CHARLOTTE
PLANNING, DESIGN & DEVELOPMENT

Rezoning Petition 2021-109
Pre-Hearing Staff Analysis
May 17, 2021

REQUEST	Text amendment to The Charlotte Subdivision Ordinance, Sections 20-2, 20-6, 20-7A, 20-9, 20-10, 20-17, 20-20, 20-24, 20-58, 20-59, 20-86, 20-87, 20-88, 20-93, 20-94, 20-97, and Table of Contents.
SUMMARY OF PETITION	The text amendment proposes to update the Charlotte Subdivision Ordinance to bring it into compliance with new North Carolina General Statute legislation (Chapter 160D) related to land use.
PETITIONER	Charlotte Planning, Design & Development
AGENT/REPRESENTATIVE	Charlotte Planning, Design & Development
COMMUNITY MEETING	Meeting is not required.

STAFF RECOMMENDATION	Staff recommends approval of this petition. Plan Consistency The text amendment is **consistent** with the 2019 and 2020 North Carolina General Statutes Chapter 160D. Rationale for Recommendation • The text amendment updates the Subdivision Ordinance to align with new N.C.G.S. Chapter 160D legislation; • The text amendment updates the processes for approvals and decisions, including written notices of decisions to both the applicant and the property owner; • The text amendment adds new conflict of interest standards for boards and administrative staff; and • Allows appeals to be initiated by an incorporated or unincorporated association if at least one of the members of the association has standing.

PLANNING STAFF REVIEW

- **Background**
  - In 2019 and 2020, the North Carolina General Assembly adopted new land use legislation consolidating previous city enabling statutes (Article 19 of Chapter 160A) and county enabling statues (Article 18 of Chapter 153A) and into a new Chapter 160D. The intent of the consolidation is to have a uniform set of statutes applicable to cities and counties and common to all development regulations. This is the first major recodification and modernization of city and county development regulations since 1905.
  - The Charlotte Subdivision Ordinance must be updated to align with N.C.G.S Chapter 160D, and take effect no later than July 1, 2021.
  - This text amendment updates the Charlotte Subdivision Ordinance to align zoning regulations and processes related to land use to meet this deadline.

- **Proposed Request Details**

  The text amendment contains the following provisions:

  General
  - Updates North Carolina General Statute references to align with the new N.C.G.S Chapter 160D references.

  Section 20-6
  - Adds new definitions for “performance guarantee” “minor-limited subdivision”, per legislation.
  - Modifies the definition for ”subdivision”.

Section 20-7A (new)
- Adds new conflict of interest standards for boards and commissions, and administrative staff.

Section 20-9
- Adds a requirement that Planning Commission members shall take an oath of office before starting their duties.

Section 20-10
- Adds a requirement that Zoning Board of Adjustment members shall take an oath of office before starting their duties.

Section 20-17
- Requires all development approvals and decisions for preliminary subdivision plans and final subdivision plats to be written and provided to the applicant and property owner, if different. Disapproval decisions shall include the reasons for the disapproval.
- Adds a new requirement for appeals of decisions that are sent by first-class mail to be deemed received on the third business day following deposit of the notice for mailing with the U.S. Post Office.

Section 20-20
- Requires development approvals and decisions for planned development preliminary plans and final plats to be written and provided to the applicant and property owner, if different. This includes disapproval decisions with the reasons provided for the disapproval.

Section 20-24
- Requires the Development Review Board to deliver written notices of decisions to the applicant and property owner, if different. Disapproval decisions shall include the reasons for the disapproval.
- Adds a new requirement that appeals of decisions that are sent by first-class mail to be deemed received on the third business day following deposit of the notice for mailing with the U.S. Post Office.

Section 20-58
- Modifies the Section title to read, “Modification of requirements; performance guarantees”.
- Adds details requiring performance guarantees not to exceed 125% of the reasonably estimated cost of completion.
- Requires performance guarantees to initially be for one year, unless the scope of work necessitates a longer period.
- Modifies the options a developer has to allow the posting of one performance guarantee in lieu of multiple bonds, letters of credit, or other equivalent security.
- Requires staff to provide written acknowledgement to the developer when the improvements have been completed and authorize the release or return of the performance guarantees.

Section 20-59
- Requires inspections to be undertaken during reasonable hours, upon presentation of proper credentials. Consent must be provided to inspect areas not open to the public, or an appropriate inspection warrant must be secured.

Section 20-87
- Allows appeals to be initiated by an incorporated or unincorporated association if at least one of the members of the association has standing.

Section 20-88
- Adds a new requirement that appeals of decisions that are sent by first-class mail shall be deemed received on the third business day following deposit of the notice for mailing with the U.S. Post Office.
- Requires that civil penalties are stayed during the appeal process.

Section 20-93
- Requires appeals and variance recommendations from the planning director to the planning commission to be delivered to the appellant or petitioner, at the same time prior to the public hearing.

Section 20-94
- Requires appeals and variance materials to be transmitted to the planning commission and to the appellant or applicant and landowner, if not the appellant or applicant if materials are provided prior to the public hearing.
- Requires the official who made the administrative decision being appealed to be present at the evidentiary public hearing as a witness.

Section 20-97
- Updates how the 30-day time period for appeals of the planning commission’s or hearing committee’s decision by the superior court is counted to be from receipt of a written notice of the decision.

- **Public Plans and Policies**
  - The North Carolina General Statute legislation requires the Charlotte Subdivision Ordinance to become compliant with N.C.G.S Chapter 160D regulations by July 1, 2021.

- **TRANSPORTATION SUMMARY**
  - No comments submitted.

DEPARTMENT COMMENTS (see full department reports online)

- **Charlotte Area Transit System:** No outstanding issues.
- **Charlotte Department of Housing and Neighborhood Services:** No comments submitted.
- **Charlotte Department of Solid Waste Services:** No outstanding issues.
- **Charlotte Fire Department:** No outstanding issues.
- **Charlotte-Mecklenburg Schools:** No comments submitted.
- **Charlotte Water:** No comments submitted.
- **City Arborist:** No comments submitted.
- **Erosion Control:** No outstanding issues.
- **Mecklenburg County Land Use and Environmental Services Agency:** No comments submitted.
- **Mecklenburg County Parks and Recreation Department:** No outstanding issues.
- **Stormwater Services Land Development Engineering:** No outstanding issues.
- **Storm Water Services:** No outstanding issues.
- **Urban Forestry:** No outstanding issues.

See Attachments (applications, department memos, maps etc.) Online at www.rezoning.org

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