



Proposed Text Amendment-Report to City Council

Case No. T-2009-06

Date of Meeting: January 11, 2009

Staff Contact: Eric S. Hawkins, AICP, Planner III

INFORMATION

Applicable Sections: 2-200(I): Public Notification and 2-300(I): Subdivision

Application Date: October 6, 2009

Applicant: Rock Hill Planning Commission

EXPLANATION FOR AMENDMENT

The proposed amendments will address inaccuracies and inefficiencies that have been identified in the Administration section of the zoning ordinance. The proposed amendments are summarized below.

- Revise Section 2-200(I) to remove the requirement to attach copies of public notice affidavits to the staff reports. This will help reduce the bulk of the agenda materials for Planning Commission, City Council, Zoning Board, and Board of Historic Review meetings. Staff will continue to prepare the affidavits and keep them in the project file.
- Change references to the “Public Services Director” to “Development Services Director”. There are five places in 2-300(I) where the Public Services Director is identified as the reviewer or inspector of certain plans and/or public improvements and he is no longer responsible for these tasks. Since the zoning ordinance was written, changes have been made to the development review system and the responsibility for these reviews and inspections has been transferred to Development Services.

PUBLIC NOTIFICATION

The following public notification actions have been taken:

- Nov. 1 & 15- Planning Commission public hearing advertisements published in *The Herald*.

PUBLIC HEARING

The Rock Hill Planning Commission held a public hearing on this application on December 1, 2009, and there were no comments from the public.

STAFF RECOMMENDATION

Staff recommends approval of the proposed amendments.

PLANNING COMMISSION RECOMMENDATION

Following the public hearing at their December meeting, the Planning Commission voted 4-0 to recommend approval of the amendments, subject to requiring a statement in the staff report certifying that the required public notifications have been completed. The attached amendment language includes this requirement.

ATTACHMENTS:

- Proposed Amendment Language

TABLE 2-200(H): REQUIRED PUBLIC HEARINGS				
X = DECISION-MAKING BODY CONDUCTING THE PUBLIC HEARING				
APPLICATION TYPE	DECISION-MAKING BODY			
	PLANNING COMMISSION	CITY COUNCIL	ZONING BOARD OF APPEALS	BOARD OF HISTORIC REVIEW
Certificate of Hardship (Section 2-300(G)(2))				X
Appeal of Interpretation or Decision of Development Services Director (Section 2-300(R))			X	
Appeal of Interpretation or Decision of Development Services Director on Historic Regulations (Section 2-300(G)(6))				X
Land Development Agreements (Section 2-400)	X	X		

2-200(I) Public Notification

All applications requiring public hearing(s) shall comply with the S.C. Code of Laws, Table 2-200(I), *Public Notification for Permit Approvals*, and the other provisions of this section with regard to public notification. Failure to receive notice in accordance with this section shall not invalidate the proceedings for which notice was required, nor shall failure to receive notice constitute a basis for legal action against the City. Staff reports for items requiring public notification must include a statement certifying that the required notifications have been completed.

(1) Public Notice Content

All notices for public hearings, unless expressly noted otherwise, whether done by mail (written notice), publication (publishing in a newspaper of general circulation in the City), or posting shall:

- (a) Identify Application**
Identify the application or application number.
- (b) Indicate Application Type**
Indicate the type of application submitted.
- (c) Indicate Date, Time, and Place of Public Hearing**
Indicate the date, time, and place of the public hearing.
- (d) Describe Land Involved**
Describe the land involved by street address or by legal description and nearest cross street, and area size (except posted notice).
- (e) Application Available for Public Inspection**
Describe where the application and any support materials are available for public inspection, and state these materials will be made available for public inspection.
- (f) Where Written Comments May be Submitted**
Indicate where members of the public may submit written comments or evidence on the application prior to the public hearing.

(g) **Statement That Public and Landowners May Appear and Be Heard at Public Hearing**

Include a statement that interested members of the public and adjoining landowners may appear at the public hearing, be heard, and submit evidence and written comments with respect to the application.

(2) **Written (Mailed) Notice**

When the provisions of this Ordinance (see Section 2-200(l)(5)) require that written or mailed notice be provided, the Development Services Director shall be responsible for preparing and mailing the written notice. Notice shall be mailed to:

(a) **Landowners of Land Subject to Application**

All landowners of the land subject to the application;

(b) **Landowners Within 150 Feet**

All landowners within one hundred-fifty (150) feet of the land subject to the application whose address is known by reference to the latest ad valorem tax records. At the City's discretion, it may provide mailed notice to property owners owning lands beyond one hundred-fifty (150) feet of land subject to an application for development; and

(c) **Organizations and Persons**

Organizations and persons that have registered to receive notice in accordance with Section 2-200(l)(6), *Registration to Receive Notice by Mail*.

Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The Development Services Director shall prepare an affidavit with affirmance that notice meeting the content requirements of Section 2-200(l)(1), *Public Notice Content*, was mailed. The affidavit shall be conclusive that notice has been given in accordance with the terms of this subsection. A copy of the mailed notice shall be maintained in the office of the Development Services Director for public inspection during normal business hours. ~~The affidavit shall be included as an appendix to the Staff Report.~~

(3) **Published Notice**

(a) **Responsibility for Preparing Notice**

When the provisions of this Ordinance require that notice be published, the Development Services Director shall be responsible for preparing the content of the notice and publishing the notice in a newspaper of general circulation in the City. The content and form of the published notice shall be consistent with the requirements of the S.C. Code of Laws.

(b) **Affidavit Published Notice Occurred**

The Development Services Director shall prepare an affidavit certifying that published notice has occurred in accordance with the requirements of this subsection. The affidavit shall be conclusive that notice has been given in accordance with the terms of this subsection. A copy of the published notice shall be maintained in the office of the Development Services Director for public inspection during normal business hours. ~~The affidavit shall be included as an appendix to the Staff Report.~~

(4) **Posted Notice**

(a) **Responsibility for Posting Notice**

When the provisions of this Ordinance require that notice be posted on the land subject to the application, the Development Services Director shall be responsible for posting the notice in accordance with the following standards:

1. Notice shall be posted on sign(s) in a form established by the Development Services Director.
2. The signs shall be placed on the land that is subject to the application, along each public thoroughfare that abuts or runs through the land, at intervals of not more than five hundred (500) feet.
3. The sign(s) shall be posted in a manner that ensures visibility from public thoroughfare(s).

(b) Affidavit of Posted Notice

The Development Services Director shall prepare an affidavit certifying that posted notice has been provided in accordance with the requirements of this subsection. The affidavit shall be conclusive that notice has been given in accordance with the terms of this subsection. A map showing the location of the posted notice shall be maintained in the office of the Development Services Director for public inspection during normal business hours. The affidavit shall be included as an appendix to the Staff Report.

(c) Responsibility for Maintenance of Posted Notice

The applicant shall ensure that the posted notice is maintained on the land until the completion of the public hearing on the application.

(d) Responsibility for Removal of Posted Notice

The sign(s) shall be removed by the applicant within five (5) days after the public hearing on the application.

(5) Required Notice and Timing

Unless otherwise expressly provided in the S.C. Code of Laws or this Ordinance, notice shall be provided as follows:

TABLE 2-200(I): PUBLIC NOTIFICATION FOR PERMIT APPROVALS			
APPLICATION FOR DEVELOPMENT PERMIT OR OTHER ACTION	NOTICE REQUIRED (DAYS BEFORE HEARING/ACTION)		
	WRITTEN (SECTION 2-200(I)(2))	PUBLICATION (SECTION 2-200(I)(3))	POSTED (SECTION 2-200(I)(4))
Text Amendment		At least 30 days prior to public hearing	
Amendment to Official Zone District Map & Planned Development District	At least 15 days prior to public hearing	At least 30 days prior to public hearing	At least 15 days prior to public hearing
Special Exception Permit & Variance Permit	At least 15 days prior to public hearing	At least 15 days prior to public hearing	At least 15 days prior to public hearing
Appeal to Board of Zoning Appeals	At least 15 days prior to public hearing	At least 15 days prior to public hearing	At least 15 days prior to public hearing
Certificate of Appropriateness & Certificate of Hardship & Appeal of Development Services Director's Interpretation or Decision on Certificates of Appropriateness		At least 15 days prior to public hearing	At least 15 days prior to public hearing

5. *Effect of Approval*
Approval of an Intermediate Field Survey Plat allows the subdivider to construct the required public improvements and utilities in accordance with the Detailed Construction Plans, Article 7: *Subdivision Standards*, and any other relevant requirements of this Ordinance.

6. *Amendment*
An Intermediate Field Survey Plat may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(e) *Inspection of Public Improvements*

1. Following approval of a Grading Permit (see Section 2-300(K)), the subdivider may construct and install all required public improvements in accordance with the Detailed Construction Plans and Intermediate Field Survey Plat. Following construction, the subdivider shall submit a request for inspection of public improvements to the ~~Public Services~~~~Development Services~~ Director.

2. The ~~Public Services~~~~Development Services~~ Director shall have sixty (60) days after the request for inspection to inspect and certify the public improvements as being constructed in accordance with the requirements of this Ordinance or to provide the subdivider with a list specifying all defects, deficiencies, and required repairs.

3. When all required public improvements have been approved by the ~~Public Services~~~~Development Services~~ Director, the subdivider may apply for a Final Plat for Subdivision.

4. *Deferral of Sidewalk Installation*
In cases where the subdivision is proposed for single-family detached development, the installation of sidewalks may be deferred for a period of time not to exceed one (1) year from the date of Final Plat for Subdivision approval, provided:

a. The subdivider provides the City with cash in escrow or a letter of credit in accordance with Section 7-100(D), *Improvement Guarantees for Public Improvements*;

b. The Final Plat for Subdivision includes a statement of bonding in accordance with Section 7-100(D)(5), *Statement of Guarantee*; and

c. A four- (4) inch sidewalk section is used in accordance with Appendix 7-A when deferred installation is approved.

5. *Warranty Period Following Passing Inspection*

a. Following approval of required public improvements (including street pavement, curb and gutter, and sidewalks) in accordance with this section, a two- (2) year warranty period begins, during which time the subdivider shall provide routine maintenance of the public improvements. Following the warranty period, the subdivider shall request a final inspection of the improvements by the ~~Public Services~~~~Development Services~~ Director, who shall have sixty (60) days to complete the final inspection.

- b. When the public improvements pass final inspection, the City shall accept full maintenance responsibility and shall release any remaining public improvement guarantees. For the purposes of this section, passing of the final inspection shall be considered as acceptance of the public improvements.
- c. The installation of required public improvements shall in no case bind the city to accept any such improvements for public maintenance or operation thereof, until the Public Services/Development Services Director has accepted the improvements in accordance with the standards in this Ordinance.

(f) Final Plat for Subdivision

1. *General*

After approval of an Intermediate Field Survey Plat and construction of the required public improvements in conformance with the relevant Detailed Construction Plans, or posting of a letter of credit or cash in-lieu of completion of the public improvements in accordance with Section 7-100(D), *Improvement Guarantees for Public Improvements*, the subdivider shall prepare a Final Plat for Subdivision for review in accordance with this section.

2. *Initial Submission of Application and Staff Review*

The procedures and requirements for submission and review of an application for Final Plat for Subdivision are established in Section 2-200, *Common Procedures*.

3. *Action by Development Services Director*

The Development Services Director shall review and take action on the application for Final Plat for Subdivision in accordance with the procedures and requirements of Section 2-200(M), *Review by Development Services Director*.

4. *Final Plat Standards*

The Final Plat for Subdivision shall:

- a. Comply with the standards contained in Article 7: *Subdivision Standards*,
- b. Be in substantial conformance with the Preliminary Plat for Subdivision, the Detailed Construction Plans, and the Intermediate Field Survey Plat;
- c. Be consistent with all other relevant provisions of this Ordinance;
- d. Be consistent with all other relevant City ordinances and regulations;

