
REQUEST	Text Amendment to Contents, Section 20-6, 20-10, 20-14, 20-16, 20-18, 20-22, 20-23, 20-25, 20-59, 20-88, 20-90, 20-91, 20-94, 20-95, 20-97, 20-99 through 20-114, and 20-115 of the Subdivision Ordinance
SUMMARY OF PETITION	The petition proposes to: 1) modify the definition of planned development; 2) clarify existing regulations and update references, formatting, and tables; 3) relocate regulations into the proper section; 4) correct the dimension of the right-of-way requirements for local residential wide streets; 5) remove the requirement for delivery of final plats to the Planning Department and remove references to the County and Board of Commissioners; 6) clarify the street spacing requirements; 7) clarify the standards for required streets when lots or building sites are part of a multi-family development; 8) update the notice and hearing requirements for variances and appeals; the standards for granting a variance; and the standards for making decisions; and 9) update the appeal regulations.
STAFF RECOMMENDATION	Staff recommends approval of this petition. This petition is consistent with the North Carolina General Statutes, and consistent with the <i>Centers, Corridors and Wedges Growth Framework</i> goal to preserve and enhance existing neighborhoods. This petition makes the written regulations in the Subdivision Ordinance consistent with updated state legislation.
PETITIONER AGENT/REPRESENTATIVE	Charlotte-Mecklenburg Planning Department Charlotte-Mecklenburg Planning Department
COMMUNITY MEETING	Meeting is not required.

PLANNING STAFF REVIEW

- **Background**
 - The Subdivision Ordinance regulations were updated by City Council on December 20, 2010, to implement the *Urban Street Design Guidelines*.
 - Since adoption, staff has identified a number of clarifications, modifications, reformatting, and updates to section references that are needed.
 - New North Carolina General Statute legislation was approved on June 19, 2013 that clarified and modernized the statutes regarding variances and appeals.
 - The new legislation focuses on providing greater clarity, creating standardized procedures for key actions and generally providing more certainty and predictability about the processes used for variances and appeals.
 - This text amendment aligns the Charlotte Subdivision Ordinance with the new legislation.
- **Proposed Request Details**

The text amendment contains the following provisions:

 - Modifies the definition of planned development to include a multi-family residential building, including a single building with more than 12 units.
 - Updates the name of the metropolitan planning organization from "Mecklenburg-Union Metropolitan Planning Organization" to "Charlotte Regional Transportation Planning Organization" throughout the Ordinance.
 - Corrects section references and misspellings.
 - Modifies formatting of text for clarity.
 - Removes the requirement that a sealed and recorded final plat must be delivered to the

Planning staff within five days of recording because final plats are now digitally recorded at the Register of Deeds Office.

- Relocates requirements that existing local streets do not have to dedicate or reserve right-of-way from the incorrect subsection titled "Non-local street right-of-way" into the subsection titled "Local street right-of-way".
- Clarifies the preferred and maximum street spacing requirements and provides an illustration.
- Clarifies tables and provide titles related to the text for preferred and maximum street spacing.
- Clarifies the design standards for lots. Where lots or building sites that are part of a multi--family development exceed the maximum street spacing, at least one street extending through the development shall be a public street, in "both directions", instead of in "either direction."
- Removes references to inspections by the County, filing fees set by the Board of Commissioners, and variance forms prepared by the Board of Commissioners.
- Replaces the existing findings of fact and conditions that constitute a practical difficulty or unnecessary hardship with new language to align with new North Carolina General Statute legislation. The new language states that when unnecessary hardships would result from carrying out the strict letter of the Subdivision Ordinance, the Planning Commission or the hearing committee, shall vary any of the provisions of the Subdivision Ordinance upon a showing in the affirmative of all of the following findings of fact:
 - Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
 - The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance;
 - The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship; and
 - The requested variance is consistent with the spirit, purpose, and intent of the Subdivision Ordinance, such that public safety is secured, and substantial justice is achieved.
- Adds new language that appropriate conditions may be imposed on any variance, provided they are reasonably related to the variance.
- Adds new requirements detailing the mailing of notices of hearings for variance and appeal petitions including:
 - Notices shall be mailed to the person who is the subject of the hearing, the owners of the property, and owners of abutting properties.
 - County tax listings shall be used to determine owners of property, unless there is evidence to the contrary.
 - Notices shall be mailed at least 10 days but not more than 25 days prior to the date of the hearing.
 - Notices shall be posted on the property that is the subject of the hearing, or an adjacent street right-of-way.
- Adds new requirements about the Planning Commission or hearing committee's decisions and evidence:
 - The hearing shall be conducted in a quasi-judicial manner.
 - The Planning Commission (or hearing committee) must determine contested facts and make its decision within a reasonable time.
 - Every quasi-judicial decision shall be based on competent, material, and substantial evidence in the record.
 - Each quasi-judicial decision shall be reduced to writing and reflect the Planning Commission's (or hearing committee's) determination of contested facts and their application to the applicable standards.
 - The written decision shall be signed by the chair or other duly authorized member of the Planning Commission (or hearing committee).
 - A quasi-judicial decision is effective upon filing the written decision with the clerk to the Planning Commission (or hearing committee).
- Adds new requirements as to who is notified of the decision of the Planning Commission (or hearing committee), and how notice is delivered. Delivery methods for variance and appeal decisions include personal delivery, electronic mail or first-class mail. The decision is to be delivered to the applicant, property owner (if not the applicant), and to abutting property owners of the parcel of land that is the subject of the hearing.
- Modifies when an appeal of the Planning Commission's (or hearing committee's) decision to the Superior Court must be filed with the clerk of the Superior Court. Currently, an aggrieved party

has 30 days from the date the decision is filed in the Charlotte-Mecklenburg Planning Department, or 30 days after a written copy of the decision is mailed to every aggrieved party who has filed a written request or such a copy with the Planning Director at the time of the hearing, whichever is later. This text amendment modifies the language, aligning with new state legislation, to allow an appeal to be filed with the clerk of Superior Court by the later of 30 days after the decision is effective, or 30 days after a written copy of the decision is given by personal delivery, electronic mail or first-class mail. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

- **Public Plans and Policies**

- This petition is consistent with the North Carolina General Statutes, and consistent with the *Centers, Corridors and Wedges Growth Framework* goal to preserve and enhance existing neighborhoods.
 - This petition makes the written regulations in the Subdivision Ordinance consistent with updated state legislation.
-

DEPARTMENT COMMENTS (see full department reports online)

- **Charlotte Area Transit System:** No comments received.
 - **Charlotte Department of Neighborhood & Business Services:** No comments received.
 - **Transportation:** No issues.
 - **Vehicle Trip Generation:** Not applicable.
 - **Connectivity:** Not applicable.
 - **Charlotte Fire Department:** No comments received.
 - **Charlotte-Mecklenburg Schools:** Not applicable.
 - **Charlotte-Mecklenburg Storm Water Services:** No comments received.
 - **Charlotte-Mecklenburg Utilities:** No issues.
 - **Mecklenburg County Land Use and Environmental Services Agency:** No issues.
 - **Mecklenburg County Parks and Recreation Department:** No issues.
-

ENVIRONMENTALLY SENSITIVE SITE DESIGN (see full department reports online)

- **Site Design:**
 - There is no site plan associated with this text amendment.

OUTSTANDING ISSUES

- No issues.
-

Attachments Online at www.rezoning.org

- Application
- Transportation Review
- Charlotte-Mecklenburg Utilities Review
- Mecklenburg County Land Use and Environmental Services Agency Review
- Mecklenburg County Parks and Recreation Review

Planner: Sandra Montgomery (704) 336-5722