

**FORSYTH COUNTY**  
**BOARD OF COMMISSIONERS**

**MEETING DATE:** \_\_\_\_\_ **AGENDA ITEM NUMBER:** \_\_\_\_\_

**SUBJECT:-**

Request for Public Hearing on Zoning Text Amendment proposed by the City-County Planning Board

**COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:-**

**SUMMARY OF INFORMATION:-**

Zoning Text Amendment proposed by the City-County Planning Board (UDO-60) to amend Sections 2-3 and 3-1 of Chapter B "Zoning"; Section 2-3.1(A) and (B) of Chapter C "Environmental Ordinance"; and Section 1 of the "Subdivision Regulations" of the UDO to permit properties to be subdivided under certain conditions with density credits and certain floodplain requirements consolidated into one of the subdivided lots."

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

**ATTACHMENTS:-**     YES         NO

**SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**ACTION REQUEST FORM**

**DATE:** April 19, 2000  
**TO:** The Honorable Mayor and Board of Aldermen  
**FROM:** A. Paul Norby, AICP, Director of Planning

**BOARD ACTION REQUEST:**

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**PLANNING BOARD ACTION:**

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

## ZONING STAFF REPORT

**DOCKET #:** UDO-60

**STAFF:** Tim Gauss

### REQUEST:

Text amendment proposed by the City-County Planning Board to amend Sections 2-3 and 3-1 of Chapter B "Zoning"; Section 2-3.1(A) and (B) of Chapter C "Environmental Ordinance"; and Section 1 of the "Subdivision Regulations" of the *Unified Development Ordinances* (UDO) to permit properties to be subdivided under certain conditions with density credits and certain floodplain dimensional requirements consolidated into one of the subdivided lots.

### BACKGROUND

The text amendment is requested by the City-County Planning Board at the request of and in conjunction with the City Manager's Office and the City Parks and Recreation Department.

The City of Winston-Salem Parks and Recreation Department has negotiated for the purchase of a tract of land that is needed for expansion of the greenway system and other recreation facilities, and which ties into new school facilities. The property consists largely of floodplain and is well located in order to serve future growth.

In negotiating the sale of the property, the present owners expressed their reluctance to give up the development rights to the property that would be sold, since retaining it would allow density credits that could be used in the uplands area. In other words, the seller would like the density credit of the portion being sold to the City to be retained with them for use in developing the remainder of their property in the future.

Developers and landowners within Winston-Salem, Forsyth County, and the other municipalities in Forsyth County all have the right to shift densities within a single zoning lot, as in a Planned Residential Development where housing units may be clustered on more suitable or buildable land to avoid grading or building in floodplain, steep slope, or other environmentally sensitive area. In such cases, those environmentally sensitive lands may be counted for purposes of density calculations. However, there is no express authorization under North Carolina Statutes for a zoning ordinance mechanism to transfer development rights from one parcel or zoning lot to another. For information purposes, the UDO defines a "Zoning Lot" as "A parcel or contiguous parcels of land which is indicated by the owner at the time of application for a building or zoning permit as being that land which is proposed for development *under one ownership* (italics added)."

In addition, because of wording in the floodplain regulations in the UDO, there could be complications in developing the land as two tracts. Section 2-3.1(B)(3)(b)(1) of the "Environmental Ordinance" states in part, "The area of encroachment may not include more than fifty percent (50%) of the area of the floodway fringe on the zoning lot where it is located."

Most of the property the City would like to purchase is in the floodway fringe; a portion of the tract to remain in ownership of the seller is also in the floodway fringe. With the newly defined tract remaining with the seller, the 50% limit of encroachment would substantially reduce the buildable area on this remaining zoning lot.

This type of situation not only thwarts the acquisition of property for public parks or open space, but also has implications for how private development occurs in and near floodplains. As public and private development continues in the future this type of situation will occur again, and without an ordinance change, an inconsistent pattern of development within flood-prone areas will occur. This pattern will be dictated purely by existing lotting patterns, with large lots in single ownership able to build in the uplands area with a density transfer out of the floodplain, and smaller lots in separate ownership seeing development occur in the floodway fringe because there are no other options to transfer density to adjacent lots in the uplands that could more suitably be developed.

## **AMENDMENT PROVISIONS**

The proposal authorizes the limited transfer of density credit in the following situation:

- C The original owner of a zoning lot desires to subdivide and sell a portion of the original zoning lot.
- C The original owner and purchaser of the subdivided part agree to reallocate development rights among themselves.
- C The reallocation provides 1) the purchaser relinquishes a right or portion thereof to develop all or any portion of the subdivided part of the original zoning lot and 2) such right to develop is transferred to or retained by the original owner for application on the portion of the tract he/she retains.
- C Such writing shall be reviewed by the Zoning Officer for compliance with the UDO and approved, and recorded in the Office of the Register of Deeds.

## **ANALYSIS**

Although this text amendment request is based on a specific situation, staff understands that the amendment would apply to a variety of situations and parcels of land throughout the county. Staff will therefore attempt to assess the possible consequences of this text amendment in as broad a context as possible.

Staff is of the opinion that some flexibility in consolidating or shifting density and other dimensional requirements of the UDO would be beneficial. Besides giving flexibility to the applications of land use regulations such as in the current situation, shifting development rights may be particularly helpful to 1) encourage more consolidated and coordinated development rather than smaller piecemeal developments; 2) encourage environmentally sensitive

development (through avoiding development in floodplains); and 3) promote compatibility between new and existing land uses (such as retaining open space between new development and adjacent existing development). Allowing the consolidation of development rights of different parcels along floodplains could also address the situation where smaller individual parcels are located entirely or partially within the floodway fringe, which can in turn lead to disconnected, piecemeal development.

Staff is also aware, however, that some possible unintended consequences from the proposed consolidation of development rights could occur if such provisions are not well designed.

- C Extensive shifting of densities from one or more parcels to others could result in the development of a site which may not be in keeping with the intended character of the area.
- C The consolidation of development rights through private agreements would constitute an extra layer of record-keeping and review applied to the property in question, in addition to the regular requirements under the UDO.
- C The provision could constitute an incentive to develop near floodplains, or in other areas not designated for higher density growth by *Vision 2005*, the comprehensive plan.

Because of the potential environmental benefits and the incentive to more coordinated and less piecemeal development, staff generally supports the proposed text amendment to allow consolidation of development rights and application of standards. With regard to the potential negative effects of the amendment, particularly increasing the perceived densities, we note that such "shifting" of rights can currently occur if all the land is under one ownership or all parcels are purchased to create one zoning lot. Further, staff feels that the nature of the text amendment requiring a written agreement between buyer and seller limiting development options will limit its use at least initially, and should not create an undue administrative burden, particularly for the Inspections Division and the Planning Board staff. Finally, with regard to the issue of the amendment serving as an incentive for development in locations contrary to the comprehensive plan, staff would recommend that application of the consolidation of development rights provisions be limited to parcels with floodplains (the amendment should encourage more environmentally sensitive development) and be limited to Growth Management Areas 1 (Central Business District), 2 (Central), 3 (Urban), 4A (Short-Range Growth), and 4B (Long-Range Growth). Areas 5 (Rural) and 6 (Yadkin River) would not be eligible for the amendment's provisions.

## **RECOMMENDATION**

Staff recommends approval of the text amendment with the limitation that the provisions would only apply to properties with floodplains and that lands located in Growth Management Areas 5 and 6 as designated in *Vision 2005* would be excluded from the provisions of the amendment.

Tim Gauss presented the staff report.

**PUBLIC HEARING**

FOR: None

AGAINST: None

**WORK SESSION**

MOTION: Steve Johnson moved approval of the zoning text amendment.

SECOND: John Bost.

VOTE:

FOR: Bost, Johnson, King, Powell, Rousseau, Schroeder, Williams

AGAINST: None

EXCUSED: None

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A. Paul Norby, AICP  
Director of Planning

**UDO-60**  
**AN ORDINANCE AMENDING CHAPTER B ZONING ORDINANCE,  
CHAPTER C ENVIRONMENTAL ORDINANCE, AND CHAPTER D  
SUBDIVISION REGULATIONS/ORDINANCE OF THE  
UNIFIED DEVELOPMENT ORDINANCES (UDO) REGARDING  
CONSOLIDATING CERTAIN DEVELOPMENT STANDARDS  
WHEN PROPERTY IS SUBDIVIDED**

Be it resolved, by the Board of Commissioners of Forsyth County, North Carolina, that the *Unified Development Ordinances* (UDO) is hereby amended as follows:

Section 1. Section 2-3 *Application of District Regulations* of Chapter B *Zoning* is amended by adding a new subsection 2-3.6 as follows:

**2-3.6 SUBDIVIDED ZONING LOTS WITH WRITTEN AGREEMENTS**

When a zoning lot existing as of the effective date of this Ordinance is proposed to be subdivided into two or more zoning lots, the other requirements of the *Unified Development Ordinances* shall be applied to each of the subdivided lots, provided, however, that the residential density requirements of this Ordinance and the limits of floodway fringe encroachment provisions of Section 2-3.1(B)(3)(b)(i) of the "Environmental Ordinance" may be applied, in whole or in part, to any one or more of the subdivided lots and not to the other lot(s) when such original zoning lot is subdivided under the following conditions:

**(A) Floodplain**

The original zoning lot encompasses property with designated floodplain area per Article II *Floodway and Floodway Fringe Regulations* of Chapter C *Environmental Ordinance*.

**(B) Growth Management Areas**

The original zoning lot lies partially or completely within Growth Management Areas 1, 2, 3, 4A, or 4B, as designated in *Vision 2005*.

**(C) Allocation of Development Rights Between Seller and Purchaser**

The owner of the original zoning lot and the purchaser(s) of a subdivided part have in writing allocated development rights between or among themselves concerning the development of the original zoning lot whereby a right, or any portion thereof, to develop all, or any portion of, a subdivided part of the original zoning lot as permitted in this Ordinance is transferred to, or is retained by, the remaining portion of the original zoning lot. Development of each subdivided part pursuant to the terms of the writing shall meet or exceed the requirements of this Ordinance. The writing shall further provide that the allocation of development rights shall be appurtenant to and run with the land so benefitted and have the effect of imposing a negative easement or restriction upon the servient land.

**(D) Zoning Officer Approval of Plat**

The writing constituting the reallocation of development rights must include, or be represented by, a plat illustrating the reallocation. To be effective, the writing and plat shall be reviewed for compliance with this Ordinance by the Zoning Officer, and if the writing and plat complies with this Ordinance, the Zoning Officer shall stamp his approval upon its face, and the writing and plat must then be recorded at the Forsyth County Register of Deeds. A violation of these requirements shall be a violation of this Ordinance and unlawful.

Section 2. Section 3-1 *Dimensional Requirements* of Chapter B *Zoning* is amended by adding the following subsection 3-1.1(D) as follows:

**(D) Subdivided Zoning Lots With Written Agreements**

When a zoning lot existing as of the effective date of this Ordinance is proposed to be subdivided into two or more zoning lots, the other requirements of the *Unified Development Ordinances* shall be applied to each of the subdivided lots, provided, however, that the residential density requirements of this Ordinance and the limits of floodway fringe encroachment provisions of Section 2-3.1(B)(3)(b)(i) of the "Environmental Ordinance" may be applied, in whole or in part, to any one or more of the subdivided lots and not to the other lot(s) when such original zoning lot is subdivided under the following conditions:

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The original zoning lot lies partially or completely within Growth Management Areas 1, 2, 3, 4A, or 4B, as designated in *Vision 2005*.

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Section 3. Section 2-3.1 *Standards for Streams With Established Base Flood Elevations and Floodways* of Chapter C *Environmental Ordinance* is amended by adding the following at the end of subsection 2-3.1(B)(3)(b)(i) *Limits of Encroachment*:

"Where lots are subdivided under the provisions of Section 3 (J) of the *Subdivision Regulations/Subdivision Ordinance*, the limits of encroachment of this section may apply to the original zoning lot rather than each individual zoning lot."

Section 4. Section 3 *Minor Subdivisions* of Chapter D *Subdivision Regulations/Subdivision Ordinance* is amended by adding the following subsection (J):

**(J) Subdivided Zoning Lots With Written Agreements**

When a zoning lot existing as of the effective date of this Ordinance is proposed to be subdivided into two or more zoning lots, the other requirements of the *Unified Development Ordinances* shall be applied to each of the subdivided lots, provided, however, that the residential density requirements of the "Zoning Ordinance" and the limits of floodway fringe encroachment provisions of Section 2-3.1(B)(3)(b)(i) of the "Environmental Ordinance" may be applied, in whole or in part, to any one or more of the subdivided lots and not to the other lot(s) when such original zoning lot is subdivided under the following conditions:

**(1) Floodplain**

The original zoning lot encompasses property with designated floodplain area per Article II *Floodway and Floodway Fringe Regulations* of Chapter C *Environmental Ordinance*.

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The original zoning lot lies partially or completely within Growth Management Areas 1, 2, 3, 4A, or 4B, as designated in *Vision 2005*.

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The owner of the original zoning lot and the purchaser(s) of a subdivided part have in writing allocated development rights between or among themselves concerning the development of the original zoning lot whereby a right, or any portion thereof, to develop all, or any portion of, a subdivided part of the original zoning lot as permitted in this Ordinance is transferred to, or is retained by, the

remaining portion of the original zoning lot. Development of each subdivided part pursuant to the terms of the writing shall meet or exceed the requirements of this Ordinance. The writing shall further provide that the allocation of development rights shall be appurtenant to and run with the land so benefitted and have the effect of imposing a negative easement or restriction upon the servient land.

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Section 5. This Ordinance shall be effective upon adoption.

**UDO-60**  
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Be it resolved, by the Board of Aldermen of the City of Winston-Salem, North Carolina, that the *Unified Development Ordinances* (UDO) is hereby amended as follows:

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Section 2. Section 3-1 *Dimensional Requirements* of Chapter B *Zoning* is amended by adding the following subsection 3-1.1(D) as follows:

**(D) Subdivided Zoning Lots With Written Agreements**

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Section 3. Section 2-3.1 *Standards for Streams With Established Base Flood Elevations and Floodways* of Chapter C *Environmental Ordinance* is amended by adding the following at the end of subsection 2-3.1(B)(3)(b)(i) *Limits of Encroachment*:

"Where lots are subdivided under the provisions of Section 3 (J) of the *Subdivision Regulations/Subdivision Ordinance*, the limits of encroachment of this section may apply to the original zoning lot rather than each individual zoning lot."

Section 4. Section 3 *Minor Subdivisions* of Chapter D *Subdivision Regulations/Subdivision Ordinance* is amended by adding the following subsection (J):

**(J) Subdivided Zoning Lots With Written Agreements**

When a zoning lot existing as of the effective date of this Ordinance is proposed to be subdivided into two or more zoning lots, the other requirements of the *Unified Development Ordinances* shall be applied to each of the subdivided lots, provided, however, that the residential density requirements of the "Zoning Ordinance" and the limits of floodway fringe encroachment provisions of Section 2-3.1(B)(3)(b)(i) of the "Environmental Ordinance" may be applied, in whole or in part, to any one or more of the subdivided lots and not to the other lot(s) when such original zoning lot is subdivided under the following conditions:

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The original zoning lot encompasses property with designated floodplain area per Article II *Floodway and Floodway Fringe Regulations* of Chapter C *Environmental Ordinance*.

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The original zoning lot lies partially or completely within Growth Management Areas 1, 2, 3, 4A, or 4B, as designated in *Vision 2005*.

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WHEN PROPERTY IS SUBDIVIDED**

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

Section 1. Section 2-3 *Application of District Regulations* of Chapter B *Zoning* is amended by adding a new subsection 2-3.6 as follows:

**2-3.6 SUBDIVIDED ZONING LOTS WITH WRITTEN AGREEMENTS**

When a zoning lot existing as of the effective date of this Ordinance is proposed to be subdivided into two or more zoning lots, the other requirements of the *Unified Development Ordinances* shall be applied to each of the subdivided lots, provided, however, that the residential density requirements of this Ordinance and the limits of floodway fringe encroachment provisions of Section 2-3.1(B)(3)(b)(i) of the "Environmental Ordinance" may be applied, in whole or in part, to any one or more of the subdivided lots and not to the other lot(s) when such original zoning lot is subdivided under the following conditions:

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Section 2. Section 3-1 *Dimensional Requirements* of Chapter B *Zoning* is amended by adding the following subsection 3-1.1(D) as follows:

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"Where lots are subdivided under the provisions of Section 3 (J) of the *Subdivision Regulations/Subdivision Ordinance*, the limits of encroachment of this section may apply to the original zoning lot rather than each individual zoning lot."

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The original zoning lot encompasses property with designated floodplain area per Article II *Floodway and Floodway Fringe Regulations* of Chapter C *Environmental Ordinance*.

**(2) Growth Management Areas**

The original zoning lot lies partially or completely within Growth Management Areas 1, 2, 3, 4A, or 4B, as designated in *Vision 2005*.

**(3) Allocation of Development Rights Between Seller and Purchaser**

The owner of the original zoning lot and the purchaser(s) of a subdivided part have in writing allocated development rights between or among themselves concerning the development of the original zoning lot whereby a right, or any portion thereof, to develop all, or any portion of, a subdivided part of the original zoning lot as permitted in this Ordinance is transferred to, or is retained by, the

remaining portion of the original zoning lot. Development of each subdivided part pursuant to the terms of the writing shall meet or exceed the requirements of this Ordinance. The writing shall further provide that the allocation of development rights shall be appurtenant to and run with the land so benefitted and have the effect of imposing a negative easement or restriction upon the servient land.

**(4) Zoning Officer Approval of Plat**

The writing constituting the reallocation of development rights must include, or be represented by, a plat illustrating the reallocation. To be effective, the writing and plat shall be reviewed for compliance with this Ordinance by the Zoning Officer, and if the writing and plat complies with this Ordinance, the Zoning Officer shall stamp his approval upon its face, and the writing and plat must then be recorded at the Forsyth County Register of Deeds. A violation of these requirements shall be a violation of this Ordinance and unlawful.

Section 5. This Ordinance shall be effective upon adoption.

**UDO-60**  
**AN ORDINANCE AMENDING CHAPTER B ZONING ORDINANCE,  
CHAPTER C ENVIRONMENTAL ORDINANCE, AND CHAPTER D  
SUBDIVISION REGULATIONS/ORDINANCE OF THE  
UNIFIED DEVELOPMENT ORDINANCES (UDO) REGARDING  
CONSOLIDATING CERTAIN DEVELOPMENT STANDARDS  
WHEN PROPERTY IS SUBDIVIDED**

Be it resolved, by the Board of Aldermen of the Town of Kernersville, North Carolina, that the *Unified Development Ordinances* (UDO) is hereby amended as follows:

Section 1. Section 2-3 *Application of District Regulations* of Chapter B *Zoning* is amended by adding a new subsection 2-3.6 as follows:

**2-3.6 SUBDIVIDED ZONING LOTS WITH WRITTEN AGREEMENTS**

When a zoning lot existing as of the effective date of this Ordinance is proposed to be subdivided into two or more zoning lots, the other requirements of the *Unified Development Ordinances* shall be applied to each of the subdivided lots, provided, however, that the residential density requirements of this Ordinance and the limits of floodway fringe encroachment provisions of Section 2-3.1(B)(3)(b)(i) of the "Environmental Ordinance" may be applied, in whole or in part, to any one or more of the subdivided lots and not to the other lot(s) when such original zoning lot is subdivided under the following conditions:

**(A) Floodplain**

The original zoning lot encompasses property with designated floodplain area per Article II *Floodway and Floodway Fringe Regulations* of Chapter C *Environmental Ordinance*.

**(B) Growth Management Areas**

The original zoning lot lies partially or completely within Growth Management Areas 1, 2, 3, 4A, or 4B, as designated in *Vision 2005*.

**(C) Allocation of Development Rights Between Seller and Purchaser**

The owner of the original zoning lot and the purchaser(s) of a subdivided part have in writing allocated development rights between or among themselves concerning the development of the original zoning lot whereby a right, or any portion thereof, to develop all, or any portion of, a subdivided part of the original zoning lot as permitted in this Ordinance is transferred to, or is retained by, the remaining portion of the original zoning lot. Development of each subdivided part pursuant to the terms of the writing shall meet or exceed the requirements of this Ordinance. The writing shall further provide that the allocation of development rights shall be appurtenant to and run with the land so benefitted and have the effect of imposing a negative easement or restriction upon the servient land.

**(D) Zoning Officer Approval of Plat**

The writing constituting the reallocation of development rights must include, or be represented by, a plat illustrating the reallocation. To be effective, the writing and plat shall be reviewed for compliance with this Ordinance by the Zoning Officer, and if the writing and plat complies with this Ordinance, the Zoning Officer shall stamp his approval upon its face, and the writing and plat must then be recorded at the Forsyth County Register of Deeds. A violation of these requirements shall be a violation of this Ordinance and unlawful.

Section 2. Section 3-1 *Dimensional Requirements* of Chapter B *Zoning* is amended by adding the following subsection 3-1.1(D) as follows:

**(D) Subdivided Zoning Lots With Written Agreements**

When a zoning lot existing as of the effective date of this Ordinance is proposed to be subdivided into two or more zoning lots, the other requirements of the *Unified Development Ordinances* shall be applied to each of the subdivided lots, provided, however, that the residential density requirements of this Ordinance and the limits of floodway fringe encroachment provisions of Section 2-3.1(B)(3)(b)(i) of the "Environmental Ordinance" may be applied, in whole or in part, to any one or more of the subdivided lots and not to the other lot(s) when such original zoning lot is subdivided under the following conditions:

**(1) Floodplain**

The original zoning lot encompasses property with designated floodplain area per Article II *Floodway and Floodway Fringe Regulations* of Chapter C *Environmental Ordinance*.

**(2) Growth Management Areas**

The original zoning lot lies partially or completely within Growth Management Areas 1, 2, 3, 4A, or 4B, as designated in *Vision 2005*.

**(3) Allocation of Development Rights Between Seller and Purchaser**

The owner of the original zoning lot and the purchaser(s) of a subdivided part have in writing allocated development rights between or among themselves concerning the development of the original zoning lot whereby a right, or any portion thereof, to develop all, or any portion of, a subdivided part of the original zoning lot as permitted in this Ordinance is transferred to, or is retained by, the remaining portion of the original zoning lot. Development of each subdivided part pursuant to the terms of the writing shall meet or exceed the requirements of this Ordinance. The writing shall further provide that the allocation of development rights shall be appurtenant to and run with the land so benefitted and have the effect of imposing a negative easement or restriction upon the servient land.

**(4) Zoning Officer Approval of Plat**

The writing constituting the reallocation of development rights must include, or be represented by, a plat illustrating the reallocation. To be effective, the writing and plat shall be reviewed for compliance with this Ordinance by the Zoning Officer, and if the writing and plat complies with this Ordinance, the Zoning Officer shall stamp his approval upon its face, and the writing and plat must then be recorded at the Forsyth County Register of Deeds. A violation of these requirements shall be a violation of this Ordinance and unlawful.

Section 3. Section 2-3.1 *Standards for Streams With Established Base Flood Elevations and Floodways* of Chapter C *Environmental Ordinance* is amended by adding the following at the end of subsection 2-3.1(B)(3)(b)(i) *Limits of Encroachment*:

"Where lots are subdivided under the provisions of Section 3 (J) of the *Subdivision Regulations/Subdivision Ordinance*, the limits of encroachment of this section may apply to the original zoning lot rather than each individual zoning lot."

Section 4. Section 3 *Minor Subdivisions* of Chapter D *Subdivision Regulations/Subdivision Ordinance* is amended by adding the following subsection (J):

**(J) Subdivided Zoning Lots With Written Agreements**

When a zoning lot existing as of the effective date of this Ordinance is proposed to be subdivided into two or more zoning lots, the other requirements of the *Unified Development Ordinances* shall be applied to each of the subdivided lots, provided, however, that the residential density requirements of the "Zoning Ordinance" and the limits of floodway fringe encroachment provisions of Section 2-3.1(B)(3)(b)(i) of the "Environmental Ordinance" may be applied, in whole or in part, to any one or more of the subdivided lots and not to the other lot(s) when such original zoning lot is subdivided under the following conditions:

**(1) Floodplain**

The original zoning lot encompasses property with designated floodplain area per Article II *Floodway and Floodway Fringe Regulations* of Chapter C *Environmental Ordinance*.

**(2) Growth Management Areas**

The original zoning lot lies partially or completely within Growth Management Areas 1, 2, 3, 4A, or 4B, as designated in *Vision 2005*.

**(3) Allocation of Development Rights Between Seller and Purchaser**

The owner of the original zoning lot and the purchaser(s) of a subdivided part have in writing allocated development rights between or among themselves concerning the development of the original zoning lot whereby a right, or any portion thereof, to develop all, or any portion of, a subdivided part of the original zoning lot as permitted in this Ordinance is transferred to, or is retained by, the

remaining portion of the original zoning lot. Development of each subdivided part pursuant to the terms of the writing shall meet or exceed the requirements of this Ordinance. The writing shall further provide that the allocation of development rights shall be appurtenant to and run with the land so benefitted and have the effect of imposing a negative easement or restriction upon the servient land.

**(4) Zoning Officer Approval of Plat**

The writing constituting the reallocation of development rights must include, or be represented by, a plat illustrating the reallocation. To be effective, the writing and plat shall be reviewed for compliance with this Ordinance by the Zoning Officer, and if the writing and plat complies with this Ordinance, the Zoning Officer shall stamp his approval upon its face, and the writing and plat must then be recorded at the Forsyth County Register of Deeds. A violation of these requirements shall be a violation of this Ordinance and unlawful.

Section 5. This Ordinance shall be effective upon adoption.

**UDO-60**  
**AN ORDINANCE AMENDING CHAPTER B ZONING ORDINANCE,  
CHAPTER C ENVIRONMENTAL ORDINANCE, AND CHAPTER D  
SUBDIVISION REGULATIONS/ORDINANCE OF THE  
UNIFIED DEVELOPMENT ORDINANCES (UDO) REGARDING  
CONSOLIDATING CERTAIN DEVELOPMENT STANDARDS  
WHEN PROPERTY IS SUBDIVIDED**

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

Section 1. Section 2-3 *Application of District Regulations* of Chapter B *Zoning* is amended by adding a new subsection 2-3.6 as follows:

**2-3.6 SUBDIVIDED ZONING LOTS WITH WRITTEN AGREEMENTS**

When a zoning lot existing as of the effective date of this Ordinance is proposed to be subdivided into two or more zoning lots, the other requirements of the *Unified Development Ordinances* shall be applied to each of the subdivided lots, provided, however, that the residential density requirements of this Ordinance and the limits of floodway fringe encroachment provisions of Section 2-3.1(B)(3)(b)(i) of the "Environmental Ordinance" may be applied, in whole or in part, to any one or more of the subdivided lots and not to the other lot(s) when such original zoning lot is subdivided under the following conditions:

**(A) Floodplain**

The original zoning lot encompasses property with designated floodplain area per Article II *Floodway and Floodway Fringe Regulations* of Chapter C *Environmental Ordinance*.

**(B) Growth Management Areas**

The original zoning lot lies partially or completely within Growth Management Areas 1, 2, 3, 4A, or 4B, as designated in *Vision 2005*.

**(C) Allocation of Development Rights Between Seller and Purchaser**

The owner of the original zoning lot and the purchaser(s) of a subdivided part have in writing allocated development rights between or among themselves concerning the development of the original zoning lot whereby a right, or any portion thereof, to develop all, or any portion of, a subdivided part of the original zoning lot as permitted in this Ordinance is transferred to, or is retained by, the remaining portion of the original zoning lot. Development of each subdivided part pursuant to the terms of the writing shall meet or exceed the requirements of this Ordinance. The writing shall further provide that the allocation of development rights shall be appurtenant to and run with the land so benefitted and have the effect of imposing a negative easement or restriction upon the servient land.

**(D) Zoning Officer Approval of Plat**

The writing constituting the reallocation of development rights must include, or be represented by, a plat illustrating the reallocation. To be effective, the writing and plat shall be reviewed for compliance with this Ordinance by the Zoning Officer, and if the writing and plat complies with this Ordinance, the Zoning Officer shall stamp his approval upon its face, and the writing and plat must then be recorded at the Forsyth County Register of Deeds. A violation of these requirements shall be a violation of this Ordinance and unlawful.

Section 2. Section 3-1 *Dimensional Requirements* of Chapter B *Zoning* is amended by adding the following subsection 3-1.1(D) as follows:

**(D) Subdivided Zoning Lots With Written Agreements**

When a zoning lot existing as of the effective date of this Ordinance is proposed to be subdivided into two or more zoning lots, the other requirements of the *Unified Development Ordinances* shall be applied to each of the subdivided lots, provided, however, that the residential density requirements of this Ordinance and the limits of floodway fringe encroachment provisions of Section 2-3.1(B)(3)(b)(i) of the "Environmental Ordinance" may be applied, in whole or in part, to any one or more of the subdivided lots and not to the other lot(s) when such original zoning lot is subdivided under the following conditions:

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**(2) Growth Management Areas**

The original zoning lot lies partially or completely within Growth Management Areas 1, 2, 3, 4A, or 4B, as designated in *Vision 2005*.

**(3) Allocation of Development Rights Between Seller and Purchaser**

The owner of the original zoning lot and the purchaser(s) of a subdivided part have in writing allocated development rights between or among themselves concerning the development of the original zoning lot whereby a right, or any portion thereof, to develop all, or any portion of, a subdivided part of the original zoning lot as permitted in this Ordinance is transferred to, or is retained by, the remaining portion of the original zoning lot. Development of each subdivided part pursuant to the terms of the writing shall meet or exceed the requirements of this Ordinance. The writing shall further provide that the allocation of development rights shall be appurtenant to and run with the land so benefitted and have the effect of imposing a negative easement or restriction upon the servient land.



**(4) Zoning Officer Approval of Plat**

The writing constituting the reallocation of development rights must include, or be represented by, a plat illustrating the reallocation. To be effective, the writing and plat shall be reviewed for compliance with this Ordinance by the Zoning Officer, and if the writing and plat complies with this Ordinance, the Zoning Officer shall stamp his approval upon its face, and the writing and plat must then be recorded at the Forsyth County Register of Deeds. A violation of these requirements shall be a violation of this Ordinance and unlawful.

Section 3. Section 2-3.1 *Standards for Streams With Established Base Flood Elevations and Floodways* of Chapter C *Environmental Ordinance* is amended by adding the following at the end of subsection 2-3.1(B)(3)(b)(i) *Limits of Encroachment*:

"Where lots are subdivided under the provisions of Section 3 (J) of the *Subdivision Regulations/Subdivision Ordinance*, the limits of encroachment of this section may apply to the original zoning lot rather than each individual zoning lot."

Section 4. Section 3 *Minor Subdivisions* of Chapter D *Subdivision Regulations/Subdivision Ordinance* is amended by adding the following subsection (J):

**(J) Subdivided Zoning Lots With Written Agreements**

When a zoning lot existing as of the effective date of this Ordinance is proposed to be subdivided into two or more zoning lots, the other requirements of the *Unified Development Ordinances* shall be applied to each of the subdivided lots, provided, however, that the residential density requirements of the "Zoning Ordinance" and the limits of floodway fringe encroachment provisions of Section 2-3.1(B)(3)(b)(i) of the "Environmental Ordinance" may be applied, in whole or in part, to any one or more of the subdivided lots and not to the other lot(s) when such original zoning lot is subdivided under the following conditions:

**(1) Floodplain**

The original zoning lot encompasses property with designated floodplain area per Article II *Floodway and Floodway Fringe Regulations* of Chapter C *Environmental Ordinance*.

**(2) Growth Management Areas**

The original zoning lot lies partially or completely within Growth Management Areas 1, 2, 3, 4A, or 4B, as designated in *Vision 2005*.

**(3) Allocation of Development Rights Between Seller and Purchaser**

The owner of the original zoning lot and the purchaser(s) of a subdivided part have in writing allocated development rights between or among themselves concerning the development of the original zoning lot whereby a right, or any portion thereof, to develop all, or any portion of, a subdivided part of the original zoning lot as permitted in this Ordinance is transferred to, or is retained by, the

remaining portion of the original zoning lot. Development of each subdivided part pursuant to the terms of the writing shall meet or exceed the requirements of this Ordinance. The writing shall further provide that the allocation of development rights shall be appurtenant to and run with the land so benefitted and have the effect of imposing a negative easement or restriction upon the servient land.

**(4) Zoning Officer Approval of Plat**

The writing constituting the reallocation of development rights must include, or be represented by, a plat illustrating the reallocation. To be effective, the writing and plat shall be reviewed for compliance with this Ordinance by the Zoning Officer, and if the writing and plat complies with this Ordinance, the Zoning Officer shall stamp his approval upon its face, and the writing and plat must then be recorded at the Forsyth County Register of Deeds. A violation of these requirements shall be a violation of this Ordinance and unlawful.

Section 5. This Ordinance shall be effective upon adoption.