

## DRAFT STAFF REPORT

**DOCKET #:** UDO-155

**STAFF:** Margaret Bessette

### **REQUEST**

UDO text amendment to revise Chapter C, Environmental Ordinance, Article III, Salem Lake Watershed Ordinance to: 1) modify the Special Intense Development Allocation (SIDA) point system to give points to schools, churches and other tax-exempt institutional uses; and 2) delete references in the SIDA provisions related to municipalities in Forsyth County's zoning jurisdiction. This amendment is proposed by City staff following discussions with the Winston-Salem/Forsyth County School System.

### **BACKGROUND**

The State minimum water supply watershed regulations allow local jurisdictions to permit limited area of intense development (up to 70% built upon area) in regulated water supply watersheds. In the Salem Lake Watershed, built upon area is otherwise limited to 12 and 24% generally and 30% with storm water management controls. The State allows local jurisdictions to decide whether or not to allow the intense development areas and if so, how to allocate the limited acreage. Originally, the intense development percentage was limited to 5% of a jurisdiction's land area. In 1995, Winston-Salem and Forsyth County adopted *Special Intense Development Allocation (SIDA)* provisions for the Salem Lake Watershed. The State later raised the percentage of intense development allowed to 10%, but Winston-Salem and Forsyth County did not amend the Salem Lake Watershed ordinance.

When the SIDA provisions were adopted locally in 1995 for the Salem Lake Watershed, a two-tiered allocation system was established to direct the SIDA to projects that provide a significant economic benefit to the community. The two-tiered system was created because the land area was limited and staff thought there would be extensive demand for the intense development allowance. The first tier, a point system, serves as an initial screening tool, limiting the number of projects going to the elected body for consideration. The point system favors large commercial and industrial projects that add significantly to the tax base. Small projects, uses on residentially zoned sites and tax-exempt uses are unlikely to be able to accumulate the required three hundred (300) points.

Projects that achieve 300 points under the point system then go on to the second tier, elected body consideration. The elected body decides whether or not to grant the SIDA based on five approval criteria which are: conforms with the comprehensive plan; compatible with the area; provides significant economic benefit or meets an identified community need; minimizes environmental impacts; and has good transportation access. Based on State requirements, projects granted a SIDA in the Salem Lake Watershed must use storm water controls to manage site storm water runoff because the high density/storm water management option is otherwise allowed in the watershed.

The total land area available for allocation based on 5% of the Salem Lake Watershed is 160 acres for the City of Winston-Salem; 238 acres for Forsyth County; and 85 acres for the Town of Walkertown. Based on the State's increase to 10% of the land area, double these amounts could ultimately be allocated by the jurisdictions. While staff thought there would be significant demand for the intense development acreage, there has not been. In the Salem Lake Watershed, SIDA acreage has only been granted for projects in Walkertown, where 43 acres has been allocated for or by the Town.

The UDO includes SIDA provisions for other regulated water supply watershed in Forsyth County. Except in the Town of Kernersville which has its own allocation system, there is no screening point system for the SIDA outside the Salem Lake Watershed. In these other watersheds, the decision whether to grant a SIDA is made by the elected body based only on the approval criteria.

Over the last few months, City-County staff has met with Winston-Salem/Forsyth County School System staff. The School System needs to increase capacity and expand built upon area on some existing sites in the Salem Lake Watershed, but are already at or approaching their maximum allowed coverage on the sites. City-County staff has also met with representatives from a church that would like to build on a site in the Salem Lake Watershed. Both the School System and the church would like the option of being considered for a SIDA, but cannot achieve the 300 points necessary to meet the first tier requirement primarily because their uses do not create tax base.

The primary purpose of this text amendment is modification of the SIDA point system in the Salem Lake Watershed to give one-hundred fifty (150) points to schools (public and private), churches, utilities and other governmental uses. These uses would still need to accumulate an additional 150 points under the point system to go on to the second tier, elected body consideration for the SIDA.

This text amendment also includes a "clean-up" provision to delete references in the Salem Lake SIDA provisions related to municipalities in Forsyth County's zoning jurisdiction. These references applied to the Town of Walkertown when it was under Forsyth County's zoning jurisdiction. These provisions no longer apply since Walkertown now exercises its own zoning authority and the Forsyth County Watershed Protection Ordinance (not the Salem Lake Watershed Ordinance) applies in Walkertown's jurisdiction in the Salem Lake Watershed.

### **ANALYSIS**

When the SIDA approval system was developed in the mid-1990s, it was thought that there would be very high demand for the limited available acreage. This has not happened and no acreage has been allocated for Winston-Salem or Forsyth County for any type of project.

The screening point system was designed to prioritize commercial and industrial projects that provide community benefits by adding to the tax base. Schools and churches also provide community benefits by providing needed facilities. However, because they do not create tax base and are rarely located on commercial or industrial zoned sites, it is practically impossible for such uses to accumulate the 300 points required under the current screening point system and even be considered by the elected body for a SIDA in the Salem Lake Watershed.

Staff discussed a number of approaches to addressing this issue. Staff considered recommending that some institutional uses be simply exempted from the point system. As an alternative, staff is recommending modifying the point system in a manner that puts such uses on a more even footing with commercial and industrial uses by giving 150 points in the point system to schools, churches, public facilities and utilities. One hundred fifty points was selected to compensate for the points given in the point system for tax base added and commercial/industrial zoning.

Staff also considered whether to limit the provisions to public uses or to expand the provision to include other institutional uses. Staff is recommending including churches along with schools, public facilities and utilities because churches can also serve to benefit the community and are handicapped under the current point system since they do not generate tax base.

The tax-exempt/institutional uses will still need to accumulate another 150 points from other categories in the point system to achieve the required 300 points to go on to the second-tier, consideration by the elected body under the approval criteria. The elected body approval criteria assure that the intense development acreage is allocated to only projects that are compatible with their surroundings, do not have negative environmental impacts and provide benefits to the community.

A significant number of acres—ultimately over 300 in Winston-Salem and 450 in Forsyth County—can be allocated for intense development under the SIDA provisions in the Salem Lake Watershed. Modifying the point system as proposed in this text amendment will enable the elected bodies to allocate the SIDA acreage for projects that provide community facilities while still having substantial acreage available to be allocated for projects that provide economic benefits.

## **RECOMMENDATION**

### **APPROVAL.**

Margaret Bessette presented the staff report.

## **PUBLIC HEARING**

FOR:

Dr. Johnny L. York, 2252 Queen Street, Winston-Salem, NC 27103

- Thank you for your time.
- I live in Kernersville and pastor a church at 2252 Queen Street in Winston-Salem.
- We have grown considerably and now have over 400 members. Since we are land-locked in Ardmore, we purchased land on Reynolds Park Road about a year ago. It is in the Salem Lake Watershed area.
- As a result, we realized that non-profit groups like the school system and churches may have need of the SIDA.
- Although the tax base may not be strongly impacted, we think of the quality of life we can give to residents in that area.

- We are part of the Second Harvest Food Bank, we have a community knowledge center and a computer lab used in conjunction with WSSU, we offer classes and training in leadership, budgeting, parenting, and things of this nature. We are trying to become more community oriented.
- We're looking to have child care, adult care centers at the new location as well as the services we currently provide.
- We hope to provide a sliding-scale medical assistance program.
- We are in strong support of this request.
- We feel the County and City need to have these types of services.
- Being able to provide a positive impact on the way people think and their attitudes toward life and what they can expect of life provides more impact than a tax base.
- In response to a question by a board member, Mr. York indicated that if the church could have this 150 points, they could get the remaining 150 points to use more of their site.

Gene Miller, Winston-Salem Forsyth County School,

- This is something we need. The school system is growing very rapidly. We can't control where these people move.
- We're a government entity. Even though we do not pay taxes, if you discount the medical services, we are the largest employer in Forsyth County.
- This would certainly help us. As we grow and until we get the resources to build more buildings and scope out more property, we are going to run into problems expanding to meet the needs of our citizens.

AGAINST: None

### **WORK SESSION**

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

1. Are pods on blocks considered impervious? Yes. That question has been even been checked with Raleigh. They are very close to the ground.
2. 300 points is the first hoop for a project to pass through and then elected body consideration is next.
3. Carol Eickmeyer: Salem Lake Watershed is a small drinking-water watershed. I really don't think it's good to make it easier for people to build in it. I'm also concerned about giving points to churches because they can go through so much expansion without going through a public process. Regardless of the good work that they do and the needs they meet in the immediate neighborhood, they are not a government service.
4. Brenda Smith: This does seem to defeat the purpose of having set a bar to protect that watershed, so you're opening it up even more. That's not to negate the benefit a church may have in its own community. The whole issue of watershed protection is a greater issue of public good than one small institution.
5. In response to a question, Margaret Bessette reminded the board that the number of acres will not increase. The issue will just be who can use those acres.
6. Public and Private Schools, Churches, Libraries, Police & Fire Station would be allowed to use it.

7. In response to a question, Margaret Bessette stated that the best way to protect the watershed would be to allow absolutely no development in it. However, that is not realistic which is why these regulations were adopted in the first place. It becomes a balance of allowing some development, but in a manner which does not have a negative impact on the water quality. The requirement of storm water management is significant in dealing with the negative impacts on water quality.
8. Paul Norby: This text amendment would not increase the number of acres which could be developed according to SIDA rules. There is a very limited bank of acreage under which this development can happen. Playing with the point system is not giving away more acreage, it's just figuring out a way to allocate out the point system. Because in this zoning jurisdiction the base is mostly residential, it makes sense to look at the distribution system.
9. Clarence Lambe: We've enacted strict land-use guidelines and if we let the government exempt themselves from those guidelines by allowing themselves to apply for SIDA allocations... The government will use up the land.
10. Jerry Clark: We seem to be beating up on churches a bit here and I have a problem with that. I think there's a limited number of churches that would apply.
11. The Board discussed different point scales for different uses or level of uses.

MOTION: Jerry Clark moved approval of the amendment as adopted.

SECOND: Lynne Mitchell

Mr. Clark and Ms. Mitchell withdrew the motion and asked that it be discussed further at work session. Mr. Lambe suggested that lowering the points may be the most feasible option.

MOTION: Jerry Clark moved continuance of the zoning text amendment to April 13, 2006..

SECOND: Lynne Mitchell

VOTE:

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

AGAINST: None

EXCUSED: None

**DRAFT UDO-155**  
**AN ORDINANCE AMENDING**  
**CHAPTER C ENVIRONMENTAL ORDINANCE OF**  
**THE *UNIFIED DEVELOPMENT ORDINANCES***  
**REGARDING THE SPECIAL INTENSE DEVELOPMENT ALLOCATION**

Be it resolved, by @, North Carolina that the *Unified Development Ordinances* (UDO) is hereby amended as follows:

**Section 1.** “Chapter C, Environmental Ordinance, Article III - Salem Lake Watershed Protection” is hereby amended as follows:

**3-5 DEVELOPMENT OPTIONS**

**3-5.4 SPECIAL INTENSE DEVELOPMENT ALLOCATION**

**(C) Criteria for Approval**

- (1) Point System.** ~~Except within the corporate limits of the municipalities in Forsyth County’s zoning jurisdiction, all~~ All projects must have a point score of at least ~~300 (three hundred)~~ three hundred (300) based on the point system in ~~(E) below C.3-5.4(E)~~ to qualify for the SIDA.
- ~~**(2) Within Municipalities in Forsyth County's Jurisdiction.** Within the corporate limits of the municipalities in Forsyth County's zoning jurisdiction, projects must have either a point score of at least 300 (three hundred) based on the point system in (E) below or obtain formal endorsement in the form of an adopted resolution from the municipality's governing body to qualify for the SIDA. If a project is endorsed by the municipality's governing body, the performance point system will not be used as a basis for evaluation.~~
- ~~**(3)**~~ **(2) Elected Body Approval.** The Elected Body shall approve or deny the request for a SIDA based upon the project meeting ~~(1) or (2)~~ C.3-5.4(C)(1) and meeting all the following criteria:

  - (a) The proposed project is in conformance with the adopted *Legacy*.
  - (b) The proposed project land use and site design are compatible with the general character of the area and surrounding land uses.

NOTE: Text to be added is indicated with an underscore. Text to be deleted is shown with a ~~strikethrough~~.

- (c) The proposed project provides a significant economic benefit to the community by creating or retaining jobs, increasing the property tax base, or assisting an existing industry to grow and or remain in Forsyth County; or, the project meets an identified community need such as the provision of community facilities, retail business or personal services, or affordable housing.
- (d) The proposed project does not pose a threat to the environment, especially water quality, and appropriate steps have been taken to minimize any potential negative environmental impacts.
- (e) The proposed project has good transportation access, including proximity to major roads and/or rail lines.

**(E) Special Intense Development Allocation Point System**

		<b>Points</b>
<b>Zoning</b>		
	Property located in commercial or industrial district as of July 1, 1993 (W) or as of January 1, 1994 (F)	75
	Special use district zoning application	50
<b>Project Site Size</b>		
	Five to 10 acres	50
	More than 10 acres	75
<b>Tax Base Added</b>		
	\$500,000 or less	25
	\$500,001 to 1,000,000	50
	\$1,000,001 to 2,000,000	75
	Over \$2 million	100
<b><u>Tax-Exempt/Institutional Use</u></b>		
	<u>Includes Church or Religious Institution, Community; Church or Religious Institution, Neighborhood; Government Offices; Library, Public; Police or Fire Station; Post Office; School, Private; School, Public; and Utilities</u>	<u>150</u>
<b>Access</b>		
	Located on a major thoroughfare	25
	Has direct rail access	25
	Located within 300 feet of an interchange of a limited access US highway	25

NOTE: Text to be added is indicated with an underscore. Text to be deleted is shown with a ~~strike through~~.

<b>Public Sewer</b>		
	Project utilizes public sewer system	50
<b>Undisturbed Land in Trees or Woody Vegetation</b>		
	>50% vegetated	50
	25-50% vegetated	25
<b>Landscaping</b>		
	One step increase in required bufferyard type	25
<b>Greenway Easements</b>		
	Dedication along streams included in the Comprehensive Greenway Plan	25
<b>Right-of-Way</b>		
	Dedication of street right-of-way in excess of sixty feet as required in Thoroughfare Plan	25
<b>Building Structure and Parking</b>		
	Multiple story building	25
	Parking decks or parking under building	25

**Section 3.** This ordinance shall become effective upon adoption.

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