
**CAMDEN COUNTY BOARD OF COMMISSIONERS
AGENDA MEMORANDUM**

SUBJECT: Second reading and adoption of an ordinance to delete the Zoning Ordinance, the Subdivision Regulations, the Soil Erosion and Sedimentation Control Ordinance, and other ordinances and regulations or parts thereof and adopt the Unified Development Code of Camden County Georgia, in lieu thereof; including the Official Zoning Map, the Procedures for Call and Holding a Public Hearing, and the Standards for Exercising of the Zoning Power contained therein.

DEPARTMENT: Planning & Development

AUTHORIZED BY: Steve Howard **CONTACT:** Loretta Hylton – 729-5603

MOTIONS/RECOMMENDATIONS:

1. Waive the second reading and adopt the ordinance to delete the Zoning Ordinance, the Subdivision Regulations, the Soil Erosion and Sedimentation Control Ordinance, and other ordinances and regulations or parts thereof and to adopt the Public Hearing Draft dated October 7, 2008, of the Unified Development Code of Camden County Georgia, as amended by the changes to Section 1231(b) attached to the memorandum from Bill Ross dated November 14, 2008, in lieu thereof; including the Official Zoning Map, the Procedures for Call and Holding a Public Hearing, and the Standards for Exercising of the Zoning Power contained therein.

2. Read into the record and adopt the ordinance to delete the Zoning Ordinance, the Subdivision Regulations, the Soil Erosion and Sedimentation Control Ordinance, and other ordinances and regulations or parts thereof and to adopt the Public Hearing Draft dated October 7, 2008, of the Unified Development Code of Camden County Georgia, as amended by the changes to Section 1231(b) attached to the memorandum from Bill Ross dated November 14, 2008, in lieu thereof; including the Official Zoning Map, the Procedures for Call and Holding a Public Hearing, and the Standards for Exercising of the Zoning Power contained therein.

BACKGROUND:

This is the final action to be taken prior to the adoption of the Unified Development Codes. This will allow the UDC to become effective on January 1, 2009 and will include the adoption of the Official Zoning Map.

STAFF RECOMMENDATION: Staff recommends waiving the first reading.

ATTACHMENTS:

1. Memo from Bill Ross dated November 14, 2008.
2. Ordinance to delete the Zoning Ordinance, the Subdivision Regulations, the Soil Erosion and Sedimentation Control Ordinance, and other ordinances and regulations or parts thereof and adopt the Unified Development Code of Camden County Georgia, in lieu thereof; including the Official Zoning Map, the Procedures for Call and Holding a Public Hearing, and the Standards for Exercising of the Zoning Power contained therein.

Memorandum

TO: Camden County Board of Commissioners

FROM: Bill Ross

DATE: November 14, 2008

RE: Revision to Draft Unified Development Code

On October 21, the Board of Commissioners held a public hearing and had the first reading on adoption of the new Unified Development Code.

Since that time, further discussion with the County Attorney and County staff has occurred regarding the use of Performance Bonds for the completion of required improvements subsequent to recordation of a final subdivision plat. As a result of these discussions, we **recommend that the Unified Development Code draft dated October 7, 2008 be adopted with changes to Section 1231(b) as shown on the attached pages.**

The attached changes are intended to reduce the County's exposure to risk and increase protection for the purchasers of lots within such developments, while encouraging responsible land development. Key elements are:

- After a final subdivision plat has been recorded, remaining improvements must be completed within 9 months (today it is two years). The Board subsequently can approve an extension (up to one year) if legitimate difficulties arise.
- The proposed improvements must be under contract to be completed. The amount of the contract establishes the "cost" of the improvements. Various forms of performance guarantee require a face value in excess of this "cost" based on the County's level of assumed risk – the "safest" and least costly being a letter of credit or cash escrow (125% of the "cost"), escalating to a performance bond (150%) and a property escrow (200%).
- The expiration of the guarantee is set for 60 days after improvements are to be completed to give the County time to inspect, and the developer time to repair, the improvements.
- At the time the County accepts the improvements, no liens (such as mechanic's liens) may be transferred to the County.
- Until the delayed improvements are completed, no building permits can be issued on the lots. No phase of a subdivision can be final platted unless paved road access to the phase exists, and thus the new phase cannot rely on uncompleted streets in an earlier phase. (Both of these requirements are already in the Code.)
- Preference is shown for an irrevocable letter of credit over other forms of guarantees.

(b) **Performance bondguarantee.**

(1) **Posting performance bondguarantee.**

- a. ~~The applicant may post a performance bondguarantee at the time of application for final subdivision approval for the construction of incomplete portions of improvements required under this Development Code, in an amount equal to 120% of the cost estimated by the Public Works Director, based on proposals from the contractors selected to work on the development, and said proposals are provided to the Public Works Director for reference, as sufficient to secure to the local government the satisfactory construction, installation and dedication of the incomplete portion of required improvements. The performance bondguarantee shall also secure all lot improvements on the individual lots of the subdivisions as required in these regulations.~~
- b. ~~Such performance bondguarantee shall comply with all statutory requirements and shall be satisfactory to the county attorney as to form, sufficiency and manner of execution. The period within which required improvements must be completed shall be specified by the Board of Commissioners in the resolutions approving acceptance of the bondguarantee and shall not exceed nine months from the date of final plat approval.~~
- c. The expiration date of the performance guarantee shall be no less than 60 days following the date established in the performance guarantee for completion of the improvements. "Completion of the improvements" shall mean the final inspection and approval by the Public Works Director of the improvements in accordance with the design and construction standards of this Development Code, and certification by the developer or surety agent that all monies due to third parties have been paid (or if not becomes the responsibility of the developer or surety agent) and that the improvements are free and clear of any liens or encumbrances.
- d. ~~Such bondguarantee shall be approved by the Board of Commissioners as to amount and surety and conditions satisfactory to the Board of Commissioners. The Public Works Director may subsequently, upon proof of difficulty, recommend to the Board of Commissioners extension of the completion date set forth in such bondguarantee for a maximum period of up to one additional year. The Board of Commissioners may at any time during the period of such bond accept a substitution of principal or sureties on the bond upon recommendation of the Public Works Director.~~

(2) **Cost of improvements.**

- a. The cost of the improvements to be completed shall be established by the Public Works Director based on a properly executed and binding contract between the developer and the contractor selected to perform the work, and shall be supported by detailed cost estimates prepared by the contractor or a qualified design professional. Said contract and cost estimates shall be provided to the Public Works Director and deemed to be sufficient to cover the full cost of design, surveying, construction, inspection, preparation of as-built surveys, construction management and all other costs of the improvements.
- b. ~~All required improvements shall be made by the applicant, at his expense, without reimbursement by the County or any improvement district therein.~~

(3) **Governmental units.**

~~Governmental units to which these bondguarantees and contract provisions apply may file in lieu of said contractor bond~~performance guarantee a certified resolution or

ordinance from officers or agencies authorized to act on their behalf, agreeing to comply with the provisions of this Section.

(4) Restrictions pending completion of improvements.

- a. In accordance with the requirements of Sec. 1233(1), no building permit shall be issued on any lot until continuous paved road access to the lot from the county road system has been established in accordance with the Access provisions of the Project Design and Construction Standards Article of this Development Code. "Established" means having received final inspection and approval by the Public Works Director of the road in accordance with the design and construction standards of this Development Code, and certification by the developer or surety agent that all monies due to third parties have been paid (or if not becomes the responsibility of the developer or surety agent) and that the improvements are free and clear of any liens or encumbrances.
- b. For subdivisions and development projects that are staged in multiple phases, each phase must have continuous paved road access from the county road system to the boundary of the phase in accordance with the Access provisions of the Project Design and Construction Standards Article of this Development Code. No phase can be approved for final plat recordation if its access depends on improvements that have not been completed in an earlier phase.

(5) Failure to complete improvement.

In those cases where a performance bond guarantee has been posted and required improvements have either not been installed within the terms of such performance bond guarantee or have not progressed in a timely manner such that completion within the time period of the guarantee can be achieved, the local government Board of Commissioners may thereupon declare the bond guarantee to be in default and require that all the improvements be installed regardless of the extent of the building development construction of said improvements at the time the bond guarantee is declared in default.

(6) Return of guarantee.

When the improvements have been completed, and inspected and approved by the responsible County department for conformity with this Development Code, and certification by the developer or surety agent has been received by the Public Works Director that all monies due to third parties have been paid (or if not becomes the responsibility of the developer or surety agent) and that the improvements are free and clear of any liens or encumbrances, the performance guarantee shall be released by the Public Works Director and returned to the applicant.

(7) Alternate improvement Types of acceptable performance guarantees.

a. Letter of credit.

Subject to the approval of the Board of Commissioners, The developer shall provide an irrevocable letter of credit from a bank or other reputable institution chartered to do business in the State of Georgia and located in Camden County, or individual for approval by the Board of Commissioners. This letter shall be deposited with the Board of Commissioners and shall certify the following:

1. That the creditor guarantees funds in an amount equal to 125% of the cost, as estimated by the Public Works Director under Sec. 1231(b)(2)a and approved by the Board of Commissioners, of completing all required improvements.

2. That the creditor guarantees that any liens or encumbrances that exist or may be placed on the improvements will not become the responsibility of the County under any circumstances.
 3. That if the developer fails to complete the specified improvements within the required period, upon written demand of the Public Works Director the creditor will pay to the County immediately, and without further action, such funds as are necessary to finance the completion of those improvements, up to the full amount of the limit of credit stated in the letter of credit, less the actual cost of covered improvements expended as of the date of demand. Such expenditures shall be evidenced by invoices and proof of payments and shall be subject to review and acceptance by the County as to reasonableness.
 4. That this letter of credit may not be withdrawn, or reduced in amount, and will be automatically renewable until released by the authorized agent of the Board of Commissioners.
- b. Alternate improvement guarantees.

If a developer prefers not to post a performance bond, an irrevocable letter of credit, the Board of Commissioners may require the developer to use one of the following improvement guarantee techniques:

1. Performance or surety bond.

A performance or surety bond must be provided by a construction bonding or insurance company authorized to do business in the State of Georgia with offices located in Camden County, and approved by the Board of Commissioners. This bond shall be filed with the Board of Commissioners and shall certify the following:

- i. That the bonding or insurance company guarantees funds in an amount equal to 150% of the cost, as estimated by the Public Works Director under Sec. 1231(b)(2) and approved by the Board of Commissioners, of completing all required improvements.
- ii. That the bonding or insurance company guarantees that any liens or encumbrances that exist or may be placed on the improvements will not become the responsibility of the County under any circumstances.
- iii. That if the developer fails to complete the specified improvements within the required period, upon written demand of the Public Works Director the bonding or insurance company will pay to the County immediately, and without further action, the full amount of the limit of insurance stated in the bond, less the actual cost of covered improvements expended as of the date of demand. Such expenditures shall be evidenced by invoices and proof of payments and shall be subject to review and acceptance by the County as to reasonableness.
- iv. That the bond may not be withdrawn, or reduced in amount, and will be automatically renewable until released by the authorized agent of the Board of Commissioners.

2. Escrow account.

The developer shall deposit cash (or collateral readily convertible to cash at face value), either with the Board of Commissioners or in escrow with a

bank chartered to do business in the State of Georgia and located in Camden County. The amount of the deposit shall be equal to 125% of the cost, as estimated by the Public Works Director under Sec. 1231(b)(2) and approved by the Board of Commissioners, of completing all required improvements. The use of collateral other than cash and the selection of the bank with which funds are to be deposited are subject to the approval of the ~~governing body~~ Board of Commissioners. Where an escrow account is to be imposed, the developer shall file with the Board of Commissioners his agreement with the bank guaranteeing the following:

- i. That the funds in the escrow account are to be held in trust until released by the authorized agent of the Board of Commissioners and may not be used or pledged by the developer as security for any other obligation during that period.
 - ii. That any liens or encumbrances that exist or may be placed on the improvements will not be assessed against the escrow account or become the responsibility of the County under any circumstances.
 - iii. That the funds on deposit may be expended from the account as work progresses, based on invoices subject to prior review and approval by the County as to reasonableness.
 - iv. In case the developer fails to complete the required improvements, the bank shall, upon written demand of the Public Works Director, immediately make the funds remaining in escrow available to the County for the completion of these improvements.
3. Property escrow.

The developer may offer as a guarantee land or other property, including corporate stocks or bonds, in an amount equal to 200% of the cost, as estimated by the Public Works Director under Sec. 1231(b)(2) and approved by the Board of Commissioners, of completing all required improvements. A qualified real estate appraiser shall establish the value of any real property so used and, in so doing, shall take into account the possibility of a decline or rise in the value of the property during the guarantee period. The Board of Commissioners reserves the right to reject the use as collateral of any property when the value of the property is unstable, when the property may be difficult to sell, or when other factors exist which will inhibit the Board of Commissioners from exchanging the property for an amount of money sufficient to complete the required improvements at its claimed value. When property is offered as an improvement guarantee, the developer shall:

- i. Execute an agreement with the escrow agent when it is not the County, instructing the agent to release the property to the County in the case of default. The agreement shall be placed on file with the Clerk of the Superior Court.
- ii. File with the Board of Commissioners an affidavit affirming that the property to be used as a guarantee is free and clear of any encumbrances or liens at the time it is put into escrow.
- iii. Provide that any liens or encumbrances that may be placed on the improvements in the future will not be assessed against the escrow account or become the responsibility of the County under any circumstances.

- iv. Execute and file with the Board of Commissioners an agreement stating that the property to be placed in escrow as an improvement guarantee will not be used for any other purpose, or pledged as a security in any other matter, until it is released by the authorized agent of the Board of Commissioners.
4. Other methods.
- Any other method of sufficient financial commitment equal or superior to the requirements of this Section that may be acceptable to the Board of Commissioners.

AN ORDINANCE

AN ORDINANCE BY CAMDEN COUNTY, GEORGIA, TO DELETE FROM THE CODE OF ORDINANCES THE ZONING ORDINANCE FOR CAMDEN COUNTY, THE CAMDEN COUNTY SUBDIVISION REGULATIONS, THE CAMDEN COUNTY SOIL EROSION AND SEDIMENTATION CONTROL ORDINANCE AND OTHER ORDINANCES AND REGULATIONS OR PARTS THEREOF; AND TO ADOPT THE UNIFIED DEVELOPMENT CODE OF CAMDEN COUNTY, GEORGIA, IN LIEU THEREOF; INCLUDING THE OFFICIAL ZONING MAP, THE PROCEDURES FOR CALLING AND HOLDING A PUBLIC HEARING, AND THE STANDARDS FOR THE EXERCISE OF THE ZONING POWER CONTAINED THEREIN.

WHEREAS, the Board of Commissioners of Camden County desires to adopt the Unified Development Code of Camden County, Georgia; and

WHEREAS, the Unified Development Code replaces certain ordinances or parts of ordinances previously adopted by the Board of Commissioners; and

WHEREAS, the Unified Development Code includes an Official Zoning Map; and

WHEREAS, the Unified Development Code includes procedures for calling and holding a public hearing and standards for the exercise of the zoning power, prepared in accordance with O.C.G.A. § 36-66-5; and

WHEREAS, notice of a public hearing was duly published as required by O.C.G.A. § 36-66-4; and

WHEREAS, pursuant to O.C.G.A. § 36-66-4, public hearings were held by the Planning Commission on July 30, 2008, and by the Board of Commissioners on October 7, 2008, after public notice as required by law, at which times all owners of property affected and other citizens of the county were given the opportunity to voice their protests, suggestions, or criticisms, if any;

NOW THEREFORE the Board of Commissioners of Camden County ordains that the Unified Development Code of Camden County, Georgia, is adopted as follows:

- A. The Unified Development Code of Camden County, Georgia, including the procedures for calling and holding a public hearing and the standards for the exercise of the zoning power contained therein, is adopted for the purposes and intent set forth therein and shall become effective on January 1, 2009.

- B. The Camden County Zoning Map dated October 7, 2008, the print of which is signed by hand by the Chairman of the Camden County Board of Commissioners, and including the computer-based electronic version thereof, is adopted as the Official Zoning Map of Camden County.
- C. The following ordinances and regulations previously adopted by the Camden County Board of Commissioners, and as amended from time to time, are hereby repealed upon the effective date of adoption of the Unified Development Code:
1. Appendix A: The Subdivision Regulations of Camden County, Georgia;
 2. Appendix B: The Zoning Ordinance of Camden County, Georgia;
 3. Chapter 10, Article II: Adult Amusements;
 4. Chapter 18: Buildings and Building Regulations;
 5. Chapter 30: Environment;
 6. Chapter 34: Floods; and
 7. Chapter 56: Telecommunications.
- D. All other laws or regulations or parts of laws or regulations of Camden County in conflict with the Unified Development Code of Camden County, other than ordinances and amendments approving the rezoning of land or approving a Special Use of a property, are hereby repealed to the extent of their conflict as of the effective date of the Unified Development Code of Camden County, Georgia. Where the Unified Development Code overlaps with other requirements adopted by the Board of Commissioners, whichever imposes the more stringent restrictions shall prevail.
- E. It is hereby decreed to be the intention of the Board of Commissioners of Camden County that the sections, paragraphs, sentences, clauses and words of the Unified Development Code are severable and if any word or words, clause or clauses, sentence or sentences, paragraph or paragraphs, section or sections of the Unified Development Code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining words, clauses, sentences, paragraphs, and sections of the Unified Development Code as the same would have been enacted by the Board of Commissioners of Camden County without the incorporation in the Unified Development Code of any such unconstitutional word or words, clause or clauses, sentence or sentences, paragraph or paragraphs, section or sections.

ADOPTED AND APPROVED by the Camden County Board of Commissioners this
___ day of _____, 2008.

ATTEST:

**CAMDEN COUNTY
BOARD OF COMMISSIONERS**

Jodi Gregory, County Clerk

Preston Rhodes, Chairman