

CITY OF HIGH POINT

AGENDA ITEM



Title: New Development Ordinance

From: Lee Burnette, Planning & Development
Director

Meeting Date: May 16, 2016

Public Hearing: Yes

Advertising Date: May 1, 4 & 11, 2016

Advertised By: Planning & Development

Attachments: A. Planning and Zoning Commission Recommendation
B. Staff Report
C. Ordinance of Adoption

PURPOSE:

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

BACKGROUND:

Staff report, ordinance of adoption, and the Planning & Zoning Commission Recommendation are enclosed. An electronic copy of the Planning and Zoning Commission Recommended Draft March 22, 2016 is available on the City's website at: <https://www.highpointnc.gov/DocumentCenter/View/4274>.

BUDGET IMPACT:

There is no budget impact.

RECOMMENDATION / ACTION REQUESTED:

- A. On February 9, 2016, a public hearing was held before the Planning and Zoning Commission regarding the new Development Ordinance and the public hearing was closed at their March 22, 2016 meeting. The Planning & Zoning Commission recommended approval of the new Development Ordinance, as amended, by a vote of 7-0.
- B. Staff recommends **approval** of the Planning and Zoning Commission Recommended Draft March 22, 2016 as outlined in the attached staff report and ordinance of adoption.

PLANNING AND ZONING COMMISSION RECOMMENDATION

New Development Ordinance

At its February 9, 2016 public hearing, the Planning and Zoning Commission reviewed a request to adopt a new Development Ordinance. Mark Walsh, Jim Armstrong, Ozzie Hough, Tom Kirkman, and Ed Squires, members of the Commission, were present. Ms. Heidi Galanti, Planning Administrator, presented the ordinance and recommended approval of the request as outlined in the staff report and addendum.

Ms. Judy Stalder of TREBIC, spoke and requested changes to: the Eastchester Gateway Overlay; uses allowed in the Light Industrial (LI) district; street access; penalties for unauthorized removal of required landscaping; density and design in pocket neighborhoods; and the penalty for grading without a permit.

Mr. Chuck Truby of CPT Engineering, spoke and requested a change in the Eastchester Gateway Overlay building setback.

Mr. Keith Price of Samet Corporation, spoke and requested that there be a one year period where an applicant could choose to use either the old or the new development ordinance.

The Planning Commission held the public hearing open to allow time to consider the changes that were requested.

On February 23, 2016 the Planning and Zoning Commission held a work session to discuss the recommended changes and held the public hearing open until March 22, 2016 to finalize the recommendation to City Council.

On March 22, 2016 the Planning and Zoning Commission concluded the public hearing after hearing from Judy Stalder of TREBIC. Ms. Stalder requested a few additional changes to Pocket Neighborhoods and further clarification of the Street Access standards.

Mark Walsh, Jim Armstrong, Ozzie Hough, Tom Kirkman, Andy Putnam, Marie Stone and Ed Squires, members of the Commission, were present. The Planning & Zoning Commission recommended approval of the November 2015 Public Hearing Draft of the new Development Ordinance, as amended by the February 9, 2016 addendum, the revised February 23, 2016 addendum, and the direction from Assistant City Attorney Brent Cole, by a vote of 7-0.

CITY OF HIGH POINT
PLANNING AND DEVELOPMENT DEPARTMENT
NEW DEVELOPMENT ORDINANCE STAFF REPORT
April 4, 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, the following changes have been made and incorporated into the Planning and Zoning Commission Recommended Draft March 22, 2016:

- 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 the Parks and Natural Resources District (PNR) is a standalone new district. [Table 1.9]
- Added "Assembly, major" as a permitted use in the Parks and Natural Resources (PNR) District to correct an oversight, which will allow uses such as stadiums and ballparks as permitted in the PNR district. [Section 4.1.9]
- Removed the requirements for an HVAC system and the construction standards for market showroom tents as recommended by the Manager's Office. [Section 4.3.5.E.1.(b)(2)]
- Revised maintenance warranties to be limited to stormwater management facilities due to a recent change in State legislation. [Sections 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 to allow more time to reinstate a showroom use. [Section 8.2.3.A.2(a)]
- Allowed for a reduced building setback option in the Eastchester Gateway Corridor Overlay when parking is not located between the building line and Eastchester Drive. [Section 3.8.7.F.3]
- Revised the characteristics of the Retail Sales use category to clarify that the use types are primarily intended for, but not solely for the general public. [Table 4.2.6.H.1]
- Revised the characteristics of the Wholesale Trade use category to clarify that the use types are primarily intended for, but not solely for the industrial, institutional, trade or commercial businesses. [Table 4.2.7.F.1]
- Revised the description of the Bulky Item Sales use types to include manufactured homes and modular homes [Table 4.2.6.H(a)]
- Added Truck Stop as a use which included:

- Adding it to the Principal Use Table as a special use in the LI district and permitted in the HI district. [Table 4.1.9]
 - Adding it as a use type in the Retail Sales use category [Table 4.2.6.H.(f)]
 - Adding use standards pertaining to setbacks abutting a residential district and location. [Section 4.4.3.F.4]
- Clarified the existing Streets Access standards [Section 5.2.2.A]. Staff will also be making Street Access the first Determination of the new Ordinance that will include graphics to show examples of what the standard means for the staff & public.
- Revised Unauthorized Removal of Required Landscaping to clarify that when required landscaping is removed without prior authorization, the replacement landscaping must be placed in the same yard area from which it was removed unless an alternate landscape plan is approved. [Section 5.5.16.C.2]
- Pocket neighborhoods are a voluntary single-family residential development type that will be allowed in the core city as long as they meet the standards in Section 5.14.6. The following are changes that were made:
- Increased the gross density to allow for a 10% increase in density over the underlying district. [Section 5.14.6.C.3]
 - Removed front porch and window placement requirements [Section 5.14.6.D.2]
- Removed the requirement for an administrative adjustment for the expansion or enlargement of nonconforming uses as long as they meet the standards in the nonconforming use section. [Table 2.5.2.C, Section 8.2.2 and Section 8.2.3]
- Allowed nonconforming single-family and duplex dwellings to expand or enlarge beyond 25%. [Section 8.2.3.E]
- Added nonconforming schools to the nonconforming section and allowed them to be expanded or enlarged with the same standards as market showrooms and single-family and duplex dwellings. [Section 8.2.3.F]
- Revised the definition of the terms “may, can and should” to clarify that they are not mandatory. [Section 10.1.10]

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 that the approval of the Planning and Zoning Commission Recommended Draft March 22, 2016 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 Planning and Zoning Commission Recommended Draft March 22, 2016 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.

AN ORDINANCE TO ADOPT A NEW DEVELOPMENT ORDINANCE

WHEREAS, the existing Development Ordinance was adopted by the City Council on January 7, 1992 and subsequently amended;

WHEREAS, the City Council of the City of High Point adopted the Core City Plan on February 8, 2007 which called for numerous changes in existing Development Ordinance standards to promote and enable a strong and stable urban core;

WHEREAS, an assessment of the existing Development Ordinance was conducted in 2009 and later updated in 2012 that defined the scope of needed ordinance revisions and established the objectives for a new Development Ordinance;

WHEREAS, an advisory committee was formed to review and recommend changes to the draft ordinance prepared by the City's consultant;

WHEREAS, numerous community sessions were held over a three-year period with various stakeholders and underrepresented populations in the city along with general public meetings to solicit comments on regulatory changes and on the draft ordinance;

WHEREAS, based upon the comments and recommended changes solicited the consultants produced a public hearing draft Development Ordinance for the Planning & Zoning Commission's consideration;

WHEREAS, notice was published in the High Point Enterprise on January 31, 2016 and February 3, 2016 and a public hearing was held before the Planning and Zoning Commission on February 9, 2016 pursuant to Chapter 160A-387 of the General Statutes of North Carolina;

WHEREAS, the Planning and Zoning Commission recommended a new Development Ordinance for adoption to City Council on March 22, 2016; and

WHEREAS, notice was published in the High Point Enterprise on May 1, 2016; May 4, 2016 and May 11, 2016 and a public hearing was held on the Planning & Zoning Commission's recommended Development Ordinance before the City Council on May 16, 2016 pursuant to Chapter 160A-364 of the General Statutes of North Carolina.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HIGH POINT THAT:

SECTION 1. A technical ordinance entitled "Development Ordinance" is hereby adopted and shall consist of:

- A. High Point Development Ordinance Planning & Zoning Commission Recommended Draft dated March 22, 2016.

SECTION 2. The Code of Ordinances of the City of High Point Title 9 "Development" Chapters 1 through 10, which constituted the existing Development Ordinance, are hereby repealed.

SECTION 3. The Code of Ordinances of the City of High Point Title 9 "Development" is hereby amended to add a new Chapter 1 "Development Ordinance" as follows:

Chapter 1 Development Ordinance

The Development Ordinance is hereby adopted as a technical ordinance that is available for public inspection in the office of the City Clerk.

SECTION 4. The Code of Ordinances of the City of High Point Title 9 "Development" Chapter 11 "Development Inspection Regulations" shall be recodified as Chapter 2 "Inspection Regulations" including Articles A through K.

SECTION 5. The Code of Ordinances of the City of High Point Title 9 "Development" Appendices 1 through 16 are hereby deleted from the Code of Ordinances, however, Appendix 8 Street Closing Policy", Appendix 9 "Street Name and Address Assignment Standards", Appendix 13 "Traffic Impact Analysis Policy", and 16 "City of High Point Water & Sewer Utility Extension Policy", which were previously adopted as policies by the City Council, shall remain in effect as policies but not contained within the Code of Ordinances.

SECTION 6. For a period of one year from the effective date of this ordinance, property owners shall have the option to decline use of the zoning district uses and standards of the new Development Ordinance, specifically Chapter 3 "Zoning Districts", Chapter 4 "Uses", and Chapter 5 "Development Standards", and elect to use the zoning district uses and standards of the existing Development Ordinance, specifically Chapter 4 "Zoning Regulations" and Chapter 5 "Zoning: Other Standards" as it applied to property on the effective date of this ordinance. The property owner's election to use the existing Development Ordinance zoning district uses and standards shall be established in writing at the time an application for a permit or land development plan is submitted and such existing Development Ordinance regulations shall be utilized in whole and not in part for the entire project.

SECTION 7. Should any section or provision of this ordinance be declared invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 8. This ordinance shall become effective on January 1, 2017

Adopted by the City Council
This the ____ day of 2016
Lisa B. Vierling, City Clerk