

Motion and
Statement of Consistency with Comprehensive Plan
UDO-259

I move that the following statement be adopted in support of a **Motion to Approve** Zoning Text Amendment UDO-259.

The zoning text amendment, proposed by the City-County Planning and Development Services staff to revise Chapter B, Article IV of the Unified Development Ordinances (UDO) to make clarifications to the Historic/Historic Overlay District Requirements, is in conformance with the recommendations of the Legacy Comprehensive Plan and is reasonable and in the public interest because:

1. The proposed text amendment clarifies and updates policies and procedures, which the Historic Resources Commission has identified as necessary, relating to how applicants are notified about Historic Resources Commission decisions, time limits of Certificates of Appropriateness (COA), and related appeals; and
2. The proposed text amendment also removes some requirements that have proven to be unreasonable and establishes necessary procedures for addressing After-the-Fact Certificates of Appropriateness for work that has been initiated or completed without first obtaining a COA.

Based on the foregoing Statement, I move adoption of UDO-259.

Second:

Vote:

FORSYTH COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: July 27, 2015 **AGENDA ITEM NUMBER:** _____

SUBJECT:-

- A. Public Hearing on a UDO Text Amendment Proposed by City-County Planning and Development Services Staff to Revise Chapter B of the *Unified Development Ordinances* to Make Clarifications to the Historic/Historic Overlay District Requirements (UDO-259)

- B. Ordinance Amending Chapter B, Article IV of the Unified Development Ordinances

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:-

SUMMARY OF INFORMATION:-

See attached staff report.

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

ATTACHMENTS:- YES NO

SIGNATURE: _____ **DATE:** _____

STAFF REPORT

DOCKET # UDO-259
STAFF: David Reed

REQUEST

Zoning text amendment proposed by the Planning and Development Services staff to revise Chapter B of the *Unified Development Ordinances* to make clarifications to the Historic/Historic Overlay District requirements.

BACKGROUND

The changes proposed in this amendment come from the Historic Resources Commission (HRC). The annual retreat of the HRC was held in December 2014 and one of the discussion topics was Procedures and Policies. Upon review of the existing language in the UDO, the HRC directed staff to make clarifications and update policies relating to how applicants are notified about Commission decisions, time limits of Certificates of Appropriateness (COA), and appeals. Another topic of discussion at the HRC retreat were the policies relating to After-the-Fact COAs which have never been codified in the UDO. A new section outlining those policies is proposed as part of this amendment.

ANALYSIS

The changes proposed in the Historic/Historic Overlay District requirements are in the Procedures section. The Form of Decision section is proposed to be rewritten to clarify and update the language and eliminates some unnecessary language. The Time Limits section currently includes some requirements that have proven to be unreasonable. At the annual retreat, the HRC voted to recommend new time limits for COAs. The proposed language is concise and includes a reasonable time frame for completing any work approved through the COA process. The Appeals section includes minor changes that clarify the intent and make the language more legally sound.

One new section is being proposed to establish procedures in the UDO to handle the review of work that has been initiated or completed without first obtaining a COA. The new section is proposed to be called After-the-Fact Certificates of Appropriateness and would be an addition to the Procedures section in the UDO. Our jurisdiction does not charge submittal fees for the processing of COAs and that has served as a goodwill gesture to encourage property owners to present their plans for review. When work has been done without first getting a COA, there has been no ordinance language addressing the policies that have been established over time. This section sets out the rules for dealing with work that has been initiated or completed without first obtaining a COA and mentions the fee that has already been established and adopted by the elected bodies.

RECOMMENDATION

APPROVAL

**CITY-COUNTY PLANNING BOARD
PUBLIC HEARING
MINUTES FOR UDO-259
MAY 14, 2015**

David Reed presented the staff report.

PUBLIC HEARING

FOR: None

AGAINST: None

WORK SESSION

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

The fee for After-the-Fact applications for Certificates of Appropriateness is \$75 for the first offense with an escalating cost thereafter. The maximum cost is \$200 per offense for those who continue to begin work on a property without coming in for a Certificate of Appropriateness prior to construction.

If the work was determined to be a zoning violation and corrective action was necessary, the cost for the permit issued through the Inspections Officer will be double the normal cost.

If the violation occurred prior to a change to the Guidelines, the Guidelines existing at the time of violation would apply.

MOTION: Clarence Lambe moved approval of the text amendment.

SECOND: George Bryan

VOTE:

FOR: George Bryan, Melynda Dunigan, Tommy Hicks, Arnold King, Clarence Lambe, Darryl Little, Brenda Smith, Allan Younger

AGAINST: None

EXCUSED: None

A. Paul Norby, FAICP
Director of Planning and Development Services

UDO-259
AN ORDINANCE AMENDING
CHAPTER B, ARTICLE IV
OF THE UNIFIED DEVELOPMENT ORDINANCES

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

Section 1. Chapter B, Article IV, Section 4-7 of the UDO is hereby amended as follows:

Chapter B – Zoning Ordinance

Article IV – Historic/Historic Overlay Districts

4-7.4 PROCEDURES

- (F) Form of DecisionAll formal actions of the Commission shall be set forth in writing. A decision of the Commission shall be effective upon filing the written decision with the Historic Resource Officer of the Commission. The decision of the Commission shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made. In case of approval, the Commission shall transmit to the property owner a Certificate of Appropriateness clearly describing the work that has been approved, and any conditions of the approval. In case of denial, the Commission shall transmit to the property owner a letter stating the findings on which the decision was based. Additionally, the Commission may, as it deems appropriate, make recommendations concerning any exterior or interior (where applicable), features of the proposed project which may be of guidance and help to the applicant in revising the plans and application. The Commission shall also provide the Director of Inspections with a copy of the formal correspondence to the property owner.
- (G) Time LimitsEach Certificate of Appropriateness is issued subject to the following two conditions: (1) If a building permit is required to perform all or any part of the work authorized by a Certificate of Appropriateness, such building permit must be procured within six months from the date the Certificate of Appropriateness was issued and work completed within one year from the date of Certificate of Appropriateness; and, (2) If a building permit is not required for any part of the work authorized by a Certificate of Appropriateness, such work must be completed within one year from the date the Certificate of Appropriateness was issued. Upon failure to comply with the applicable condition, the Certificate of Appropriateness shall expire, subject to its being renewed. If a request is made to renew an expired Certificate of Appropriateness within twelve (12) months of its issuance, Commission staff may renew it. All other renewals of an expired Certificate of Appropriateness may only be made by the Commission. A Certificate of Appropriateness shall be renewed unless it is found that a change has occurred that would allow the work authorized by the expired Certificate of Appropriateness to impair the

~~integrity of an historic landmark, property, or district as a whole or would be incongruous with the special character of an historic landmark, property, or district. No request to renew that contemplates substantive changes to the work authorized by the expired Certificate of Appropriateness may be granted. Such a request may be made by submitting an application for a new Certificate of Appropriateness. Unless otherwise designated by the Commission, all work approved under a Certificate of Appropriateness shall be completed within three (3) years of the effective date of the Certificate of Appropriateness. If a request is made to renew a Certificate of Appropriateness prior to its expiration, Commission staff may renew it for one (1) additional year. If the work approved under a Certificate of Appropriateness has not been completed within the designated time period, the Certificate of Appropriateness shall expire.~~

- (L) AppealsAn appeal of a decision of the Commission in granting or denying any Certificate of Appropriateness ~~may shall~~ be taken to the appropriate Board of Adjustment. Appeals ~~may shall~~ be taken by any aggrieved party ~~within by the later of~~ thirty (30) calendar days after the decision ~~of the Commission is~~ effective or after a ~~written copy thereof is delivered in accordance with Paragraph (F) above,~~ and shall be in the nature of certiorari (only evidence presented at the Commission's meeting shall be considered at the appeal). Appeal from the decision of the Board of Adjustment shall be to the Forsyth County Superior Court.

4-7.4.1 AFTER-THE-FACT CERTIFICATES OF APPROPRIATENESS

(A) After-the-Fact Certificate of Appropriateness Applications

An after-the-fact Certificate of Appropriateness application includes any major or minor work projects that have been initiated or completed prior to obtaining the required Certificate of Appropriateness.

(B) After-the-Fact Certificate of Appropriateness Application Fee

To discourage activity without a Certificate of Appropriateness and to assist in offsetting the costs associated with the additional staff work that accompanies an after-the-fact application, an escalating fee system has been implemented. The escalating fee system is based upon the number of after-the-fact Certificate of Appropriateness applications sought by or on behalf of a property owner. The after-the fact Certificate of Appropriateness application fee, as established by the City Council of the City of Winston-Salem and the County Commissioners of Forsyth County, shall be due upon submission of the application.

(C) Application Consideration

All after-the-fact Certificate of Appropriateness applications shall be brought before the Commission for consideration.

(D) Approval of After-the-Fact Certificate of Appropriateness Applications

Unless otherwise designated by the Commission, if an after-the-fact Certificate of Appropriateness application is approved, the applicant shall have ninety (90) days to complete the approved work.

(E) Denial of After-the-Fact Certificate of Appropriateness Applications

If an after-the-fact application for approval of work, completed without a Certificate of Appropriateness, receives a denial from the Commission, the subsequent Certificate of Appropriateness application, if required, shall be considered anew. A subsequent Certificate of Appropriateness application must be submitted to the Commission within thirty (30) days of the effective date of the denial of the original after-the-fact application. Commission staff shall determine if the subsequent application qualifies as a major or minor work and said application shall be reviewed accordingly.

Section 2. This ordinance shall be effective upon adoption.