



Urban Research & Development Corporation

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TO: City of Bethlehem Officials

FROM: URDC, Charlie Schmehl (cschmehl@urdc.com)

SUBJECT: **Summary of the Draft Revised Subdivision and Land Development Ordinance (SALDO)**

This memo describes many policies that are proposed in the draft revised SALDO for the City of Bethlehem.

On the whole, a SALDO is much less policy-oriented and more technically oriented than a zoning ordinance. The SALDO mainly applies to:

- a) the creation of a new lot (called as "subdivision") or changes in lot lines, or
- b) the "improvement" of a lot involving one or more new non-residential principal buildings (called a "land development").

A land development also addresses the division of a building into various uses, such as the conversion of a building into multiple dwellings or multiple businesses.

The revised SALDO is being prepared to:

- promote development that is more environmentally sustainable,
- address all of the amendments to the State Planning Code,
- include updated standards,
- carry out the Comprehensive Plan,
- ensure coordination with the Zoning Ordinance and the Stormwater Ordinances, and
- address matters not addressed in the existing SALDO, based upon input from Bethlehem officials.

The Pennsylvania Municipalities Planning Code (the "MPC") provides municipalities with the authority to regulate development. The MPC establishes limits on the ways zoning and SALDO provisions can be used and requires that certain procedures be followed.

The current SALDO includes some outdated provisions. Some provisions do not comply with the MPC, such as the penalty provisions.

Administrative Provisions

This article addresses administrative provisions and references the latest revisions to the MPC. A number of administrative provisions in the draft were first revised by the City Staff, then revisions were suggested by URDC, and then further revisions were made by the City Solicitor.

Modifications and Waivers – The word “variance” in the current ordinance is proposed to be changed to “modification or waiver” to distinguish them from zoning variances. One provision of the MPC allows SALDO modifications and waivers without having to prove a “hardship.” Therefore, the Planning Commission can grant modifications to a SALDO requirement for reasons that are more common sense-oriented and that will result in a better plan. For example, an alternative standard may serve the same purposes, such as an alternative cul-de-sac turnaround configuration.

In addition, the draft would specifically authorize the Planning Commission to grant deferrals of a requirement until a later date. For example, sidewalk construction may be deferred into the future.

Note - The City has compiled information on SALDO waivers and deferrals that have been requested since 2002. The most common requests were for curb and sidewalk (40 requests, 11 of which were denied). In many cases, requirements were deferred, and could be required to be installed in the future. The second most common requests involved street trees or landscaping (8 requests, all of which were approved). There were 7 requests involving street widening, all but one of which was approved. There were 6 requests involving cul-de-sacs, all of which were approved.

Definitions

The draft would provide that if a word is not defined in the SALDO, then the definition in the Zoning Ordinance shall apply by reference. The same provision would apply regarding the Stormwater Ordinance. This avoids the need to repeat large numbers of definitions, and helps to avoid conflicting definitions. It also avoids the need to amend more than one ordinance if a definition is changed in the future.

General Procedures

This article provides an overview of the procedures, which is particularly helpful to persons using the ordinance for the first time.

Sketch Plan

A Sketch Plan would be strongly encouraged to resolve major site design issues before an applicant has spent large amounts of money on detailed engineering. Too many applicants and municipalities do not put sufficient energy into preparing and reviewing sketch plans. This section will clearly state the reasons why a sketch plan is in the best interests of an applicant.

The draft Sketch Plan section will be enhanced and will list information that is recommended to be included in a sketch plan. We did not want to require excessive information for a sketch plan, or it may discourage their submittal.

Note - Under State law, a sketch plan cannot be required, or else the sketch plan takes the place of a preliminary plan submission. Existing text saying that a sketch plan is “approved” should be removed.

Final Plan

There currently are reduced requirements for minor subdivisions and minor land developments. Currently, a Minor Subdivision involves less than one acre, regardless of the number of units. The draft would change the definition of a Minor Subdivision to involve 4 or fewer new dwelling units, regardless of acreage, provided a new street extension is not proposed.

A major subdivision includes any subdivision other than a “minor subdivision,” including a subdivision involving commercial, industrial or institutional uses. The main differences are that a major subdivision requires additional submission information and a higher City review fee.

A new definition is proposed for Minor Land Development: a land development that involves between 5,000 and 10,000 square feet of new impervious coverage and no more than 4 new dwelling units. The MPC allows certain projects to be exempted from needing any land development approval, such as the conversion of an existing building into 2 or 3 dwelling units. That exemption is proposed to be included.

The draft would list the submission requirements within the ordinance in the form of checklists, which are included in appendices. This would build upon the submission checklist that the City already uses, but there would now be a single combined list, instead of a list of submission requirements that is separate from the checklist. These pages can be photocopied and filled out with the application. This is an efficient way for applicants and the City to make sure that all of the required information has been submitted. This form can also be used by the applicant to check off requests for waivers or deferrals of submission requirements.

Lot Mergers and Other Minor Changes

The City Staff can currently administratively approve mergers of existing lots, minor adjustments of existing lot lines, and certain types of minor changes to a previously approved plan. This process would be continued, but with additional clarifications.

The process to improve a consolidation of 2 or more existing lots would be simplified.

Guarantee of Improvements Installation

This article includes the provisions of State law regarding financial guarantees to make sure that streets and other public improvements are properly installed.

Recording of Final Plan

This article will require that an approved plan must be recorded at the Courthouse. The applicant would be responsible to record the plans, and to provide a receipt to the City. The MPC says plans must be recorded within 90 days, but the draft clarifies that this is within 90 days after the City staff certifies that all required conditions have been met.

The City requires that the applicant submit digital “AutoCAD” compatible files of the as-built plans.

Design Standards and Required Improvements

This is the most important article in the ordinance, because it sets the standards for streets, street access, utilities and many other improvements.

Environmental Protection – It is recommended that most environmental protection provisions (such as steep slope regulations) continue to be placed in the zoning ordinance, as opposed to the SALDO. This is because of a Commonwealth Court decision that determined that a SALDO environmental regulation could not stop destruction of natural features if a subdivision or land development plan has not yet been submitted.

Standards have been reviewed to promote environmental protection and sustainability. This involves for instance, avoiding excessive paving, promoting pervious surfaces where appropriate, promoting rain gardens, encouraging native species of plantings, and similar features. To avoid overly wide streets, “lay by lanes” can be used for some parking. This involves allowing a relatively narrow street, but then widening the street only where needed for on-street parking spaces.

The modifications section of the ordinance allows the Planning Commission to approve many types of alternatives to reduce environmental impacts. Landscaped areas in the middle of cul-de-sacs are promoted to improve appearances and allow for more natural stormwater management. The landscaped center would be required to have mountable curbs, to reduce concerns about emergency vehicle access. The final design of any alternative would need to be found acceptable by the Fire Department.

Pedestrian and Bicycle Friendliness - The draft was written to promote designs that make it easier for pedestrians to cross streets (such as avoiding overly wide intersections). Traffic calming measures are promoted, and pedestrian issues must be addressed as part of transportation impact studies. The draft references the PennDOT Traffic Calming Manual, and the City has used speed tables on some streets, such as North Main St. A Transportation Impact Study would be required to consider whether highly visible crosswalks, bulb-out curb extensions and similar pedestrian-friendly measures should be incorporated into a project.

Streets – The SALDO includes some typical street widths, but does not specifically require any widths. We recognize that in most cases an existing street width will be continued. However, the draft would include street cartway widths for various types of streets in case a new street would be proposed. The street widths would be based upon whether the intensity of the development will cause a need for on-street parking on one-side or both sides of a street.

There is currently a maximum length for a cul-de-sac street of 500 feet, which is proposed to be continued, and which is important for emergency vehicle access.

Alternative cul-de-sac bulb designs are authorized. The standard end of a cul-de-sac has a minimum paved diameter of 80 feet. Concerns about snow plowing would be reduced by requiring a well-drained “snow storage easement” at the end of the cul-de-sac so that most snow can be plowed straight off of the street. Driveways would be prohibited in this snow easement area.

There are often situations where a developer does not want to upgrade an adjacent existing street to all City standards and does not want to install curbs and sidewalk. A Commonwealth Court decision upheld a process in which a developer could pay a fee in return for receiving a modification from the Planning Commission. Under the draft, the Commission could reduce or waive a street widening requirement and/or waive curb and/or sidewalk. In return, the developer would pay a fee that could only be used to improve streets or install curb or sidewalk somewhere in the City. The fee could be based upon 75% of the cost of the improvements that are being waived.

The fee could then be used to widen a nearby street or install curbing or sidewalk in a nearby area, where it is more needed. That allows the City to decide which streets need the most improvements, and to widen streets in a coordinated and not piecemeal fashion. It also avoids isolated lengths of sidewalks. The Court upheld the process because it was optional to the developer – the developer had the option of actually constructing all of the requirements. This process has been written into the SALDOs of a number of other municipalities, particularly in Bucks County.

Care is needed to make sure that any new private street is built to municipal construction standards. This is intended to avoid a developer building private streets in a cheap manner that deteriorates quickly. In that case, the residents often then seek that the municipality improve the streets and take them over at high costs. Even when the city does not take over a private street, a poorly built private street can result in excessive homeowner association fees.

Curbing – The current SALDO says curbing is required in all cases. The draft would authorize deferrals of curbing by the Planning Commission to a future date if needed. In some less dense areas, it may be worth considering shoulders and roadside swales instead of curbing, to promote groundwater infiltration. Shoulders provide a margin for error for drivers, while curbing can also interfere with future widenings of the street. In addition to referencing the ADA, the curb ramp standards also need to reference the PennDOT standards along State roads. Those PennDOT standards are stricter and more detailed than the ADA.

Sidewalks and Paths – The current SALDO says sidewalks are required. The City has waived or deferred sidewalk requirements in areas with little pedestrian traffic. The draft ordinance would authorize a deferral of sidewalk requirements to a future date if they prove to be needed. Where sidewalks are not required, and where feasible without removing large numbers of trees, a relatively flat grass area should be provided along the edge of the shoulder of a street that is suitable for walking.

The Planning Commission would have the authority to require the construction of a pathway or bikeway if needed for safe movement of people. For example, a pathway is beneficial to connect together two cul-de-sac streets.

In most areas, the SALDO states that the area between the curb and the sidewalk should remain vegetated, and not paved or covered in stone. This vegetated area is valuable to allow infiltration and to promote the growth of street trees.

Detention Basins – Stormwater provisions are in a separate watershed stormwater ordinance. A number of green standards are proposed to be added to the stormwater section of the SALDO, including provisions encouraging tree trenches (with underground infiltration) and rain gardens. Landscaping should be required around detention basins, unless they are designed to be a scenic asset (such as a mowed shallow pond or a retention basin that appears like a natural pond). Note - The City's policy has been to not accept dedication of detention basins.

Landscaping and Trees – Because it is difficult for a municipality to control architecture, landscaping requirements are particularly important to improve the appearance of new development. The landscaping provisions are proposed for revisions, to make sure they are effective while not being burdensome to administer. The SALDO landscaping provisions are also being coordinated with the Zoning provisions. The emphasis in the draft has been placed upon tree planting requirements, as opposed to shrubs. In addition to other tree requirements, a minimum of one tree would need to be planted for every 4,000 square feet of impervious coverage. Standards were incorporated from the previous City Forester. Minimum average spacing for street trees have been added.

The City would be able to decide the most appropriate location for street trees. Appropriate species of trees are cross-referenced from the City's current list.

Recreation Land and Fee Provisions – The City uses provisions of the MPC that allow municipalities to require that developers provide public recreation land. With mutual consent of the developer and the municipality, a fee can be required instead of land. The fee is primarily intended to be used to develop new recreation facilities or acquire recreation land. Unlike most other fees, the MPC requires that the recreation fee be set by ordinance, and not by resolution. The current fee in the ordinance is \$1,500 per new housing unit. The City’s current recreation fees for non-residential development would also be continued.

A modification process currently allows a developer to construct major recreation facilities in place of some or all of the recreation requirements. The City also can approve homeowner association land in place of public recreation land, if the City does not wish to maintain the land.

Manufactured/mobile Home Park

State law requires that mobile home park standards be placed in a separate article. These provisions have been updated to be consistent with the zoning ordinance.

Index

An index has been added to make the Ordinance easier to use.