

**CITY-COUNTY PLANNING BOARD
STAFF REPORT**

DOCKET: UDO-CC27
STAFF: [Nick Smith](#)

REQUEST

Planning and Development Services staff is proposing an amendment to modify Chapters 3 and 10 of the *Unified Development Ordinances* (UDO) to revise the voting procedures for both the Winston-Salem and the Forsyth County Boards of Adjustment, designate the Winston-Salem Board of Adjustment as the City’s Stormwater Appeals Board, and clarify site plan and special use permit requirements. Additionally, minor changes are proposed to fix syntax issues, change the order of various sections, and replace defunct position titles.

BACKGROUND

Both Forsyth County and the City of Winston-Salem have established Boards of Adjustment (BOA) for their respective zoning jurisdictions. These boards are responsible for hearing appeals and issuing interpretations, special use permits, and variances in a quasi-judicial setting, as detailed in the North Carolina General Statutes (NCGS), Section 160D-406, *Quasi-judicial procedure*.

State statutes require a four-fifths (4/5) majority vote for BOAs to grant a variance, and a simple majority of members is required to decide on other quasi-judicial matters and appeals. Current UDO provisions conflict with these standards and internal conflicts also exist between the different sections of the Ordinance that deal with procedures and Boards of Adjustment.

Special use permit requirements (Section 3.2.13) and site plan requirements (Section 3.2.11) specify how citizens apply for different BOA items. Currently, the UDO is unclear about the differences between elected body special use permits and BOA special use permits, as well as the application requirements for different types of special use permits. Also, site plan requirements for different applications are vague, and internal conflicts exist between Sections 3.2.11, 3.2.13, and 10.1.3.

In addition to addressing the statutory and internal language conflicts described above, this amendment proposes granting additional authority to the Board of Adjustment. Stormwater requirements for the City of Winston-Salem include provisions where a Stormwater Appeals Board can hear appeals of certain decisions of the Stormwater Director and grant variances from certain portions of Chapter 75 of the City Code (where stormwater regulations reside).

The Stormwater Appeals Board has never met, despite being in existence for over fifteen years. This has led to challenges keeping the Board’s seats filled. Designating the BOA as the City Stormwater Appeals Board will allow an appointed body that already meets every month and is familiar with quasi-judicial proceedings to act on these matters, eliminating the need for City Council to keep appointing citizens to a Board that is expected to meet very rarely.

ANALYSIS

Staff has partnered with the City and County Attorney's Offices and City Stormwater staff to develop language changes which address the issues described above. This amendment fixes internal contradictions within Sections 3 and 10 of the UDO; aligns the UDO with the requirements of the NCGS; and designates the City BOA as the City Stormwater Appeals Board. It also includes other minor changes which will update defunct position titles, correct formatting issues, and fix other minor errors within Sections 3 and 10 of the UDO. All proposed changes are detailed below:

- UDO Section 3.2.1
 - Replaces “overturn a decision of the Director of Inspections or a designee” with language that clarifies which actions can be heard by the BOA.
 - Proposes a new Section, 3.2.1.E, which states that the City BOA shall hear specific appeals of decisions of the City Stormwater Director.
- UDO Section 3.2.11
 - Clarifies that most BOA special use permits do not need to submit a Form 1-compliant site plan (a detailed site plan prepared by a licensed architect, engineer, surveyor or similar professional).
- UDO Section 3.2.13
 - Clarifies the differences between elected body and BOA special use permits.
 - Clarifies which types of plans are needed for each special use permit.
- UDO Section 3.2.16
 - Adds Post-Construction Stormwater regulations to the list of regulations the City BOA can grant a variance from.
 - Proposes a new Section, 3.2.16.M, which states that the City BOA shall hear specific variances from the Stormwater Chapter of the City Code (Chapter 75).
- UDO Section 10.1.3
 - Modifies the voting procedures of the BOA so they are compliant with the NCGS.
 - Adds Post-Construction Stormwater regulations to the list of requirements the City BOA can grant a variance from.

Staff also proposes remove references to the “Planning Director” and “Director of Inspections” throughout the UDO, as these positions have not existed since the City-County Planning and Inspections departments were merged to become Planning and Development Services in 2013. The aforementioned titles will be replaced with “Director of Planning and Development Services” throughout the Ordinance.

Staff believes the proposed text amendment will allow greater clarity for developers and citizens seeking decisions from the Board of Adjustment, and will reduce the number of boards and commissions City Council is responsible for keeping filled.

RECOMMENDATION: APPROVAL

**CITY-COUNTY PLANNING BOARD
PUBLIC HEARING
MINUTES FOR UDO-CC27
JULY 11, 2024**

Nick Smith presented the staff report.

PUBLIC HEARING

FOR: None

AGAINST: None

WORK SESSION

MOTION: Clarence Lambe recommended that the Planning Board find that the request is consistent with the comprehensive plan.

SECOND: Jason Grubbs

VOTE:

FOR: Walter Farabee, Jason Grubbs, Clarence Lambe, Chris Leak,
Lindsey Schwab, Brenda Smith, Jack Steelman

AGAINST: None

EXCUSED: None

MOTION: Clarence Lambe recommended approval of the ordinance amendment.

SECOND: Jason Grubbs

VOTE:

FOR: Walter Farabee, Jason Grubbs, Clarence Lambe, Chris Leak,
Lindsey Schwab, Brenda Smith, Jack Steelman

AGAINST: None

EXCUSED: None

Chris Murphy, AICP/CZO
Director of Planning and Development Services