

AGENDA
PLANNING AND ZONING COMMISSION

City of High Point
Municipal Office Building
City Council Chambers
February 9, 2016
6:00 P.M.

A. Call to Order and Determination of Quorum

B. Public Hearing Items

New Development Ordinance

A request by the Planning and Development Department to adopt a new Development Ordinance.

5:30 p.m. Commission Dinner Session (Third Floor Conference Room)

CITY OF HIGH POINT
PLANNING AND DEVELOPMENT DEPARTMENT
NEW DEVELOPMENT ORDINANCE STAFF REPORT
February 9, 2016

Request

Proposal: To adopt a new development ordinance that governs zoning, environmental and subdivision regulations.

Background

The following is a summary of the history of how and why a new development ordinance was written:

- 2007 – Core City Plan was adopted and called for a rewrite of the Development Ordinance primarily because the current ordinance, which was last rewritten in 1992, is:
 - Oriented towards suburban development
 - Difficult for infill and revitalization
 - Treated as one size fits all for development
- 2008/2009 – Consultants prepared a Code Assessment of the current Development Ordinance
 - Conducted stakeholder interviews and a Citizen Preference Survey
 - Worked with an 11-member Citizen Advisory Committee
 - Identified need to rewrite ordinance to:
 - Create a more user-friendly code
 - Implement the Core City Plan
 - Protect and revitalize the city’s neighborhoods and gateway corridors
 - Create more livable and sustainable development in the suburban/greenfield area
 - Create additional flexibility and incentives to encourage development
 - Presented the assessment to Planning and Zoning Commission and City Council and received notice to proceed with the rewrite of the Development Ordinance
- FY10/11 budget - Unable to fund the project
- Fall 2010 applied for HUD Community Challenge Grant and the project was not funded
- Fall 2011 applied for HUD Community Challenge Grant and the project was funded
- 2012
 - Established an 18-member UPDATE Advisory Committee (UAC)
 - Consultants refreshed the 2009 Code Assessment
 - Held stakeholder interviews, citizen preference survey meetings with the city’s English and non-English speaking population, and general public meeting on the completed document
 - Held joint meeting with the Planning and Zoning Commission and City Council

- Started drafting the new ordinance
- 2013 – 2015 – Produced the draft of the new ordinance in 3 separate modules
 - Held review meetings with the UAC (multiple review meetings on each module)
 - Held public review meetings with English and Non-English speaking population
 - Tested the draft ordinance with the assistance of the development community
 - Held joint meetings with the Planning and Zoning Commission and City Council on each module
- Adoption Process
 - Held two general public meetings (December 3 & 10, 2015)
 - Held work session with Planning and Zoning Commission (December 8, 2015)
 - Held work session with City Council (January 4, 2016)

Details of Proposal

The Public Review Draft, dated November 2015, was provided for public review and distributed to the Planning and Zoning Commission and the City Council. The document includes 10 chapters that govern zoning, environmental and subdivision regulations. The document is to be a replacement of the City's current Development Ordinance which was last rewritten in 1992.

Since the November 2015 Public Hearing Draft was released, some necessary changes have been identified. The detailed list of the changes are attached to this report and they are an addendum to the November 2015 Public Hearing Draft. The general changes are as follows:

- Amended the translation of the Institutional (I) and Parks and Natural Resources (PNR) districts so that the former Public and Institutional (PI) district translates directly to the new Institutional (I) district and so it is clear that the Parks and Natural Resources District (PNR) is a standalone new district in Table 1.9 Zoning District Translation [Section 1.9.1]
- Added "Assembly, major" as a permitted use in the Parks and Natural Resources (PNR) District [Section 4.1.9]. This is to correct an oversight which will allow uses such as stadiums and ballparks as permitted in the PNR district.
- The requirements for an HVAC system and the construction standards for market showroom tents were deleted. [Section 4.3.5.E.1.(b)(2)(iv & v)]
- Revised maintenance warranties to be limited to stormwater management facilities. This is necessary due to a recent change in state legislation. [Section 7.2.3 and 7.2.4]
- Increased the number of days a nonconforming showroom can cease operation before forfeiting its nonconforming status from 365 days to two years. [Section 8.2.3.C.1.(a)]

Following the adoption of the new Development Ordinance text, a new zoning map will need to be prepared. Formerly, the City had 38 zoning districts and in the new Development Ordinance there are 28. Many of the new districts are a translation from the old districts (see Table 1.9 Zoning District Translation in the new Development Ordinance). A translation means that the zoning district has been renamed and in some cases combined with other districts and a rezoning is not required. For example, properties zoned RS-40, RS-20, RS-15 and RS-12 under the old Development Ordinance have been translated to the R-3 district in the new Development Ordinance.

There are some instances where properties must be reclassified which will require a rezoning of the property to a new zoning district. For example, the Public and Institutional (PI) district under the

old Development Ordinance has been split and changed into two different districts, the Institutional (I) and the Parks and Natural Resources (PNR) district. Therefore, areas that were zoned PI under the old Development Ordinance have been evaluated under the new ordinance’s standards and some will need to be rezoned to the appropriate new zoning district in the new Development Ordinance based on the current use of the property. Due to the time that it will take for the rezonings to be prepared, there will need to be a delayed effective date for the new Development Ordinance.

Additionally, the City is creating a mapping application that will be available to the public on the City’s website. This mapping application will allow the public to type in an address to see how the property was zoned under the old Development Ordinance and how it will be zoned under the new Development Ordinance. There will also be a link to fact sheets that show the differences between the old and new districts.

When the new ordinance goes into effect, the City will allow applicants to either use the zoning standards in the new Development Ordinance or the old Development Ordinance for a period of one year from the effective date. The purpose is to provide options in case some unforeseen circumstances arise with the new Development Ordinance that could unintentionally delay an applicant from moving forward with a development project.

Analysis

The new Development Ordinance achieves the goals that were identified in the Code Assessment at the beginning of the project. The ordinance implements the recommendation of the Core City Plan, it is more user-friendly, it protects existing neighborhoods, it promotes more livable development in greenfield areas, and it adds flexibility and incentives. These goals were achieved through changes such as: enhanced structure and organization, clarification and codifying all development review procedures, recognizing urban character through the use of dual dimensional standards, reducing parking standards, allowing alternative forms of development, and adding sustainable development incentives.

Consistency with Adopted Plans:
The proposed new Development Ordinance is appropriate and is consistent with the purposes, goals, objectives and policies of relevant comprehensive land use or area plans
Staff Comments:
The proposed Development Ordinance is consistent with and supported by the City’s adopted plans, especially the Core City Plan.

Reasonableness/Public Interest:
An approval of the proposed new Development Ordinance is considered reasonable and in the public interest.
Staff Comments:
Staff suggests the approval of the November 2015 Public Hearing Draft along with the February 9, 2016 Addendum is reasonable and in the public interest because: 1) it implements the recommendations of the Core City Plan, 2) it achieves the goals that were set out in the beginning of the project, and 3) represents the work of the advisory committee, and the input from the general public.

Recommendation

Staff recommends approval of the November 2015 Public Hearing Draft along with the February 9, 2016 Addendum because it implements the recommendations of the Core City Plan; it achieves the goals that were set out in the beginning of the project; and it represents the work of the advisory committee, and the input from the general public.

Required Action

Planning and Zoning Commission:

Upon making its recommendation, the Planning and Zoning Commission must place in the official record a statement of consistency with the City's Land Use Plan, and any other officially adopted plan that may be applicable. This may be done by adopting the statement(s) as written in this report or with any additions or changes as agreed upon by the Commission, or, if the Commission is in disagreement with the consistency statement(s) in this report, by adoption of its own statement.

City Council:

Upon rendering its decision in this case, the High Point City Council also must place in the official record a statement of consistency with the City's Land Use Plan and other plans as may be applicable. This may be done by adopting the statement(s) as written in this report, or with any additions or changes as agreed upon by the Council, or, if the Council is in disagreement with the consistency statement(s) in this report, by adoption of its own statement.

Report Preparation

This report was prepared by Planning and Development Department staff member(s) Heidi H. Galanti, AICP, Planning Services Administrator, and reviewed by Robert L. Robbins, AICP, Development Services Administrator and G. Lee Burnette, AICP, Director.

List of Attachments:

February 9, 2016 Addendum

February 9, 2016 Addendum to the November 2015 Public Hearing Draft of the New Development Ordinance

The following are changes that were made to the November 2015 Public Hearing Draft of the New Development Ordinance:

1. Chapter 1 General Provisions, Section 1.9.1, Table 1.9 Zoning District Translation
Amended the translation of the Institutional (I) and Parks and Natural Resources (PNR) districts so that the former Public and Institutional (PI) district translates directly to the new Institutional (I) district and so it is clear that the Parks and Natural Resources District (PNR) is a standalone new district.

2. Chapter 4 Uses, Section 4.3.5.E.1.(b)(2)(iv & v)
The use standard requirements for an HVAC system and the construction standards for market showroom tents were deleted. These changes were made at the request of the City Manager’s office because they went beyond what is required by the North Carolina Building Code. The new section reads as follows:

(2) If a membrane structure is used as part of a market showroom, it shall:
 - (i) Be located on the same lot as a market showroom;
 - (ii) Be enclosed on all sides; and
 - (iii) Not be in place for more than 120 days in a calendar year.

3. Chapter 4 Uses, Section 4.1.9 Principal Use Table
Added “Assembly, major” as a permitted use in the Parks and Natural Resources (PNR) district. This is to correct an oversight which will allow uses such as stadiums and ballparks as permitted in the PNR district.

4. Chapter 7 Subdivisions, Sections 7.2.3 and 7.2.4
Revised maintenance warranties to be limited to stormwater management facilities. This is necessary due to a recent change in State legislation. The revised sections read as follows:

7.2.3. MAINTENANCE WARRANTY
A. General
A maintenance warranty in accordance with the standards in this section is required to ensure against defects in workmanship or materials in providing stormwater management facilities required as part of an approved preliminary plat, site plan, or group development plan, as appropriate.

- B. **Term of Maintenance Warranty**
The term of a maintenance warranty shall be 1 year from the date of the engineer's certification of completion.
- C. **Form of Maintenance Warranty**
The applicant shall propose the form(s) of the maintenance warranty, which shall be provided in one or more of the forms in Section 7.2.2.C, Form of Performance Guarantee
- D. **Function of Maintenance Warranty**
The maintenance warranty shall:
1. Be conditioned on the performance of all work necessary to cure defects in materials and workmanship and maintain the required stormwater management facilities during the term of the maintenance warranty.
 2. Provide that in case of the owner's or developer's failure to maintain and repair or replace the stormwater management facilities, the City shall be able to obtain the funds necessary to make necessary repairs or replacements in accordance with the warranty provisions for timeframe and forfeiture.
- E. **Amount of Maintenance Warranty**
Maintenance warranty shall be in an amount up to 25 percent of the full actual cost, including the costs of materials and labor, of installing the required stormwater management facilities.
- F. **Release of Maintenance Warranty**
The Public Services Director shall release a maintenance warranty at the end of the term of the guarantee only after an inspection is conducted of the stormwater management facilities, and it is certified in writing that the guaranteed stormwater management facilities have been maintained in accordance with approved plans and specifications.
- G. **Default and Forfeiture of Maintenance Warranty**
1. **Notice of Failure to Maintain Improvements**
If the owner or developer fails to maintain the stormwater management facilities improvements during the term of the maintenance warranty, the Public Services Director shall give the owner or developer 30 days written notice of the scope and degree of the default by certified mail.
 2. **City Correction of Defects**
After the 30-day notice period expires, the City shall present a plan to cure any defects within 30 days, and following such presentation, draw on the

security and use the funds to perform work necessary to ensure the guaranteed stormwater management facilities comply with approved plans and specifications. After completing the work, the City shall provide a complete accounting of the expenditures to the owner or developer and, as applicable, refund all unused funds, without interest.

7.2.4. AS-BUILT PLANS REQUIRED

Upon completion of a public infrastructure project, the developer shall certify to the Engineering Services Director that the completed project has been constructed in accordance with the approved plans and shall submit actual “as built” plans for all public improvements after final construction is completed. Upon completion of a private stormwater management facility, the developer shall certify to the Public Services Director that the completed project is in accordance with the approved plans and shall submit actual “as built” plans after final construction is completed. The plans shall show the final design specifications for all improvements and the field location, size, depth, and related measures, controls and devices, as installed. The designer shall certify, under seal, that the as-built design, measures, controls, and devices are in compliance with the approved plans and with the requirements of this Ordinance. A final inspection and approval by the respective Director shall occur before the release of the financial guarantee.

5. Chapter 8 Nonconformities Section 8.2.3.C.1.(a) and (b)

Increased the number of days a nonconforming showroom can cease operation from 365 days to two years. This was done to allow them more time to reinstate a showroom use because they are only open twice a year. The new text reads as follows:

C. Cessation

1. General

- (a) If a nonconforming market showroom use ceases for any reason for a continuous period of more than 2 years, any subsequent use of land shall be a use permitted in the district by right.
- (b) The landowner shall demonstrate that the nonconforming use has not ceased for a continuous period of more than 2 years days to maintain its nonconforming status.