

Petition #: 2005-048  
Petitioner: Charlotte-Mecklenburg  
Planning Commission

**Approved by City Council**  
**May 16, 2005**

**AN ORDINANCE AMENDING CHAPTER 20,  
(SUBDIVISION REGULATIONS) OF THE CITY CODE**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:**

Section 1. Chapter 20, SUBDIVISIONS, of the Code of the City of Charlotte is hereby amended as follows:

1. Amend Section 2.100, "Definitions" by adding the following definitions in alphabetical order:

Hearing Committee: The Charlotte-Mecklenburg Planning Commission can serve as the Hearing Committee to hear and decide variances and appeals, or it can appoint the Zoning Committee to serve as the Hearing Committee.

Zoning Committee: The Charlotte-Mecklenburg Planning Commission is divided into two major working committees: the Zoning Committee and the Planning Committee.

2. Amend Section 3.200, "Charlotte Mecklenburg Planning Commission" by adding a sentence at the end of 3.200.2, 3.200.3, and the end of the last paragraph that states The Planning Commission may appoint the Zoning Committee to serve as the Hearing Committee comprised of not less than three members of the Planning Commission. The current section reads as follows:

3.200. Charlotte-Mecklenburg Planning Commission

In addition to any authority granted to the Charlotte- Mecklenburg Planning Commission (hereinafter "Planning Commission) by other ordinances of the City of Charlotte or Mecklenburg County, and in accordance with the provisions of the Interlocal Agreement regarding the structure and responsibilities of the Planning Commission, the Planning Commission will have the following powers and duties to be carried out in accordance with these regulations.

1. To hear appeals filed regarding the action of the Planning staff in the approval or disapproval of any subdivision proposed under these regulations.
2. To hear and decide requests for variances from the standards of this ordinance in accordance with the provisions of Section 4.000.
3. To hear and decide appeals from the interpretation of any provisions of this ordinance from the Planning staff.

In all of these matters, the Planning Commission may approve the request, deny the request, or approve the request with conditions relating to the intent and standards of the ordinance.

The amended section shall read as follows:

3.200. Charlotte-Mecklenburg Planning Commission

In addition to any authority granted to the Charlotte- Mecklenburg Planning Commission (hereinafter "Planning Commission) by other ordinances of the City of Charlotte or Mecklenburg County, and in accordance with the provisions of the Interlocal Agreement regarding the structure and responsibilities of the Planning Commission, the Planning Commission will have the following powers and duties to be carried out in accordance with these regulations.

1. To hear appeals filed regarding the action of the Planning staff in the approval or disapproval of any subdivision proposed under these regulations.
2. To hear and decide requests for variances from the standards of this ordinance in accordance with the provisions of Section 4.000. The Planning Commission may appoint the Zoning Committee to serve as the Hearing Committee to hear and decide requests for variances.
3. To hear and decide appeals from the interpretation of any provisions of this ordinance from the Planning staff. The Planning Commission may appoint the Zoning Committee to serve as the Hearing Committee to hear and decide appeals.

In all of these matters, the Planning Commission, or the Hearing Committee, may approve the request, deny the request, or approve the request with conditions relating to the intent and standards of the ordinance.

3. Amend Section 4.101, "Authority of Planning Commission" by adding a sentence at the end of 4.101.1 and 4.101.2 that states The Planning Commission may appoint the Zoning Committee to serve as the Hearing Committee comprised of not less than three members of the Planning Commission. The current section reads as follows:

4.101. Authority of Planning Commission

1. The Planning Commission will have the authority to hear and decide appeals from any order, decision, determination, or interpretation made by any administrative officer pursuant to or

regarding these regulations.

2. The Planning Commission will have the authority to hear and decide petitions for variances from the requirements of these regulations, which relate to subdivision of land or any development standards and requirements of this ordinance not inconsistent with other codes or ordinance.

The revised section shall read as follows:

4.101. Authority of Planning Commission

1. The Planning Commission will have the authority to hear and decide appeals from any order, decision, determination, or interpretation made by any administrative officer pursuant to or regarding these regulations. The Planning Commission may appoint the Zoning Committee to serve as the Hearing Committee to hear and decide appeals.
  2. The Planning Commission will have the authority to hear and decide petitions for variances from the requirements of these regulations, which relate to subdivision of land or any development standards and requirements of this ordinance not inconsistent with other codes or ordinance. The Planning Commission may appoint the Zoning Committee to serve as the Hearing Committee to hear and decide appeals.
4. Amend Section 4.104, “Standards for Granting an Appeal” by adding a clause to the first sentence of 4.104.1 and 4.104.2 referencing the fact that a Hearing Committee may be appointed by the Planning Commission. The current section reads as follows:

4.104. Standards for Granting an Appeal

1. The Planning Commission may reverse or modify the order, decision, determination, or interpretation under appeal upon finding an error in the application of these regulations on the part of the officer rendering the order, decision, determination, or interpretation.
2. In modifying the order, decision, determination, or interpretation, the Planning Commission will have all the powers of the officer from whom the appeal is taken.

The revised section shall read as follows:

4.104. Standards for Granting an Appeal

1. The Planning Commission, or the Hearing Committee, may reverse or modify the order, decision, determination, or interpretation under appeal upon finding an error in the application of these regulations on the part of the officer rendering the order, decision, determination, or interpretation.
  2. In modifying the order, decision, determination, or interpretation, the Planning Commission, or the Hearing Committee, will have all the powers of the officer from whom the appeal is taken.
5. Amend Section 4.106, “Standards for Granting a Variance” by adding a clause to the first sentence of the paragraph referencing the fact that the Planning Commission may appoint a Hearing Committee. The current section reads as follows:

4.106.                    Standards for Granting a Variance

Before granting a variance, the Planning Commission must determine that:

1. The difficulty or hardship would result only from these regulations and from no other cause, including the actions of the owner or previous owners of the property; or
2. The difficulty or hardship is peculiar to the property in question and is not generally shared by other properties used for the same purposes; or
3. The relationship of the property to natural topography or to the nature of adjoining properties warrants relief from the standard in question; or
4. The difficulty or hardship from the application of these regulations would prevent the owner from making a reasonable use of the property. The fact that the property could be utilized more profitably with the variance than without the variance will not be considered as grounds for granting the variance; or
5. The granting of a variance would permit the preservation of an historic structure or site.

The revised section shall read as follows:

4.106.                    Standards for Granting a Variance

Before granting a variance, the Planning Commission, or the Hearing Committee, must determine that:

1. The difficulty or hardship would result only from these regulations and from no other cause, including the actions of the owner or previous owners of the property; or
  2. The difficulty or hardship is peculiar to the property in question and is not generally shared by other properties used for the same purposes; or
  3. The relationship of the property to natural topography or to the nature of adjoining properties warrants relief from the standard in question; or
  4. The difficulty or hardship from the application of these regulations would prevent the owner from making a reasonable use of the property. The fact that the property could be utilized more profitably with the variance than without the variance will not be considered as grounds for granting the variance; or
  5. The granting of a variance would permit the preservation of an historic structure or site.
6. Amend Section 4.107, "Determination of Completeness" by adding a clause to the last sentence of 4.107.1 and 4.107.2 referencing the fact that a Hearing Committee may be appointed by the Planning Commission. The current section reads as follows:

4.107. Determination of Completeness

1. Within 10 days of receiving a notice of appeal or a variance petition, the Planning Director will determine whether the notice or petition is complete. If the Planning Director determines that the notice or petition is not complete, he or she will notify the appellant or petitioner specifying the notice's or petition's deficiencies. The Planning Director will take no further action on the petition until the deficiencies are remedied. If the Planning Director fails to notify the appellant or petitioner, the notice or petition will be deemed complete. If the notice or petition is deemed complete, the Planning Director will schedule the appeal or variance for consideration at a hearing before the Planning Commission within 30 days.
2. A determination of completeness will not constitute a determination of compliance with the substantive requirements of these regulations but will only allow review

of the appeal of variance to proceed under this section. In the event that the notice or petition is automatically deemed complete due to the failure of the Planning Director to notify the appellant or petitioner of any deficiencies in the notice or petition, the deficiency of information may result in rejection of the appeal or variance by the Planning Commission.

The revised section shall read as follows:

4.107. Determination of Completeness

1. Within 10 days of receiving a notice of appeal or a variance petition, the Planning Director will determine whether the notice or petition is complete. If the Planning Director determines that the notice or petition is not complete, he or she will notify the appellant or petitioner specifying the notice's or petition's deficiencies. The Planning Director will take no further action on the petition until the deficiencies are remedied. If the Planning Director fails to notify the appellant or petitioner, the notice or petition will be deemed complete. If the notice or petition is deemed complete, the Planning Director will schedule the appeal or variance for consideration at a hearing before the Planning Commission, or the Hearing Committee, within 30 days.
2. A determination of completeness will not constitute a determination of compliance with the substantive requirements of these regulations but will only allow review of the appeal of variance to proceed under this section. In the event that the notice or petition is automatically deemed complete due to the failure of the Planning Director to notify the appellant or petitioner of any deficiencies in the notice or petition, the deficiency of information may result in rejection of the appeal or variance by the Planning Commission, or the Hearing Committee.

7. Amend Section 4.108, "Staff Review" by adding a clause to the first sentence of 4.108 referencing the fact that the Planning Commission may appoint a Hearing Committee. The current section reads as follows:

4.108. Staff Review

After receipt of a complete variance petition or notice of appeal from an action taken, the Planning Director will review the notice or petition and send a written recommendation to the Planning Commission setting forth whether the appeal or variance should be granted or denied and the reasons for such recommendation. In

making such recommendation, the Planning Director may consult with other City and County agencies and may allow them to review the notice of appeal or variance petition. The recommendation of the Planning Director will be submitted to the Planning Commission and mailed to the appellant or petitioner at least 5 days prior to the scheduled public hearing.

The revised section shall read as follows in its entirety:

4.108. Staff Review

After receipt of a complete variance petition or notice of appeal from an action taken, the Planning Director will review the notice or petition and send a written recommendation to the Planning Commission, or the Hearing Committee, setting forth whether the appeal or variance should be granted or denied and the reasons for such recommendation. In making such recommendation, the Planning Director may consult with other City and County agencies and may allow them to review the notice of appeal or variance petition. The recommendation of the Planning Director will be submitted to the Planning Commission and mailed to the appellant or petitioner at least 5 days prior to the scheduled public hearing.

8. Amend Section 4.109, “Notice and Hearing” by adding a clause to the first sentence of 4.109.1 referencing the fact that the Planning Commission may appoint a Hearing Committee. The current section reads as follows:

4.109. Notice and Hearing

1. The Planning Commission will hold public hearings on any appeal or variance petition which comes before it in accordance with rules adopted by it for such purpose.
2. The Planning Commission will mail written notice of the time, place, and subject of the hearing to the person or persons filing the notice of appeal or variance petition, to the owners of the subject property, and to the owners of property which adjoins or is directly across a street or alley from the subject property at least 15 days prior to the hearing.

The revised section shall read as follows:

4.109. Notice and Hearing

1. The Planning Commission, or the Hearing Committee, will hold public hearings on any appeal or variance petition which comes before it in accordance with rules adopted by it for such purpose.

2. The Planning Commission will mail written notice of the time, place, and subject of the hearing to the person or persons filing the notice of appeal or variance petition, to the owners of the subject property, and to the owners of property which adjoins or is directly across a street or alley from the subject property at least 15 days prior to the hearing.
9. Amend Section 4.110, “Action by the Planning Commission” by adding a clause to the first sentence of 4.110 referencing the fact that the Planning Commission may appoint a Hearing Committee. The current section reads as follows:

4.110. Action By The Planning Commission

The Planning Commission will grant or deny the variance or will reverse, affirm, or modify the order, decision, determination, or interpretation under appeal by adopting a resolution and placing the resolution in the minutes of the meeting. The resolution must state the reasons that the Planning Commission used to reach its decision.

The revised section shall read as follows:

4.110. Action By The Planning Commission

The Planning Commission, or the Hearing Committee, will grant or deny the variance or will reverse, affirm, or modify the order, decision, determination, or interpretation under appeal by adopting a resolution and placing the resolution in the minutes of the meeting. The resolution must state the reasons that the Planning Commission used to reach its decision.

10. Amend Section 4.111, “Rehearing” by adding a clause to the first sentence of 4.111 referencing the fact that a Hearing Committee may be appointed by the Planning Commission. The current section reads as follows:

4.111. Rehearing

The Planning Commission, or the Hearing Committee, will refuse to hear an appeal or variance petition which has been previously denied unless it finds that there have been substantial changes in the conditions or circumstances relating to the matter.

11. Amend Section 4.112, “Appeal from Planning Commission” by adding a clause to the first and second sentence of 4.112 referencing the fact that a Hearing Committee may be appointed by the Planning Commission. The current section reads as follows:

4.112 Appeal from Planning Commission



Any appeal of a decision rendered by the Planning Commission, under this section must be to the superior court by proceedings in the nature of certiorari. Any petition for review by the superior court must be filed with the clerk of superior court within 30 days after the decision of the Planning Commission is filed in the office of the Planning Director or after a written copy thereof is mailed to every aggrieved party who has filed a written request for such copy with the Planning Director at the time of the hearing, whichever is later.

The revised text shall read as follows:

4.112. Appeal from Planning Commission

Any appeal of a decision rendered by the Planning Commission, or the Hearing Committee under this section must be to the superior court by proceedings in the nature of certiorari. Any petition for review by the superior court must be filed with the clerk of superior court within 30 days after the decision of the Planning Commission, or the Hearing Committee is filed in the office of the Planning Director or after a written copy thereof is mailed to every aggrieved party who has filed a written request for such copy with the Planning Director at the time of the hearing, whichever is later.

12. Amend Section 4.113, by adding two clauses to the first sentence of 4.113 referencing the fact that a Hearing Committee may be appointed by the Planning Commission. The current section reads as follows:

4.113. If there is an appeal from the decision of the planning staff taken to the Planning Commission, then the person filing the appeal may not file a revised preliminary plan or revised final plat for the portion of the subject site affected by the appeal until the completion of the appeal to the Planning Commission or any final judicial determination. The planning staff may approve a preliminary plan or final plat for that portion of the property not affected by the action of the appeal.

The revised section shall read as follows:

4.113. If there is an appeal from the decision of the planning staff taken to the Planning Commission, or the Hearing Committee, then the person filing the appeal may not file a revised preliminary plan or revised final plat for the portion of the subject site affected by the appeal until the completion of the appeal, or any final judicial determination. The planning staff may approve a preliminary plan or final plat for that portion of the property not affected by the action of the appeal.

13. Amend Section 4.114, "Effect of Grant of Variance" by adding a clause to the first and last sentence of 4.114 referencing the fact that the Planning Commission may appoint a Hearing Committee. The current section reads as follows:

4.114. Effect of Grant of Variance

After the approval of a variance by the Planning Commission, the petitioner will be required to follow the procedures for preliminary and final plat approval in order to proceed with development of the subject property. All decisions made by administrative officers under those procedures will comply with the variation in these regulations granted to the petitioner by the Planning Commission or court.

The revised section shall read as follows:

4.114. Effect of Grant of Variance

After the approval of a variance by the Planning Commission, or the Hearing Committee, the petitioner will be required to follow the procedures for preliminary and final plat approval in order to proceed with development of the subject property. All decisions made by administrative officers under those procedures will comply with the variation in these regulations granted to the petitioner by the Planning Commission, Hearing Committee, or court.

Section 2. That this ordinance shall become effective upon its adoption.

Approved as to form:

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City Attorney

I, \_\_\_\_\_ City Clerk of the City of Charlotte, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of an Ordinance adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 16th day of May, 2005, the reference having been made in Minute Book \_\_\_\_\_, and recorded in full in Ordinance Book \_\_\_\_\_, Page(s) \_\_\_\_\_.

WITNESS my hand and the corporate seal of the City of Charlotte, North Carolina, this the \_\_\_\_\_ day of \_\_\_\_\_, 2005.