

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 to amend Chapter B of the UDO regarding changes to the Requirements for Property Descriptions submitted with zoning petitions. (UDO-63).

After consideration, the Planning Board recommended

ATTACHMENTS:- YES NO

SIGNATURE: _____ **DATE:** _____

ACTION REQUEST FORM

DATE: @
TO: The Honorable Mayor and Board of Aldermen
FROM: A. Paul Norby, AICP, Director of Planning

BOARD ACTION REQUEST:

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

SUMMARY OF INFORMATION:

Zoning Text Amendment proposed by the City-County Planning Board to amend Chapter B of the UDO regarding changes to the Requirements for Property Descriptions submitted with rezoning petitions (UDO-63).

PLANNING BOARD ACTION:

MOTION ON PETITION: @
FOR: @
AGAINST: @
SITE PLAN ACTION: @

DRAFT ZONING STAFF REPORT

DOCKET #: UDO-63

STAFF: David Reed

REQUEST:

Text amendment proposed by the City-County Planning Board to amend Section 2-2.2(A) and Section 6-2.1 (K) of Chapter B, "Zoning" of the *Unified Development Ordinances* (UDO) to change the requirements for submission of a legal description of property to be rezoned to a more easily defined property description.

BACKGROUND

Planning staff periodically experiences problems in rezoning requests, subdivisions, and other site plan submittals due to descriptions of property submitted by applicants which are inconsistent with the Tax Office records (Forsyth County Tax Assessor's GIS database).

Most often the problems arise for us when written "legal descriptions" of property (utilizing metes or bounds calls with distances and latitudinal and longitudinal directions given) are submitted to us. These descriptions may be taken from old deeds; up-to-date surveys are not usually provided at the front end of the rezoning or site plan review process. In these cases, the parcel or zoning lot so described may not match the description of the property defined later in a field survey; may not fit into the "puzzle" of the tax data in the Forsyth County Tax Assessor's Geographic Information System (GIS); and may not even close a defined polygon.

If a discrepancy is discovered, there could be a legal question as to what property was precisely rezoned or given site plan approval. Administratively, Planning staff has in the past worked with the Tax Office staff to determine how best to make the zoning lot fit into the larger fabric of the mapped parcel data which is based on tax records. Staff has also worked with applicants during or after the rezoning process to revise property descriptions. Reconciling the written legal descriptions with the Tax Office records can be a time-consuming process.

A number of factors contribute to this situation:

- C The "Zoning Ordinance" allows metes or bounds descriptions of properties based on old deeds for rezoning requests. In addition, there is no requirement for site plan preparers to insure that descriptions close.
- C A current field survey is not required as an application requirement (the cost of a survey is deferred until after a rezoning petition is approved). In addition, the UDO does not specify accepted professional cartographic standards for completion of surveys.

- C Planning staff may not legally shift lines or make minor adjustments (e.g., 50') to reconcile lines with property lines. The UDO notes that zoning lines usually follow such features as property lines, streets, alleys, etc. The Zoning Officer is authorized to shift zoning lines to property lines if less than 50'; otherwise the Zoning Officer must interpret their precise location (Section 2-2.2 of the "Zoning Ordinance" of UDO).
- C The improved mapping technology allows us to be more precise and able to catch errors which previously went unnoticed.

Planning staff has circulated to the City and County Attorneys, private attorneys involved in land use and zoning matters, and private site plan preparers a memo discussing the problems experienced and possible changes to the UDO; a meeting of all parties was held September 15 at which consensus was reached on the recommendations.

CURRENT REQUIREMENTS

Section 6-2 of the *Unified Development Ordinances* (UDO) deals with amendments to the text and official zoning maps. Section 6-2.1(K) reads as follows:

"(K) Legal Description

A typed legal description of the property for which rezoning is requested shall be included with the petition. Such description shall also include acreage and tax and block information for the property. Such description may be by metes and bounds or recorded plat book and page reference."

The application form for either General Use or Special Use District Zoning used in the Planning Board office contains the following requirement:

"Legal Description of land requested for rezoning, typed on a separate attached page. If property being rezoned consists of two or more lots each having a separate description, then those descriptions must be combined into one description of the perimeter of all the property. This is normally found in the property(s) Deed(s) as a metes and bounds description or is referred to in the Deed(s) as a Recorded Plat. If the Deed refers to a Recorded Plat, a copy of that Recorded Plat must be attached. (Copies of Deeds and Recorded Plats may be obtained from the Forsyth County Register of Deeds Office in the new Hall of Justice Building)."

Article VII of the "Zoning Ordinance" of the UDO contains site plan requirements. Section 7-3.5 states, "The boundaries of the property, including bearings and distances, shall be shown on the site plan." This is a graphic requirement, and the metes or calls on the plan usually reflect the written metes or bounds description contained in the deed or, if prepared, a more recent survey of the property.

The "Subdivision Regulations" of the UDO require a survey of project sites prior to final recordation.

GOALS

Planning staff goals in proposing changes to the UDO are to: 1) construct and maintain an accurate system of maps in the City of Winston-Salem and the Forsyth County Tax Assessor's GIS databases; 2) improve customer service by simplifying site plan submittal requirements and expediting the review process; 3) reduce staff time and costs related to processing and correcting errors in written metes or bounds descriptions; and 4) clarify that it is the applicants' responsibility to provide accurate descriptions of properties which may be integrated into the Winston-Salem and the Forsyth County Tax Assessor's GIS databases.

RECOMMENDATIONS

Staff proposes to revise the first sentence of Section 2-2.2(A) "Location of District Boundaries" of the *Zoning Ordinance* to read as follows:

"Zoning district boundaries shall follow property lines identified in the City/County Geographic Information System unless otherwise defined by a field survey or computed description based on 1983 North American Datum which defines a closed polygon, or located along centerlines of streets, alleys, railroad rights-of-way, or extensions thereof."

Staff proposes to revise Section 6-2.1(K) "Legal Description" of the *Zoning Ordinance* to read as follows:

"(K) Property Description

A description of the property for which rezoning is requested shall be included with the petition. Such description shall be by reference to the latest available parcel identifier as maintained in the Forsyth County Tax Assessor's GIS database, and shall include reference to a recorded plat, if available. If a portion of a lot(s) is included in the petition, a written metes or bounds description from a field survey or computed description no older than 5 years from the date of submittal shall be submitted; said description shall be based on 1983 North American Datum (NAD) and shall define a closed polygon. A copy of the most current deed of the property to be rezoned shall also be submitted."

Staff proposes to change the Legal Description requirements on the zoning application form for either General Use or Special Use District Zoning used in the Planning Board office to a Property Description to read as follows:

"Single description of property requested for rezoning, said description shall be by reference to the latest available parcel identifier(s) as maintained in the Forsyth County Tax Assessor's GIS database and reference to a recorded plat, if available. If a portion of a lot(s) is included in the request, a written metes or bounds description obtained from a field survey or computed description no older than 5 years old from the day of submittal and based on 1983 North American Datum (NAD), and which defines a closed polygon, must be submitted. If a written metes or bounds description is submitted, 1) the description must be submitted on electronic conveyance approved by Planning Board staff, and 2) a single description around the perimeter of all lots in question must be submitted if a project site includes more than one tax lot. The property description shall be submitted on or before the presubmittal deadline for staff to verify the description. Descriptions which are incorrect will be returned to the petitioner for correction and must be corrected by filing deadline. If the petitioner fails to correct the description by the filing deadline, the rezoning petition will not be accepted for processing."

In addition, staff proposes to add the following provision on the zoning application form:

"A current deed(s) of the property(ies) to be rezoned must also be submitted at the time of application. (Copies of Deeds and Recorded Plats may be obtained from the Forsyth County Register of Deeds Office in the new Hall of Justice Building.)"

The new requirements would be much easier for the public to meet and staff to administer; would encourage the improvement of public records in the City of Winston-Salem and the Forsyth County Tax Assessor's GIS databases; and would not sacrifice the accuracy of properties so described.

RECOMMENDATION

Staff recommends **APPROVAL** of the text amendment.

UDO-63
AN ORDINANCE AMENDING
CHAPTER B "ZONING ORDINANCE,"
OF THE UNIFIED DEVELOPMENT ORDINANCES (UDO)
REGARDING SUBMISSION OF PROPERTY DESCRIPTIONS
FOR PROPERTIES TO BE REZONED

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

Section 1. Section 2-2.2(A) "Location of District Boundaries" of Chapter B, *Zoning*, is amended by changing the first sentence to read as follows:

"Zoning district boundaries shall follow property lines identified in the City/County Geographic Information System unless otherwise defined by a field survey or computed description based on 1983 North American Datum which defines a closed polygon, or located along centerlines of streets, alleys, railroad rights-of-way, or extensions thereof."

Section 2. Section 6-2.1(K) "Legal Description" of Chapter B, *Zoning*, is changed to "Property Description" to read as follows:

"(K) Property Description

A description of the property for which rezoning is requested shall be included with the petition. Such description shall be by reference to the latest available parcel identifier as maintained in the Forsyth County Tax Assessor's GIS database, and shall include reference to a recorded plat, if available. If a portion of a lot(s) is included in the petition, a written metes or bounds description from a field survey or computed description no older than 5 years from the date of submittal shall be submitted; said description shall be based on 1983 North American Datum (NAD) and shall define a closed polygon. A copy of the most current deed of the property to be rezoned shall also be submitted."

Section 3. This Ordinance shall be effective upon adoption.