understanding that in 45 days, a more detailed staff report and recommendation would be ready.
SECOND: Clarence Lambe
VOTE:
  FOR: Clark, Eickmeyer, Glenn, King, Lambe, Mullican, Norwood, Smith
  AGAINST: None
  EXCUSED: None

UPDATE – July 22, 2004

Staff proved a more detailed staff report and gave that to the Planning Board at their July 22, 2004 work session.

UPDATE – September 9, 2004

At the September 9, 2004 meeting of the Planning Board, the hearing on UDO-122 was delayed, at the request of the applicant, until the October 14, 2004 meeting. No revised draft was submitted by the CAC.

UPDATE – October 14, 2004 Planning Board Public Hearing

Chris Murphy presented the staff report.

Arnold King noted that the Board had worked with the petitioner and all have agreed to have a public hearing today, and probably come back in January with one single document. At that time there would be another public hearing.

FOR:

Jones Abernethy, 2945 Buena Vista Road, Winston-Salem, NC
• This has been a long process. We've been at it for 18 months.
• We will continue to work with the liaison for Home Builders and Realtors.
• There are five basic points as indicated on the green sheet of paper submitted to you today. A copy is on file.
• Many of the provisions in this ordinance are from Guilford County's ordinance.
• Single family development is exempt from having to save trees.

Molly Leight, 313 S. Main Street, Winston-Salem, NC 27101
• I'm hearing several different things.
• As a general principal, the twenty-seven neighborhoods that are members of the Winston-Salem Neighborhood Alliance are enthusiastically supportive of some sort of tree ordinance.
• We've seen similar North Carolina cities take significant steps for tree preservation.
• We will encourage the City Council to support a tree ordinance.

NOTE: Items to be deleted are indicated with a strikeout; items to be added are indicated with an underscore.
Robert Vorsted, 3620 Marlowe Avenue, Winston-Salem, NC 27106

- We want to give our strong endorsement to what Molly Leight has said.

AGAINST: None

WORK SESSION

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

1. The petitioner will submit a final version of the text amendment within the next 30 days. Staff will review it and pass it on to the Planning Board as quickly as possible. The Board agreed by consent to continue the zoning text amendment to January 13, 2005, with the possibility of one or more work sessions between now and January 2005.

UPDATE – November 11, 2004

The official version was submitted by the applicant via email prior to the November 11, 2004 Planning Board hearing. The document was distributed at the meeting and staff discussed the pertinent points of the revised ordinance. Staff will continue to solicit input from the various departments/stakeholders and will work with the applicant to revise the ordinance. The Planning Board requested that the final version be included in their December 9, 2004 hearing packet, along with a detailed staff report, so that any remaining issues can be resolved prior to the January 13, 2005 meeting. The Planning Board will make their recommendation on UDO-122 at this meeting (January 13, 2005).

UPDATE - December 9, 2004

At the November 11, 2004 Planning Board meeting, the Planning Board requested that the final version of the staff report and ordinance be provided at the December 9, 2004 hearing so that the members have adequate time to study the document. Therefore, copies of the final staff report and final proposed ordinance were distributed to the Planning Board members, with duplicates being presented to Mr. Abernethy and the Community Appearance Commission in the days following the meeting.

The Planning Board discussed the possibility of delaying their decision until the January 27, 2005 work session so they would have adequate time to consider the comments made during the January 13 public hearing. Since the time limit designated by the UDO will run out prior to the work session, Chairman King will check with Mr. Abernethy to ask if that schedule would be okay with him.

FINAL RECOMMENDATION

Staff recommends approval of UDO-122(A) and (B), subject to the following:

1. That the effective date for UDO-122(A) be one (1) year following adoption, contingent upon necessary positions being fully funded. Otherwise, effective date shall be one (1) year following approval of funding.

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PUBLIC HEARING - January 13, 2005

Chris Murphy presented the staff report.

Staff explained the need for legislative authority for the portions of the proposed ordinance dealing with tree cutting on properties not involved in the development process. Being granted this legislative authority does not have a bearing on whether or not the elected officials will adopt this ordinance with these provisions. However without this authority, the elected bodies would be taking action on portions of an ordinance that they didn't have statutory authority for. In order for that authority to be granted in a timely manner, the process of requesting authority had to begin while the Planning Board was considering the ordinance.

The Board briefly discussed the proposed requirement to maintain a buffer around any clear-cut tract of land and questioned the appropriateness of every piece of land being required to maintain a buffer. An example was a piece of farm land being cleared for planting. Staff noted that farms do not have to comply with any of these requirements as farms are exempted. The purpose of requiring a buffer is to prevent land from being entirely clear-cut, therefore bypassing the ordinance.

The Board also discussed how "wooded environment" is determined and some of the exemptions listed in the ordinance.

The Chairman explained that today's hearing would include a brief presentation from a group of students at West Forsyth High School.

Josh Weatherman, Clyde Partain and Samantha Powers, students at West Forsyth High School, 1735 Lewisville-Clemmons Road, Clemmons, NC 27012 presented a brief summary of information relative to the tree ordinance. Sources included a 2001 survey by American Forest which analyzed the economic benefits of trees in Mecklenburg County (which has a similar eco-system to Forsyth County), the Forest Service, and the Arbor Day Foundation. Some of their points were:

- If the canopy in Forsyth County is increased by a mere 1.5%, more than 373,000 pounds of pollution can be removed from the air.
- Storm water management savings: Up to $110,000 per year could be saved by increasing the tree canopy by 1.5% per acreage.
- The net cooling effect of a young healthy tree is equivalent to about 10 room-size air conditioners operating 20 hours a day.
- Trees increase the market value of your home by an average of 6-7%.
- One acre of forest absorbs six tons of carbon dioxide and puts out four tons of oxygen. This is enough to meet the annual needs of eight people.
- Trees properly placed around a building can reduce air-conditioning needs by 30% and can save 20-50% in energy use for heating.
- Trees can be a stimulus to economic development. Commercial retail areas are more attractive to shoppers. Apartments rent more quickly. Tenants stay longer and the space in a wooded section is more valuable to sell or rent.
• Healthy and mature trees add an average of 10% to property values.
• The planting of trees can improve water quality resulting in less run-off and erosion which allows more recharging of the ground-water supply.
• Wooded areas also help prevent the transport of sediment and chemicals into streams.

FOR:

Melynda Dunnigan, 1875 Mallard Lakes Drive, Winston-Salem, NC  27106
• I'm here as President of the Winston-Salem Neighborhood Alliance.
• I'm here to ask you to approve this amendment.
• Three of our members are petitioners to this amendment.
• This ordinance can help to address some of the looming and very serious problems that face Forsyth County in regard to air quality, water quality and storm water management. That was pointed out very well by the students from West Forsyth.
• It would benefit neighborhoods by providing greater buffering from nearby development and would help to maintain property values.
• Our group would like to see a component in this amendment to address tree preservation in single family residential development. As was pointed out last month, at least 50% of the land that is reserved for development in this county is single family residential.
• While we encourage you to explore this point in the future, we do support this ordinance.
• We ask that you approve it.

Arnold King:  Thank you.  Anyone else like to speak in support of this?  Seeing none, then, we'll turn to the opposition.  Anyone here in opposition?  Seeing none, we'll close the public hearing. As Chris has said, we're going to take this up at our work session in two weeks.  Hopefully we can take action at that time.

AGAINST:  None

Carol Eickmeyer:
• I think it's the responsibility of the people who want us to make a new level of enforcement to in some way give us the information to justify the extra expense.
• One way of paying for this new enforcement might be rather than looking at increased fees to development, perhaps looking at something with utilities like storm water management.
• As a responsible body, we need to figure out how we're going to ask a stressed budget to do the right thing.  That's where more specific information will sometimes help us. Having some figures to work with makes it a little bit easier to do that.
• We have already raised fees for zoning and development with the promise that we would add more of a certain kind of inspection and we haven't been able to pull that off yet.
• I do not feel that it is always the responsibility of staff to provide that information.  The community has a tremendous number of resources to put toward this as these students proved.
• To the students, I really appreciate the fact that you guys took the challenge and that you came up with some information.  Thank you very much.
MOTION: Dara Folan moved to continue consideration of this request to January 27, 2005.
SECOND: Jimmy Norwood.
VOTE:
   FOR: Clark, Eickmeyer, Folan, Glenn, King, Lambe, Mullican, Norwood, Smith
   AGAINST: None

Paul Norby: It may be beneficial to consider whether the funding for this position has any relationship to the storm water management program which is funded.

Upon seeing a person return to the room, Chairman King asked if he was present about the tree preservation ordinance. Upon receiving a positive response, Chairman King invited the man to speak briefly even though the public hearing had already been held and closed.

Lloyd Ramsey: 4948 Old Baux Mountain Road, Winston-Salem, NC 27105

- I've had experience over a long period of time with places with trees and with places without trees.
- If you're doing this for new residential areas and other places, I wonder who really thinks people want trees?
- My experience in landscape is that people hate them. People sometimes are protective about their trees but what people want is grass.
- A lot of people don't want trees on their lot. People who have them don't like them.
- What amount of root area will be designated for the trees?
- I don't think there's a whole lot of thought in this. I would love for there to be a tree ordinance - but one that actually valued trees. That actually provided trees where they can be maintained and enjoyed.
- I wish everybody loved trees, but the way to protect trees is to not cut them down in the first place.

PLANNING BOARD WORK SESSION - January 27, 2005

Paul Norby briefly reviewed the process of UDO-122. The Planning Board held a public hearing on January 13, 2005 and is now in work session.

Chris Murphy briefly reviewed the changes in UDO-122 based on comments received from the last meeting. He indicated it was staff's understanding that the petitioner and the Home Builders and Realtors associations support this version of the ordinance as amended to delete the things needing statutory authority. Staff had earlier misunderstood that the petitioner and Homebuilders agreed on the version presented to the Planning Board in November 2004, which included the portions needing legislative authority.

During discussion by the Planning Board, the following opinions were expressed:

1. It is very difficult to discuss an item like this and make a decision about it when the person who has the answers to the questions (the petitioner) is not present at the meetings where the issue is discussed. The Board asked if the petitioner was hospitalized or out of the country or if he was simply choosing to not participate in the meetings. Staff was unable to answer that question.
2. While the petitioner specified that a tree survey would not be required, the practicality of enforcing the ordinance almost requires that a tree survey be provided.

3. A tremendous number of hours has been spent working on this ordinance. It appears that we have taken two steps into the process of rewriting this ordinance. If we are going to create a tree ordinance, we need to figure out some way to do it better.

4. We don't know if the positions which are necessary to enforce this ordinance will be funded.

5. Lavastian Glenn: I think there is an issue with clear-cutting residential and with destroying our eco-systems. People need air to breathe. Trees are very beneficial. Removing too many trees creates problems with land instability. Unfortunately we do not include residential in this document, but I do think having bufferyards and trying to save trees in the back of the property or along the front addresses the need. If we're going to be a Tree City USA, we should have some sort of policy that says this is important and we do like that aspect of our city. Staff and the petitioner have gone a long way to create something that is not as intrusive and is not so stringent that it would cause financial difficulty. This is a good step forward.

5. Arnold King: Saving trees simply can't be done in the real world unless you want to double or triple the cost of land. For example, meeting the requirements for one tree per lot plus three trees per 100 feet of streetyard would add approximately $1,000 per lot. Affordable housing can't afford that. There are just too many questions left unanswered with this document. However, we should send a message that if the elected bodies want a tree save ordinance, they should provide time and money to put one together. I'm not against trees. We can't administer this thing because we don't have the personnel and we don't even understand the ordinance.

6. Chris Murphy noted that single family residential does not have to do the three per 100 linear feet of street. The requirement is only for one tree per lot.

7. Brenda Smith: I was trying to look at costs and benefits. Erosion control is in place and there are protections there. All the buffers that are required and the stream areas are protected by vegetation which doesn't have to be trees. But this ordinance is making the environmental controls much more strict. If we took the amount of money this will cost and put it into the hands of neighborhood groups or Keep Winston-Salem Beautiful, it could accomplish a lot more. I don't think in this case something is necessarily better than nothing.

8. Clarence Lambe: My primary concern is that this is truly the first opportunity that we've had a completed ordinance and time to ask questions. I've still got a lot of questions. I am still confused with parts of the ordinance. My biggest problem are the unintended consequences. I realize there have been countless hours spent on this, but there's more work that needs to be done.
9. Arnold King: We believed that all the stakeholders were involved in this and it would be pretty easy for us to rubber stamp this by the time it got to us. What we're hearing is that the Community Appearance Commission worked with the Home Builders and they've agreed, but they aren't impacted. The people who are impacted have not had any input in this thing.

10. Paul Norby noted that he understood the Realtors Association was also involved through their joint staffing with the Home Builders. In response to a question, he indicated that staff is on record as recommending this ordinance. We think it is good public policy to try to preserve trees, to specify and articulate that we do want to save more trees. We feel there will be things we have to work through to implement this and I'm confident in our collective abilities to work through it. I certainly understand that this has been a difficult process for all of us. Unfortunately there wasn't a lot of continuity all the way through. Nonetheless, we think this ordinance is a good place to start.

11. Paul Mullican: Is there really a problem out there with not having a tree ordinance? As Brenda said, we've got all these guidelines for bufferyards and storm water. I haven't heard anybody say there is a real problem with the grading process or whatever. An example is the Harris Teeter on Country Club. They had to grade from edge to edge and it's turned out to be a beautiful project. I'd hate to have a tree ordinance that would have prevented that. Tree ordinances are great, but do we have a problem that requires another ordinance?

12. Jerry Clark: What happens when this is all said and done and we have the two people in Inspections working on this? What does the public see? Will they see any difference?

13. Brenda Smith: There are so many people and groups out there which are interested in tree saving and would be able to use the equivalent dollar amount to do much more good that this ordinance does.

14. Paul Norby: The Community Appearance Commission is very proactive in planting new trees. They initiated Community Roots Day and remain very active in that program. This idea came to them when Rick Roti from Charlotte came to the last Awards Banquet and spoke about tree preservation. I don't believe the CAC approached this because of a specific site, but listened to his presentation from a global perspective and saw what the dilution of the tree canopy was doing to the entire area. That's what motivated them to focus on tree preservation as well as the tree planting they are already doing.

15. Carol Eickmeyer: I'm really in favor of tree preservation. I will vote for this with the hope that the elected bodies will also favor it but want to look more closely at the details. I trust our staff to be able to work out the details but I also think we are not qualified as arborists or foresters to actually do the details on this. We need to either say, "yeah, we want to preserve them", or "cut them all down and plant anew." I would like to preserve them. I see this as a point of getting that started. The discussion is certainly out there and I think it's time to move it forward.
MOTION: Carol Eickmeyer moved that the ordinance be approved particularly with the stipulation that we get the year to get it funded and get the structure in place to make it workable.
SECOND: Lavastian Glenn.
VOTE:
FOR: Eickmeyer, Glenn
AGAINST: Clark, Folan, King, Lambe, Mullican, Norwood, Smith

MOTION FAILS.

16. Brenda Smith: I've struggled with this and done a lot of research on it. If you look at the Early Action Compact, one of their recommendations was to address trees, but if you look at data and what you can accomplish with this same amount of money, you can improve air quality in many other ways and get much more benefit. I have a hard time supporting this.

17. Dara Folan: I walked in here thinking I would vote for this, but I am very uncomfortable with the process. If the City and County can find the money to hire two more people, Planning staff could certainly use those positions much more effectively. Given the budget constraints and the sense that this was pushed down our throats, I cannot support it.

18. Jimmy Norwood: I'm going to vote against it because I'm concerned about the monitoring of it from Inspections. I work with them constantly and they're overburdened now. I have a problem putting some of the onus on them, but also on the developers. I think there is a problem, but I don't think this addresses the problem. I think the problem goes beyond this, back to residential and this ordinance doesn't actually get to what I think the problem might be. I'm not disagreeing with the notion, but with the process. It needs to be fleshed out.

MOTION: Jimmy Norwood moved to deny the ordinance but also asked that the elected officials would take this further and not just drop it because of the Board's recommendation for denial.
SECOND: Dara Folan

18. Jerry Clark: I don't like the way this process was driven. This will affect a lot of people in our community. I really want to see this happen, but I don't believe we've addressed the situation adequately. We're going to leave out residential and other groups. That's what the public is going to see.

19. Dara Folan: I do want to commend Chris and staff. Given the demands, they have done a phenomenal job. I hope this is used as a base later on for a good tree preservation ordinance.
20. Paul Norby: This is probably a good topic for a future work session. How do we develop a thorough, fair, and efficient process for text amendments with such a broad impact?

21. Arnold King: We opted not to have work sessions on this because we were under the impression that the stakeholders were ironing this out and would come to us with a finished product.

22. Dara Folan: It was kind of handed to us and we were told to vote it up or down.

23. Brenda Smith: The concept and intent are good, which makes it hard to vote against it.

VOTE:
   FOR: Clark, Folan, King, Lambe, Mullican, Norwood, Smith
   AGAINST: Eickmeyer, Glenn

Written Comments by Planning Board Members: Attached

A. Paul Norby, AICP
Director of Planning
**TABLE 1: COMMERCIAL COMPARISON OF PROPOSED ORDINANCE AND THE ORDINANCES OF SIMILARLY SIZED/SITUATED AREAS OF THE STATE**

<table>
<thead>
<tr>
<th>Unit of Government</th>
<th>Tree Preservation Requirement for Commercial</th>
<th>Street Tree Requirement for Commercial</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Yes/No Standards</td>
<td>Standards</td>
</tr>
<tr>
<td>Winston-Salem and Forsyth County</td>
<td>Yes</td>
<td>Up to 10% of lot area primarily located in Streetyard and Bufferyard locations</td>
</tr>
<tr>
<td>Proposed Ordinance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>City of Asheville</td>
<td>No</td>
<td>Encouraged through an incentive based program (ex. – get credit for 5 required trees for preserving a 25’ existing tree)</td>
</tr>
<tr>
<td>Town of Cary</td>
<td>Yes</td>
<td>Sliding width based on adjacent use.</td>
</tr>
<tr>
<td>Charlotte &amp; Mecklenburg County</td>
<td>Partial</td>
<td>No specified requirements but must complete a survey and attempt to save trees, where possible</td>
</tr>
<tr>
<td>Durham and Durham County</td>
<td>Yes</td>
<td>Sliding % based on amount preserved v/s amount revegetated</td>
</tr>
<tr>
<td>City of Greensboro</td>
<td>Yes</td>
<td>All trees located in required Streetyard and Bufferyard locations</td>
</tr>
<tr>
<td>City of High Point</td>
<td>No</td>
<td>In process of revisiting standards</td>
</tr>
<tr>
<td>City of Raleigh</td>
<td>Partial</td>
<td>Must submit a tree survey and maintain existing vegetation in required streetyards and bufferyards.</td>
</tr>
<tr>
<td>City of Wilmington</td>
<td>Yes</td>
<td>Retain and show all existing vegetation in through process. There are requirements for retention of perimeter buffers and “special” trees.</td>
</tr>
</tbody>
</table>

**NOTE:** Items to be deleted are indicated with a *strikeout*; items to be added are indicated with an *underscore.*
### TABLE 2: RESIDENTIAL COMPARISON OF PROPOSED ORDINANCE AND THE ORDINANCES OF SIMILARLY SIZED/SITUATED AREAS OF THE STATE

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Yes/No Standards</td>
<td>Yes/No Standards</td>
</tr>
<tr>
<td>Winston-Salem and Forsyth County Proposed Ordinance</td>
<td>No -</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Encouraged through an incentive based program (ex. – get credit for 5 required trees for preserving a 25’ existing tree)</td>
<td></td>
</tr>
<tr>
<td>City of Asheville</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>1 lg. tree/40’ street</td>
<td></td>
</tr>
<tr>
<td>Town of Cary</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Sliding width based on adjacent use.</td>
<td></td>
</tr>
<tr>
<td>Charlotte &amp; Mecklenburg County</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>10% of the site</td>
<td></td>
</tr>
<tr>
<td>Durham and Durham County</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Sliding % based on amount preserved v/s amount revegetated</td>
<td></td>
</tr>
<tr>
<td>City of Greensboro</td>
<td>No</td>
<td>Limited</td>
</tr>
<tr>
<td></td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>City of High Point</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>City of Raleigh</td>
<td>Partial</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Must submit a tree survey and maintain existing vegetation in required streetyards and bufferyards.</td>
<td></td>
</tr>
<tr>
<td>City of Wilmington</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Retain all vegetation in subdivisions except where improvements are installed. There is also requirements for retention of perimeter buffers.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1 tree/every 300sq. ft of perimeter street yard required for retention</td>
<td></td>
</tr>
</tbody>
</table>

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

UDO-122 January 2005 - 21 -
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, Zoning Ordinance, Article III is hereby amended by adding a Section 3-13 “Street Trees and Tree Preservation Standards” to read as follows:

**3-13 STREET TREES AND TREE PRESERVATION (F, W)**

**3-13.1 GENERAL REQUIREMENTS**

**(A) PURPOSE.**

It is the intent of this section to create shaded boulevards lined with Large Variety Trees within ten (10) years of planting to enhance the quality of life, appearance and environment of the community by requiring the planting of Street Trees and requiring the preservation of some existing Trees on development sites, in order to:

1. Appearance of areas near Rights-of-Way. Improve the appearance of Streets and areas within close proximity of vehicular Rights-of-Way;
2. Appearance of large areas. Break the visual blight created by large expanses of unvegetated areas;
3. Property value and investments. Enhance property values and protect public and private investments by emphasizing the importance of Trees and vegetation as visual and physical bufferyards to protect property values on adjacent properties;
4. Water and Erosion control. Increase storm water infiltration, improve groundwater recharge, protect adjacent properties, and reduce erosion and urban runoff pollution hazards by preserving vegetated area to slow and absorb storm water runoff;
5. Comfort. Improve human comfort and moderate the climate by providing shade, reducing solar heat absorption, and reducing noise levels;
6. Environmental sensitivity. Encourage environmental sensitivity to natural features during the design and construction of development projects;
(7) Air. Filter and reduce motor vehicle fumes and dust.

(8) Public properties. Improve the appearance of public properties from vehicular Rights-of-Way and adjacent properties, as well as for users on the properties.

(B) DEFINITIONS.

The following definitions shall apply to the regulation and control of Street Tree and Tree Preservation Standards within this section:

1. CALIPER. American Association of Nurseriesmen standard for trunk measurement of nursery stock. The caliper of the trunk shall be taken six inches (6”) above the ground for Trees up to and including four-inch (4”) Caliper size, and twelve inches (12”) above the ground for all Trees larger than four inches (4”).

2. CRITICAL ROOT ZONE (CRZ). A circular region measured outward from a Tree representing the essential area of the roots that must be maintained in order for the Tree to survive. The Critical Root Zone is one foot (1’) of radial distance from the Tree’s trunk for every one inch (1”) of Tree diameter, measured at breast height (DBH).

   Formula: CRZ = radius (in feet) of Tree’s diameter, measured at breast height (DBH).

   Example: the CRZ of a Tree with a dbh of 24” is a circle 24' from the trunk (or a 48' diameter).

3. DIAMETER AT BREAST HEIGHT (DBH). A standard measure of Tree size, it is the diameter of a Tree trunk measured in inches at a height of four and one-half feet (4.5’) above the ground. If a Tree splits into multiple trunks below four and one-half feet (4.5’), then the trunk is measured at its most narrow point beneath the split.

4. DRIP-LINE. A vertical line extending from the outermost portion of a Tree’s canopy to the ground.

5. FEEDER ROOTS. A system of small annual roots growing outward usually from transport roots. These roots make a complex branching pattern. These roots make up the major function of a Tree’s root system surface area, and are primary sites of absorption of water and nutrients. These roots are normally found within the top six inches of soil.

6. PROTECTIVE FENCING. A physical and visual barrier installed around the Critical Root Zone (CRZ) of a Tree to prevent damage to the Tree and its root system. At a minimum, this would include three to four foot (3’-4’) tall orange safety fencing.
(7) ROOTS. The underground part of the Tree that functions as an organ of absorption, food storage and aeration, and as a support system.

(8) SOIL COMPACTION. An increase in the dry soil weight per unit volume. Compacted soil causes a decrease in the availability of oxygen in the soil, an increase in toxic gases in the soil, and physical damage to the root system, all affecting the Tree’s ability to survive.

(9) SPECIMEN TREES. A Tree that is a particularly impressive or unusual example of a species due to size, shape, age, or any other trait that epitomizes the character of that species.

(10) STREET TREE. A Tree planted along the Street parallel with the Street Right-of-Way. Such Trees shall be planted with spacing sufficient to ensure symmetrical crown development but close enough to provide canopy closure within ten (10) years.

(11) TRANSPORT ROOTS. The system of Tree roots comprised of major woody roots and rope roots.

(12) TREE. A large, woody plant having one or several self-supporting stems or trunks and numerous branches that reach a height of at least twenty feet (20’) at maturity.

(13) TREE PROTECTION PLAN. Required for all development projects, except those specifically exempted in Chapter B, Article III, Section 3-13.1 (C) of this section, and shall be submitted along with all other necessary drawings and applications to the Planning Department (for special-use rezonings, Planning Board Reviews, Subdivisions, Final Development Plans) or the Inspections Division (Building permits [for new construction or building additions], grading permits, Tree Removal Permits).

(14) TREE REMOVAL PERMIT. An authorization issued by the City-County Inspections Division, which shall be issued prior to any land disturbing activities, including the cutting and/or damage to the Critical Root Zone (CRZ) of live Trees four inches (4”) DBH or greater, for all development projects that require a special use rezoning, Building permit [for new construction or building additions], grading permit, Special Use Permit, Planning Board Review, or Final Development Plan not specifically exempted in Chapter B, Article III, Section 3-13.1 (C)
(15) **TREE SAVE AREA (TSA).** One or more areas identified on a site where existing Trees, along with their Critical Root Zones (CRZ), will be preserved and maintained. The purpose of the TSA is to encourage the preservation of healthy Trees that are four inches (4”) or greater in Diameter at Breast Height (DBH).

(C) **APPLICABILITY.**

(1) Single family residential lots and Common Open Space areas owned by Homeowners’ Associations shall be exempt from all requirements of this section except as provided in Chapter B, Article III, Section 3-13.2, subsections A, B, and G. The Street Tree Provisions of Chapter B, Article III, Section 3-13.2 shall apply to all other development projects that require a special use rezoning, Building permit [for new construction or building additions], grading permit, Special Use Permit, Planning Board Review, or Final Development Plan, unless the required Street Trees were previously installed as part of a development project or there is existing vegetation within the prescribed area that satisfies the Street Tree requirement.

(2) The Tree Preservation Requirements of Chapter B, Article III, Section 3-13.3 shall not apply to the following uses and activities:

(a) Residential Building, Single Family and Residential Building, Single Family developments;

(b) Residential Building, Duplex and Residential Building, Multi-Family developments of eight (8) units or less on a single zoning lot;

(c) Tree removal associated with the maintenance of utility lines and easements;

(d) GS Authority Needed - Tree removal of 5,000 square feet or less, after the Tree Preservation Officer has determined that such removal is not associated with a forthcoming development proposal;

(e) (d) Tree removal and cleanup of storm damaged Trees;

(f) GS Authority Needed - Property covered by an active Forest Management Plan written by a North Carolina Registered forester, so long as documentation has been submitted to the Tree Preservation Officer that demonstrates the property is in the Forestry Management Program. Regardless, properties shall not be
clear-cut during the conduct of any forestry activities. To maintain the visual character of the site from adjoining properties and Rights-of-Way, and to ensure that any future development projects can reasonably comply with the Tree Save Area requirements of this ordinance, a vegetated perimeter buffer shall be maintained while tree harvesting for forestry occurs. A twenty-five foot (25’) wide buffer of existing vegetation shall be maintained along all boundaries of the property being forested that adjoin other properties. Along public Rights-of-Way, a fifty foot (50’) buffer of existing vegetation shall be maintained, exclusive of areas required for access to the site; and

(g) Property located within Growth Management Area (GMA) 1 shall be exempted from the Tree preservation requirements of this section; and

(f) Bona-fide Farms.

All other development projects that require a special use rezoning, Building permit [for new construction or building additions], grading permit, Special Use Permit, Planning Board Review, or Final Development Plan shall comply with the requirements of this section.

3-13.2 STREET TREE REQUIREMENTS.

Single family residential projects shall be exempt from all requirements of this section except Subsections A, B, and G below. Street Trees shall be required along both sides of all newly created Streets and along the Street frontage(s) abutting those properties/projects where no new Streets are created. Street Trees shall be Large Variety Trees, wherever possible. Medium and Small Variety Trees may be used for areas too small, narrow, or otherwise confined to permit establishment and growth of Large Variety Trees. All Street Trees required as part of this section shall meet the following conditions:

(A) Street Trees shall be planted within an area between the back of curb and a line fifteen feet (15’) behind, and parallel to, the Street Right-of-Way, except within GMA 1, where Street Trees shall be planted as shown/specified in the Downtown Street Tree Planting Plan. Until such time as the Downtown Street Tree Planting Plan is completed, Street Tree locations and planting rates within the GMA 1 area shall be as specified in Chapter B, Article III, Section 3-13.2 (A-G). Trees shall not be planted within utility easements;

(B) Street Trees shall be a minimum of ten feet (10’) in height at installation and shall have a Caliper of at least two inches (2”) in diameter;
(C) Street Trees shall be planted at a rate of three (3) Large Variety Trees per one hundred linear feet (100’), excluding points of motor vehicle ingress/egress or Streets. When abutting Utilities, Easements, or sight triangles make Medium or Small Variety Trees appropriate, per Chapter B, Article III, Section 3-13.2, they shall be planted at a rate of four (4) and five (5) trees per one hundred linear feet (100’), respectively. In no case shall there be less than one (1) Street Tree along a property frontage;

(D) Street Trees shall be spaced so that there is no less than twenty feet (20’) and no more than forty (40’) between Trees, measured trunk to trunk. In instances where existing vegetation is retained to meet this and other requirements of this section, then the spacing requirements shall be waived;

(E) Existing deciduous Trees located within the area specified in Chapter B, Article III, Section 3-13.2 (A) above may be used to satisfy the criteria listed above;

(F) Street Trees planted to satisfy the requirements of this section may also be utilized/counted towards the Streetyard, Motor Vehicle Surface Area, and Bufferyard Landscaping Standards of Chapter B, Article III, Section 3-4, so long as they meet the requirements specified therein; and

(G) Single family residential subdivisions are required to plant one (1) Large Variety Tree per lot which shall be planted prior to issuance of a Certificate of Occupancy. Each Tree shall meet the requirements established by subsections (A) and (B) above. This is the only tree save and tree planting requirement for single-family residential subdivisions.

3-13.3 TREE PRESERVATION REQUIREMENTS.

All development projects that require a special use rezoning, Building permit [for new construction or building additions], grading permit, Special Use Permit, Planning Board Review, or Final Development Plan not specifically exempted in Chapter B, Article III, Section 3-13.1 (C) shall provide one (1) or more Tree Save Areas (TSA) on the subject property. The following standards shall be met:

(A) Size of Trees to Preserve: Tree Save Areas (TSA) shall provide for the protection of all healthy Trees that are four inches (4”) or greater in Diameter at Breast Height (DBH). Trees less than four inches (4”) DBH may be preserved and counted toward the Tree Save Area (TSA) requirements, as provided herein. Trees between two and four inches (2”-4”) of desirable species may be preserved and credited with satisfying up to fifty percent (50%) of the requirement outlined in Chapter B, Article III, Section 3-13.3(B);
(B) Calculation and Location of the Required Tree Save Area (TSA): Tree Save Areas (TSA) shall be provided in accordance with the chart below. If Trees of four inches (4”) or greater DBH exist within or partially within these areas, such Trees must be saved, except as outlined in this section. The required area(s) (outlined below) shall be designated as Tree Save Areas (TSA) and shall not be disturbed, except as specifically allowed within this section:

<table>
<thead>
<tr>
<th>SIZE OF PARCEL (net)</th>
<th>REQUIRED TSA</th>
<th>PREFERRED TSA LOCATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 – 55,000 sq. ft.</td>
<td>5% of parcel area</td>
<td>Required Streetyards/Bufferyards</td>
</tr>
<tr>
<td>55,000 sq. ft – 5.00 acres</td>
<td>10% of parcel area</td>
<td>Required Streetyards/Bufferyards</td>
</tr>
<tr>
<td>5.01 acres – 10.00 acres</td>
<td>10% of parcel area</td>
<td>Required Streetyards/Bufferyards or within 15’ of the side and rear property line, whichever is greater</td>
</tr>
<tr>
<td>10.01 acres +</td>
<td>10% of parcel area</td>
<td>Required Streetyards/Bufferyards or within 25’ of the side and rear property line, whichever is greater</td>
</tr>
</tbody>
</table>

Calculations for Tree Save Areas (TSA) shall exclude the square footage areas for existing and proposed Streets and Street Rights-of-Way, existing and proposed Utility Easements, and existing and required ponds and lakes. The combined square footage of these areas shall be deleted from the total parcel area before the required percentage of Tree Save Area (TSA) is calculated.

(1) If there are Trees that meet the Tree Save Area (TSA) requirements on other areas of the site (besides the Streetyards and Bufferyards), the required Tree Save Area (TSA) may be designated around such Trees;

(2) If it is necessary to choose among two (2) or more stands of Trees to satisfy the requirements outlined above, the following priority list (ranked highest to lowest priority) shall be used:

(a) Streetyards;
(b) Type IV Bufferyards or Stream Buffers;
(c) Type III Bufferyards;
(d) Type II Bufferyards; and lastly
(e) Type I Bufferyards.

(3) If there are no existing Trees on the site meeting the criteria outlined in this section, there shall be no Tree Save Areas (TSA) required.

(C) Evaluation of Specimen Trees and Stands of Trees: Existing specimen Trees and stands of Trees must meet the following conditions to be considered for the Tree Save Area (TSA):
(1) A life expectancy of greater than ten (10) years;
(2) A relatively sound and solid trunk with no extensive decay or canopy dieback; and
(3) No major insect or pathological problems.

No credit will be granted for any dead Tree, damaged Tree, any Tree in poor health, any Tree that constitutes an obvious hazard to persons or property, or any Tree subjected to significant grade alterations. Such determination shall be made by the Tree Preservation Officer at the time of issuance of Certificate of Occupancy permits. Except for storm damage, the death of any Tree used for preservation credit within five (5) years of the issuance of Certificate of Occupancy permits shall require the landowner to plant new Trees equal to the number of credited Trees.

(D) Tree Save Area (TSA) Selection Criteria: In selecting which Tree stands are to be designated as Tree Save Areas (TSA), the applicant/landowner shall consider the location of the Buildings, parking lots, driveways, Streets, and Utilities, and shall use the following Tree priority list (ranked highest to lowest) as a guide:

(1) Existing Specimen Trees;
(2) Existing stands of mature (35’ in height or greater), Large Variety Trees;
(3) Existing stands of younger (less than 35’ in height), Large Variety Trees;
(4) Existing stands of mature (25’ in height or greater), Medium and Small Variety Trees;
(5) Existing stands of younger (less than 25’ in height), Medium and Small Variety Trees;
(6) Existing stands of mixed hardwood Trees, red cedar Trees, and pine Trees, etc;
(7) Existing stands of red cedar Trees; and lastly
(8) Existing stands of pine Trees.

If there are no existing Trees on the site meeting the criteria outlined in this section, there shall be no Tree Save Areas (TSA) required. The Bufferyard and Streetyard requirements specified in Chapter B, Article III, Section 3-4 shall apply.

(E) Critical Root Zone (CRZ) Protection and Permissible Disturbance: In order to ensure protection of the Trees designated within the Tree Save Area (TSA) throughout construction, the Critical Root Zone (CRZ) of all such Trees shall be preserved in an undisturbed area. If the entire Critical Root Zone (CRZ) cannot be preserved, the Tree Preservation Officer may permit cutting of Tree roots with
root pruning equipment designed for that purpose before grading of the site. This disturbed area shall extend no closer to the protected Tree’s trunk than the distance specified below:

<table>
<thead>
<tr>
<th>Diameter of Tree (DBH)</th>
<th>Minimum Distance from Tree Trunk for Disturbance</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.00 – 4.00 inches</td>
<td>4 feet</td>
</tr>
<tr>
<td>4.01 – 8.00 inches</td>
<td>1 foot for every one inch (1&quot;) of DBH</td>
</tr>
<tr>
<td>8.01 – 22.00 inches</td>
<td>8 feet</td>
</tr>
<tr>
<td>22.01 – 30.00 inches</td>
<td>9 feet</td>
</tr>
<tr>
<td>30.01+ inches</td>
<td>10 feet</td>
</tr>
</tbody>
</table>

Disturbance within the Critical Root Zone (CRZ) shall be allowed only on one side of the tree(s) to be preserved and only with prior approval by the Tree Preservation Officer. Approval of disturbance does not constitute a guarantee of livability. If the disturbed trees die within five (5) years following the issuance of Certificate of Occupancy permits, loss of tree credits shall occur and the landowner shall be required to either plant new Trees equal to the number of credited Trees that died or the area shall be reforested—per the standards contained in Chapter B, Article III, Section 3-13.3 (G)(2), whichever is greater.

(F) Tree Protection During Construction: To receive credit for existing Trees proposed for preservation, Trees must be protected from direct and indirect root damage, and trunk and crown disturbance. The following standards shall apply:

1. The Tree Save Area (TSA) shall include all area located within the Critical Root Zone (CRZ) as outlined in Chapter B, Article III, Section 3-13.3 (E);

2. Construction site activities, such as parking, material storage, dirt stockpiling, concrete washout, and other similar activities, shall not be permitted within the Tree Save Area (TSA);

3. Changes that significantly raise or lower the grade adjacent to the Tree Save Area (TSA) shall be avoided;

4. Utility line trenches and similar uses shall avoid the Tree Save Area (TSA). One (1) twenty foot (20’) wide Utility corridor, where all site Utilities besides sewer should be located, is permitted to penetrate the Tree Save Area (TSA). Additionally, sewer Rights-of-Way or Easements may penetrate the Tree Save Area (TSA) where it will best serve the site, irrespective of the Utility corridor specified above, so long as the cleared area for the sewer Rights-of-Way or Easement does not exceed thirty feet (30’). Due to certain site conditions where additional disturbance within the Tree Save Area (TSA) is unavoidable, underground tunneling or directional boring should be used. Trenching shall be used only as the last alternative and root pruning equipment designed for that purpose shall be
used and shall come no closer to the Tree trunk than the standards specified in Chapter B, Article III, Section 3-13.3 (E);

(5) Protective Fencing shall be installed around the Tree Save Area (TSA) before any Tree disturbing or grading activities. Such Protective Fencing shall be at least four feet (4') high and shall consist of orange polyethylene safety fencing. Protective Fencing shall remain in place until construction is complete and a Certificate of Occupancy has been issued.

(6) The Tree Save Area (TSA) shall be designated as such with “Tree Save Area” signs posted visibly on the outside of the fenced-in area. Signs should be spaced at intervals of no more than 250’ and may not be posted on any Trees.

(G) Incentives and Flexible Administration: The following incentive and flexible administration provisions are established to enhance the Tree canopy, to improve the quality of life, to discourage clear-cutting properties before or during construction, and to provide for creative solutions to unique situations:

(1) Stream Buffer Credits: Properties subject to the Stream Buffer/riparian buffer requirements of Chapter C, Article III and IV of the UDO may use some or all of the Stream Buffer/riparian area to satisfy the Tree Save Area (TSA) requirements, if the Stream Buffer/riparian area contains Trees two inches (2”) DBH;

(2) Reforestation Credits and Practices: In situations where Tree Save Areas (TSA) die or are otherwise removed, reforestation areas shall be established. The reforestation Trees shall include the requirements for the applicable Streetyard or Bufferyard. The remainder of the required Tree Save Areas (TSA) shall be reforested with Large Variety Trees at least two inches (2”) in Caliper planted with a maximum on-center spacing of twenty feet (20’);

(3) Reduction in Parking Requirements: To allow an existing development to retrofit parking to conform to the landscaping regulations of the UDO, or to allow an existing or new development to preserve Trees within or adjacent to a parking lot, the number of required off-street parking spaces may be reduced by the Tree Preservation Officer by up to ten percent (10%);

(4) Streetyard Credit: With the approval of the Tree Preservation Officer, the Tree Save Area (TSA) for Trees located along the Street frontage may be increased to one and one-half (1.5) times the actual square footage of the Critical Root Zone of the preserved Trees;

(5) Tree Preservation Credit: Trees preserved to satisfy the requirements of this section may also be utilized/counted towards the Streetyard, Motor
Vehicle Surface Area, and Bufferyard Landscaping Standards of Chapter B, Article III, Section 3-4, so long as they meet the requirements specified in both sections.

(6) Waivers: The Tree Preservation Officer shall have the authority to conclude that, due to unique site characteristics, preserving some or all required Trees in one or more Tree Save Areas (TSA) would create an undue or unreasonable hardship, then the protection of some or all of the required Trees in the Tree Save Area(s) (TSA) may be waived. Any waived areas shall be reforested in conformance with Section 3-13.3 (G) (2).

3-13.4 TREE PROTECTION PLAN/REMOVAL PERMIT PROCEDURES AND REQUIREMENTS.

Approval of a Tree Protection Plan is required for all projects, except those specifically exempted in Chapter B, Article III, Section 3-13.1 (C), and shall be submitted along with all other necessary drawings and applications to the Planning Department (for special-use rezonings, Planning Board Reviews, Special Use Permits, Subdivisions, Final Development Plans) or the Inspections Division (Building permits [for new construction or building additions], grading permits). Compliance with the following items or procedures is required for all site plans, grading plans, and erosion control plans:

(A) Drawings identifying the following items:

(1) Perimeter boundaries and calculations for the required Tree Save Area(s) (TSA);
(2) Required Streetyards and Bufferyards, including required plant rates and sizes;
(3) Protected Trees within the Tree Save Area(s) (TSA), including Tree size and type, subject to the following conditions:
   (a) Trees within TSA’s do not need to be surveyed;
   (b) Specimen Trees proposed for preservation shall be individually located and identified on the plan;
(4) Critical Root Zone(s) of each specimen Tree or group of Trees;
(5) Limits of clearing and land disturbance;
(6) Grading;
(7) Trenching;
(8) Required Tree Protection Fencing, including signage;
(9) Overhead and underground Utilities and Easements;
(10) Areas of reforestation, if any; and
(11) Stream Buffer(s), if any.

(B) Notes indicating the following requirements, shown in BOLD, CAPITAL letters:

(a) Contact the Tree Preservation Officer to set up a pre-construction meeting prior to any land disturbance;

NOTE: Items to be deleted are indicated with a strikeout; items to be added are indicated with an underscore.
(b) All Tree Protection Fencing shall be installed and inspected by the Tree Preservation Officer prior to any land disturbing activity; and
(c) Removal or damage of Trees in the Tree Save Area(s) (TSA) will be subject to the penalties established in Chapter B, Article IX, Section 9-1.

(C) Plan Review: The plans and application materials shall be reviewed by the Tree Preservation Officer for conformance with the applicable provisions of this section. The plans will either be approved or returned for revisions. Reasons for return shall be noted, in writing;

(D) Final Plat: All Tree Save Areas (TSA) shall be labeled on the recorded Final Plat.

(E) Enforcement: The Tree Preservation Officer may conduct follow-up site inspections for enforcement of the provisions of this, or other sections of the UDO, before the issuance of a Certificate of Occupancy, or later to ensure continued compliance.

3-13.5 TREE REMOVAL PERMIT PROCEDURES AND REQUIREMENTS.

(A) Requirements for a Tree Removal Permit:

(1) Identify the required Tree Save Area(s) (TSA) as specified in Chapter B, Article III, Section 3-13.3 (B); and
(2) Submit a Tree Protection Plan and Removal Permit as specified in Chapter B, Article III, Section 3-13.4.

Section 2. This ordinance shall become effective July 1, 2005. Inspections indicates that the effective date of the UDO-122(A) needs to be one (1) year following adoption, contingent upon necessary positions being fully funded. Otherwise, if positions are not funded this year, effective date shall be one (1) year following approval of funding.
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, Zoning Ordinance, Article III is hereby amended by amending Section 3-4.10 “Suggested Plant Materials List” to read as follows:

3-4.10 SUGGESTED PLANT MATERIALS LIST (F, W)

The suggested plant materials list includes common Trees and shrubs suitable for use in the Forsyth County area. Due to individual site soil, moisture, and microclimate conditions, professional expertise should be sought to determine the appropriate plant materials for any particular development project.

(A) Large Variety Trees (mature height: thirty-five (35) feet or greater):

<table>
<thead>
<tr>
<th>Tree Name</th>
<th>Scientific Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>European Black Alder</td>
<td><em>Alnus glutinosa</em> (Pyramidalis)</td>
</tr>
<tr>
<td>Bald Cypress</td>
<td><em>Taxodium distichum</em> (Monarch of Illinois, Shawnee Brave)</td>
</tr>
<tr>
<td>Sugar Hackberry</td>
<td><em>Celtis laevigata</em></td>
</tr>
<tr>
<td>Chalkbark Maple</td>
<td><em>Acer Leucoderme</em></td>
</tr>
<tr>
<td>Freeman Maple</td>
<td><em>Acer x freemanii</em> (Armstrong, Autumn Blaze, Celebration, Scarlet Sentinel)</td>
</tr>
<tr>
<td>Green Mountain Sugar Maple</td>
<td><em>Acer saccharum</em> (Green Mountain)</td>
</tr>
<tr>
<td>Hedge Maple</td>
<td><em>Acer campestre</em></td>
</tr>
<tr>
<td>Red Maple</td>
<td><em>Acer rubrum</em> (Autumn Flame, Bowhall, Karpick, Northwood, October Glory, Red Skin, Red Sunset)</td>
</tr>
<tr>
<td>Southern Sugar Maple</td>
<td><em>Acer Barbatum</em></td>
</tr>
<tr>
<td>Sugar Maple</td>
<td><em>Acer saccharum</em></td>
</tr>
<tr>
<td>Trident Maple</td>
<td><em>Acer buergeranum</em></td>
</tr>
<tr>
<td>Bur Oak</td>
<td><em>Quercus macrocarpa</em></td>
</tr>
<tr>
<td>English Oak</td>
<td><em>Quercus robur</em> (Fastigiata)</td>
</tr>
<tr>
<td>Northern Red Oak</td>
<td><em>Quercus rubra</em></td>
</tr>
<tr>
<td>Nutall Oak</td>
<td><em>Quercus nutalli</em></td>
</tr>
<tr>
<td>Overcup Oak</td>
<td><em>Quercus lyrata</em></td>
</tr>
<tr>
<td>Pin Oak</td>
<td><em>Quercus palustris</em></td>
</tr>
<tr>
<td>Sawtooth Oak</td>
<td><em>Quercus acutissima</em></td>
</tr>
<tr>
<td>Shingle Oak</td>
<td><em>Quercus imbricaria</em></td>
</tr>
<tr>
<td>Swamp White Oak</td>
<td><em>Quercus bicolor</em></td>
</tr>
<tr>
<td>Tree Name</td>
<td>Scientific Name</td>
</tr>
<tr>
<td>---------------------------</td>
<td>-----------------------------------------</td>
</tr>
<tr>
<td>Scarlet Oak</td>
<td>Quercus coccinea</td>
</tr>
<tr>
<td>Schumard Oak</td>
<td>Quercus schumardi</td>
</tr>
<tr>
<td>White Oak</td>
<td>Quercus alba</td>
</tr>
<tr>
<td>Willow Oak</td>
<td>Quercus phellos</td>
</tr>
<tr>
<td>Green Ash</td>
<td>Fraxinus pennsylvanica (Marshall Seedless, Newport, Patmore, Summit, Lakeview)</td>
</tr>
<tr>
<td>Kentucky Coffeetree</td>
<td>Gymnocladus dioicus</td>
</tr>
<tr>
<td>London Plane-tree</td>
<td>Platanus acerifolia (Bloodgood, Colombiap, Liberty)</td>
</tr>
<tr>
<td>River Birch</td>
<td>Betula nigra (Heritage, DuraHeat)</td>
</tr>
<tr>
<td>Japanese Zelkova</td>
<td>Zelkova serrata (Green Vase, Village Green)</td>
</tr>
<tr>
<td>Japanese Pagodatree</td>
<td>Sophora japonica (Princeton Upright, Regent)</td>
</tr>
<tr>
<td>Tulip Poplar</td>
<td>Liriodendron tulipifera</td>
</tr>
<tr>
<td>Black Gum</td>
<td>Nyssa sylvatica</td>
</tr>
<tr>
<td>Littleleaf Linden</td>
<td>Tilia cordata (Glenlevn, Greenspire)</td>
</tr>
<tr>
<td>Silver Linden</td>
<td>Tilia tomentosa (Green Mountain, Sterling)</td>
</tr>
<tr>
<td>Japanese Scholartree</td>
<td>Sophora japonica</td>
</tr>
<tr>
<td>Gingko</td>
<td>Gingko biloba (Lakeview, Princeton Sentry)</td>
</tr>
<tr>
<td>Japanese Katsuratree</td>
<td>Cercidiphyllum japonicum</td>
</tr>
<tr>
<td>Chinese Elm</td>
<td>Ulmus parviflora (Lacebark, Athena, Allee)</td>
</tr>
<tr>
<td>Hybrid Elm</td>
<td>Ulmus spp. (Homestead, Pioneer, Urban)</td>
</tr>
<tr>
<td>Loblolly Pine</td>
<td>Pinus taeda</td>
</tr>
<tr>
<td>Princess Tree</td>
<td>Paulownia tomentosa</td>
</tr>
</tbody>
</table>

(B) Medium Variety Trees (mature height: twenty-five (25) to thirty-five (35) feet):

<table>
<thead>
<tr>
<th>Tree Name</th>
<th>Scientific Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bradford Pear</td>
<td>Pyrus calleryana “Bradford”</td>
</tr>
<tr>
<td>Mountain Silverbell</td>
<td>Halesia monticola</td>
</tr>
<tr>
<td>European Hornbeam</td>
<td>Carpinus betulus (Fastigiata)</td>
</tr>
<tr>
<td>Hophornbeam</td>
<td>Ostrya virginiana</td>
</tr>
<tr>
<td>Sourwood</td>
<td>Oxydendrum arboreum</td>
</tr>
<tr>
<td>Thornless Honeylocust</td>
<td>Gleditsia triacanthos &quot;Iermis&quot;</td>
</tr>
<tr>
<td>Eastern Redbud</td>
<td>Cercis Canadensis, chinensis</td>
</tr>
<tr>
<td>Mountain Ash</td>
<td>Sorbus american</td>
</tr>
<tr>
<td>Yoshino Cherry</td>
<td>Prunus yeodoensis</td>
</tr>
<tr>
<td>Golden-Rain-Tree</td>
<td>Koelreuteria paniculata</td>
</tr>
<tr>
<td>Little Gem Magnolia</td>
<td>Magnolia “Little gem”</td>
</tr>
<tr>
<td>Saucer Magnolia</td>
<td>Magnolia soulangeana</td>
</tr>
<tr>
<td>Weeping Cherry</td>
<td>Prunus subhirtilla pendula</td>
</tr>
<tr>
<td>Kwansan Cherry</td>
<td>Prunus serrucata &quot;Kwansan&quot;</td>
</tr>
</tbody>
</table>
Fall Blooming Cherry  
Prunus autumnalis

Pistachio  
Pistachia chinensis

Redmond Linden  
Tilia americana "Redmond"

Fruitless Sweetgum  
Liquidambar styraciflua “Rotundaloba”

American Holly  
Ilex opaca (East Palatka, Foster’s #2, Nellie R. Stevens)

Eastern Red Cedar  
Juniperus virginiana (Emerald Sentinel, Princeton Sentry, Pendula)

(C) Small Variety Trees (mature height: less than twenty-five (25) feet):

Japanese Maple  
Acer palmatum

Carolina Cherrylaurel  
Prunus caroliniana

Choke Cherry  
Prunus virginiana

Sargent Cherry  
Prunus sargentii (Columnaris, Hillier Spire)

Chinese Pistache  
Pistacia chinensis

Amur Maple  
Acer ginnala

Green Hawthorn  
Crataegus viridis

Japanese Dogwood  
Cornus kousa

Flowering Dogwood  
Cornus florida

Smoketree  
Cotinus coggyria (Daydream, Royal Purple)

Crape Myrtle  
Lagerstroemia indica (Dallas Red, Lipan, Natchez, Sioux, Tonto, Yuma)

Crabapple (var.)  
Malus hybrida (var.)

Russian Olive  
Eleagnus angustifolia

Waxy Myrtle  
Myrica cerifera

Star Magnolia  
Magnolia stellata

Japanese Tree Lilac  
Syringa reticulata

(D) Streetyard and Interior Shrubs (mature height: approximately thirty-six (36) inches):

(1)  Evergreen.

Warty Barberry  
Berberis verruculosa

Dwarf Burford Holly  
Ilex cornuta "Burfordii" nana

Japanese Holly (var.)  
Ilex crenata (var.)

Azalea (var.)  
Azalea sp.

Mugo Pine  
Pinus mugo

Juniper (var.)  
Juniperus sp.

Euonymous (var.)  
Euonymous sp.

Leatherleaf Viburnum  
Viburnum rhytidophyllum

NOTE: Items to be deleted are indicated with a strikeout; items to be added are indicated with an underscore.
(2) Deciduous.

Forsythia Forsythia sp.
Dwarf Burning Bush Euonymous alatus "Compacta"
Thunberg Spirea Spirea thunbergii
Viburnum (var.) Viburnum sp.
Oakleaf Hydrangea Hydrangea quercifolia
Japanese Flowering Quince Chaenomeles japonic
Potentilla Potentilla fruticosa
Ornamental Grass (var.)
Nandina Nandina domestica
Dwarf Nandina Nandina domestica nana

(E) Outdoor Storage Area Screening Plants (installation height: six (6) feet):

American Holly Ilex opaca
Burforda Holly Ilex cornuta "Burfordii"
Nellie Stevens Holly Ilex cornata "Nellie Stevens"
Red Tip Photina Photina glabra
Wax Myrtle Myrica cerifera
Hetz Juniper Juniperus hetzi
Arborvitae Thuja occidentalis, plicata
Eastern Red Cedar Juniperus virginiana
Japanese Black Pine Pinus thunbergiana

(F) Groundcovers (planting areas, berms, wall planters):

Lily-Turf Liriope muscarii
Creeping Lilyturf Liriope spicata
Hybrid Daylily Hemerocallis hybridra
Periwinkle Vinca minor
English Ivy Hedera helix
Purpleleaf Winter-creeper Evonymous fortunei coloratus
Aaronsbeard Hypericum calycinum
Rockspray Cotoneaster Cotoneaster horizontalis

(G) The following trees shall not be credited toward the requirements of this ordinance:

Bradford Pear Pyrus calleryana “Bradford”
Silver Maple Acer saccharinum
Hybrid Poplars Populus spp.
Tree of Heaven Ailanthus altissima

Section 2. This ordinance shall become effective upon March 1, 2005.