AGENDA

COMMUNITY DEVELOPMENT/HOUSING/GENERAL GOVERNMENT COMMITTEE

4:30 p.m., Tuesday, January 10, 2017

COMMITTEE ROOM

Room 239, City Hall

COMMITTEE MEMBERS: Council Member Derwin L. Montgomery, Chair
Council Member Denise D. Adams, Vice Chair
Council Member Dan Besse
Council Member Robert C. Clark

GENERAL AGENDA

G-1. ORDINANCE REVISING CHAPTER B OF THE UNIFIED DEVELOPMENT ORDINANCES TO AMEND REGULATIONS FOR ACCESSORY DWELLINGS - UDO-267 - Proposal of the City-County Planning and Development Services Staff [Recommended by Planning Board. Item continued from the May, August, October, November, and December meetings of the Community Development/Housing/General Government Committee.]

G-2. INFORMATION CONCERNING CITIZEN SATISFACTION SURVEYS.

G-3. HISTORIC LANDMARK APPLICATION REVIEW.
CONSENT AGENDA

C-1. APPROVAL OF COMMUNITY DEVELOPMENT/HOUSING/GENERAL GOVERNMENT COMMITTEE SUMMARY OF MINUTES - December 13, 2016.
TO: Mayor Allen Joines and Members of the City Council
FROM: A. Paul Norby, Director of Planning and Development Services
DATE: December 29, 2016
SUBJECT: UDO-267 – Responses to December 13th Discussion on Accessory Units

The Community Development/Housing/General Government Committee has been discussing UDO-267 (a text amendment to revise accessory dwelling regulations) since its May 2016 meeting. This amendment is necessary to ensure that our accessory dwelling provisions reflect current case law. The following information responds to the discussion from the December 13 Committee meeting.

At that meeting, members of the Committee asked staff to prepare revised text amendment language that would require all detached accessory units to be approved through a neighborhood “opt-in” provision. “Opt-in” could be implemented a couple of different ways – one way could require individual neighborhoods through an overlay zoning district to agree to allow potential accessory units within the neighborhood boundaries prior to any review of the actual units themselves. Two separate approval procedures would be required to construct a detached accessory unit under this scenario: First, a neighborhood would collectively need to decide that it wished to allow the possibility of detached units within its boundaries. A Neighborhood Conservation Overlay (NCO) District rezoning would need to be requested by the neighborhood, the process of which would include a determination of eligibility from the Historic Resources Commission and Planning Board, approval by 65% of the homeowners within the neighborhood, and public hearings by the Planning Board and City Council. This process would simply allow the possibility of detached accessory units within the neighborhood. Each individually proposed detached accessory unit within the neighborhood would still have to be approved through a second process, the existing Board of Adjustment Special Use Permit approval process for accessory units. This process also includes notification, a public hearing, and required findings of fact. Revised ordinance provisions to accommodate this neighborhood “opt-in” requirement using the NCO have been included in the attached draft ordinance.

In my professional opinion, it is extremely unlikely that any neighborhood will initiate an NCO rezoning petition in order to allow something that most homeowners will not choose to do on their own property. If this likely consequence proves true, it essentially means there would be no future detached accessory dwellings allowed in the City.

Another approach would be to allow “opt-in” on a property-by-property basis through Special Use District zoning. Staff has also prepared an alternative version of the draft ordinance which, rather than utilizing the two-step process described above involving establishing an NCO and holding a Board of Adjustment hearing for a detached accessory unit, would simply allow for the approval of the accessory unit through a single Special Use District rezoning. The Special Use rezoning...
process would require public hearings before both the Planning Board and City Council which would allow neighborhood residents to weigh in on the suitability of a proposed accessory unit before Council’s decision on the matter. Additionally, such a process would require a site plan showing where the accessory unit would be located on the subject property. This process of requiring a homeowner to go through a full Special Use District rezoning process would be more challenging and expensive for the homeowner than the Board of Adjustment process for a Special Use Permit.

Both the NCO-based and Special Use District rezoning-based versions of the proposed ordinance include a minimum lot size of 9,000 square feet for detached accessory units. Staff did not include that option because no Council members discussed that as a desire at the December 13th Committee meeting. However, Council could adjust this minimum lot size or remove it altogether if it desired to.

If Council members want to consider an approach that is more open to continuing the possibility of detached accessory dwellings while still giving neighborhoods with a strong opinion against them an option to prohibit them, an “opt-out” NCO would need to be substituted for both of the previously described “opt-in” approaches. In other words, allowing the possibility of detached accessory dwellings that meet all the proposed new requirements and get a Special Use Permit from the Board of Adjustment would be “default” provision in the UDO, but a neighborhood wanting to entirely prohibit that as a possibility in their area could petition for NCO designation and specify that detached accessory dwellings are not allowed. This is different than what staff was asked to prepare at the last Committee meeting, so if Council members would like this approach to be considered, staff could develop such ordinance language for consideration at the following Committee meeting.

In addition to requesting the development of an “opt-in” provision, the Committee asked staff several questions at the December meeting which are answered below:

What are the addresses of the detached accessory dwellings approved by the Board of Adjustment in the three-plus years since the Board stopped enforcing the “kinship” provisions of the current ordinance? Would these units be able to meet the standards of the proposed accessory dwelling ordinance?

**Detached Accessory Units Approved Since May 2013**

<table>
<thead>
<tr>
<th>Address</th>
<th>Ward</th>
<th>Meets Proposed Ordinance?</th>
<th>If Not, Why?</th>
</tr>
</thead>
<tbody>
<tr>
<td>812 Osprey Ridge Road</td>
<td>West</td>
<td>No</td>
<td>Accessory unit over 1,000 square feet, lot less than 1 acre in GMA 3</td>
</tr>
<tr>
<td>515 Alpine Road</td>
<td>West</td>
<td>No</td>
<td>Does not meet setback requirement from principal residence</td>
</tr>
<tr>
<td>2301 Georgia Avenue</td>
<td>West</td>
<td>No</td>
<td>Does not meet setback requirement from adjacent property</td>
</tr>
<tr>
<td>2705 Country Club Road</td>
<td>West</td>
<td>Yes</td>
<td>--</td>
</tr>
<tr>
<td>2116 Queen Street</td>
<td>Southwest</td>
<td>No</td>
<td>Unit exceeds maximum allowed square footage</td>
</tr>
<tr>
<td>Address</td>
<td>Direction</td>
<td>Permit</td>
<td>Description</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>-----------</td>
<td>--------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>602 Banner Avenue</td>
<td>South</td>
<td>No</td>
<td>Does not meet setback requirement from adjacent property</td>
</tr>
<tr>
<td>1067 Kent Road Northwest</td>
<td>No</td>
<td>Accessory unit over 1,000 square feet in GMA 2</td>
<td></td>
</tr>
<tr>
<td>60 Hoskins Drive North</td>
<td>Yes</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>721 Ontario Street Northeast</td>
<td>No</td>
<td>Accessory unit over 1,000 square feet in GMA 2</td>
<td></td>
</tr>
<tr>
<td>3705 New Walkertown Road</td>
<td>No</td>
<td>Accessory unit over 1,000 square feet, lot less than 1 acre in GMA 3</td>
<td></td>
</tr>
<tr>
<td>4419 Ogburn Avenue Northeast</td>
<td>Yes</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>4470 Ogburn Avenue Northeast</td>
<td>Yes</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>420 Rickard Drive Northeast</td>
<td>No</td>
<td>Does not meet setback requirement from principal residence</td>
<td></td>
</tr>
<tr>
<td>3994 Glenn Hi Road Southeast</td>
<td>Yes</td>
<td>--</td>
<td></td>
</tr>
</tbody>
</table>

How would addressing requirements affect attached and detached accessory dwelling units?

According to the Forsyth County Address Coordinator, establishing a detached accessory dwelling would always require a second address. This address would be required so that first responders such as police, fire, and EMS would clearly be able to distinguish this unit from the principal residence on site during their emergency response. House numbers would need to be posted on both the principal residence and the accessory dwelling unit. If the property owner wishes to have a second mailbox installed for the accessory dwelling, they may – however they are not required to receive mail at this address (they may choose to receive mail at a P.O. Box, for example).

An attached accessory dwelling accessed through the same front door as the principal residence (for example, in a scenario where the front door leads to an internal foyer or hallway with individual doors to the principal residence and accessory unit) would require the issuance of one address number for the building, as well as subordinate numbers for each of the two units in the building. For postal delivery purposes, the property owner may choose whether they wish to have one or two mailboxes on the property – however, the proposed ordinance prohibits the installation of a second mailbox.

An attached accessory dwelling unit accessed through a different front door than the principal residence would require the issuance of two separate, clearly posted addresses. However, where there are not enough remaining address numbers on the street, the issuance of subordinate numbers may be used by the Address Coordinator instead of individual address numbers. For postal delivery purposes, the property owner may choose whether they wish to have one or two mailboxes on the property – however, the proposed ordinance prohibits the installation of a second mailbox.

How would the City-County Inspections Division distinguish between an attached accessory dwelling unit and a single family home which simply has an extra kitchen, bedroom, and bathroom?

The presence of an extra kitchen, bedroom and bathroom in and of itself does not constitute a separate dwelling unit. In fact, there are many single family homes in Winston-Salem with these features. According to Inspections staff, if a citizen requests a construction permit to install a...
secondary kitchen in their basement, for example, they would be required to complete a “secondary kitchen affidavit” which states that they are not attempting to create a secondary dwelling unit. Having an extra bedroom, bathroom, and kitchen *may* constitute a separate dwelling unit if the separate dwelling unit meets the provisions for attached accessory units in Section B.2-6.4(2-5) of the UDO and the owner chooses to utilize the space in such a manner. Per the ordinance, there are prohibited alternations to the exterior of the structure, prohibited extra utility meters and mailboxes, size limitations, and parking restrictions. Inspections states that there is no “definitive and prescriptive” way to automatically tell what constitutes an accessory dwelling vs. what is part of a single family residence – it truly requires a case-by-case analysis, and with the primary determining factor being the intent of the property owner, and how they plan on using the property.

**What maximum square footage limits do our peer cities use to limit the size of accessory dwelling units?**

Staff researched the accessory dwelling provisions of the 30 most populous communities in the state. Their respective maximum unit sizes are detailed in the table below:

*Comparison of Accessory Dwelling Provisions in NC Municipalities*

<table>
<thead>
<tr>
<th>Municipality</th>
<th>Single Family Accessory Units Allowed?</th>
<th>Maximum Size Limits</th>
<th>Kinship Provisions Included?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Charlotte</td>
<td>Yes</td>
<td>50% of principal floor area, not to exceed 800 sq. ft.</td>
<td>No</td>
</tr>
<tr>
<td>Raleigh</td>
<td>No</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Greensboro</td>
<td>Yes</td>
<td>30% of the primary dwelling floor area</td>
<td>No</td>
</tr>
<tr>
<td>Durham</td>
<td>Yes</td>
<td>30% of the primary dwelling floor area</td>
<td>No</td>
</tr>
<tr>
<td>Fayetteville</td>
<td>Yes</td>
<td>800 sq. ft.</td>
<td>No</td>
</tr>
<tr>
<td>Cary</td>
<td>Yes</td>
<td>33% of the floor area of primary dwelling or 800 sq. feet, whichever is less</td>
<td>No</td>
</tr>
<tr>
<td>Wilmington</td>
<td>Yes</td>
<td>35% of floor area of primary dwelling or 1,200 sq. ft., whichever is less</td>
<td>No</td>
</tr>
<tr>
<td>High Point</td>
<td>Yes</td>
<td>50% of the primary dwelling floor area</td>
<td>No</td>
</tr>
<tr>
<td>Greenville</td>
<td>Yes</td>
<td>20% of side yard or rear yard</td>
<td>No</td>
</tr>
<tr>
<td>Asheville</td>
<td>Yes</td>
<td>70% of primary dwelling floor area or 800 sq. ft.</td>
<td>No</td>
</tr>
<tr>
<td>Concord</td>
<td>Yes</td>
<td>50% of the primary dwelling floor area or 1,100 sq. ft.</td>
<td>No</td>
</tr>
<tr>
<td>Gastonia</td>
<td>Yes</td>
<td>50% of the primary dwelling floor area or 750 sq. ft., whichever is less</td>
<td>No</td>
</tr>
<tr>
<td>Jacksonville</td>
<td>No</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>City</td>
<td>Kinship Provision</td>
<td>Primary Dwelling Area/Size</td>
<td></td>
</tr>
<tr>
<td>---------------</td>
<td>------------------</td>
<td>---------------------------</td>
<td></td>
</tr>
<tr>
<td>Rocky Mount</td>
<td>Yes</td>
<td>50% of the primary dwelling floor area</td>
<td>Yes</td>
</tr>
<tr>
<td>Chapel Hill</td>
<td>No</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Burlington</td>
<td>Yes</td>
<td>35% of the primary dwelling floor area</td>
<td>No</td>
</tr>
<tr>
<td>Wilson</td>
<td>Yes</td>
<td>50% of the primary dwelling floor area</td>
<td>No</td>
</tr>
<tr>
<td>Huntersville</td>
<td>Yes</td>
<td>650 sq. ft. on the first floor or 50% of the primary dwelling floor area, whichever is greater</td>
<td>No</td>
</tr>
<tr>
<td>Kannapolis</td>
<td>Yes</td>
<td>50% of the primary dwelling floor area, not to exceed 1,100 sq. ft.</td>
<td>No</td>
</tr>
<tr>
<td>Hickory</td>
<td>Yes</td>
<td>50% of the primary dwelling floor area, not to exceed 2,000 sq. ft.</td>
<td>No</td>
</tr>
<tr>
<td>Apex</td>
<td>Yes</td>
<td>1,000 sq. ft.</td>
<td>No</td>
</tr>
<tr>
<td>Goldsboro</td>
<td>Yes</td>
<td>40% of the primary dwelling floor area or 1,100 sq. ft., whichever is less</td>
<td>No</td>
</tr>
<tr>
<td>Salisbury</td>
<td>Yes</td>
<td>50% of the primary dwelling floor area with a max. footprint of 750 sq. ft.</td>
<td>No</td>
</tr>
<tr>
<td>Indian Trail</td>
<td>Yes</td>
<td>60% of the primary dwelling floor area</td>
<td>No</td>
</tr>
<tr>
<td>Monroe</td>
<td>No</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Mooresville</td>
<td>Yes</td>
<td>50% of the primary dwelling floor area</td>
<td>No</td>
</tr>
<tr>
<td>Wake Forest</td>
<td>Yes</td>
<td>Less than the primary dwelling floor area</td>
<td>No</td>
</tr>
<tr>
<td>New Bern</td>
<td>No</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Sanford</td>
<td>Yes</td>
<td>Less than the primary dwelling floor area</td>
<td>No</td>
</tr>
</tbody>
</table>

**Do any of our peer cities’ ordinances contain the “kinship” provisions which our existing ordinance contains but which are no longer enforceable?**

Staff researched the ordinances of the 30 most populous communities in the state, of which only the ordinance for Rocky Mount contained kinship provisions.

Staff will be available at the January 10th, 2017 Community Development/Housing/General Government Committee meeting to assist the Committee in its continued discussion on this item.
Be it ordained by the City Council of the City of Winston-Salem, North Carolina, that the *Unified Development Ordinances* is hereby amended as follows:

**Section 1.** Chapter A, Article II of the *UDO* is amended as follows:

**Chapter A - Definitions Ordinance**

**Article II – Definitions**

**ADULT.** An individual who has attained eighteen (18) years of age, or if under the age of eighteen (18), is either married or has been emancipated under applicable state law.

**Section 2.** Chapter B, Article II of the *UDO* is amended as follows:

**Chapter B - Zoning Ordinance**

**Article II – Zoning Districts, Official Zoning Maps, and Uses**

**2-6 ACCESSORY USES**

2-6.4 USES WHICH MAY ONLY BE ACCESSORY TO PRINCIPAL USES

**(B) Dwelling, Accessory (Attached).** .....The Zoning Officer shall issue a zoning permit if the following requirements are met:

1. **Occupancy Requirements.** .....A zoning permit for an attached accessory dwelling shall be conditioned upon the property owner signing a statement verifying that one of the occupancy requirements is being met. The zoning permit shall automatically terminate when the occupancy requirement is no longer met. No more than two (2) adult individuals shall be allowed to inhabit any attached accessory dwelling.

   a. **At Least Fifty Five (55) or Handicapped.** .....The principal or accessory dwelling unit shall be occupied by a person at least fifty-five (55) years of age or handicapped; or, [Reserved]
(b) **Relation.** The principal dwelling unit or the attached accessory unit shall be occupied by the following categories of persons: [Reserved]

(i) **Relative.** Any relative under the civil law of the first, second, or third degree of kinship to the head of the household owning and occupying the principal dwelling on the lot, or to the spouse (whether living or deceased) of the head of the household; [Reserved]

(ii) **Adopted Person.** A son or daughter by legal adoption, or the adoptive parents of the head of the household or such person's spouse, whether spouse is living or deceased; [Reserved]

(iii) **Other Dependent.** A dependent of the head of the household or of such person's spouse as defined by the North Carolina Department of Revenue; or, [Reserved]

(iv) **Servant.** A servant employed on the premises and the servant's family, but only if such servant receives more than one-half of his/her annual gross income in return for services rendered on the premises. [Reserved]

(2) **Structure.** The principal building shall not be altered in any way so as to appear from a public street to be multiple family housing.

(a) **Prohibited Alterations.** Prohibited alterations include, but are not limited to: multiple entranceways, multiple mailboxes, or multiple nameplates.

(b) **Access.** Wherever feasible and consistent with the State Residential Building Code, access to the accessory dwelling unit shall be by means of existing doors.

(c) **Stairways.** No new stairways to upper floors are permitted on any side of a building which faces a public street.

(d) **Utilities.** Electric and/or gas utilities shall be supplied to both units through a single meter.

(e) An attached accessory dwelling must be completely contained within the same conditioned building structure as the principal residence on the lot or share an external wall of no less than 15 feet in length with the principal residence.

(3) **Size of Unit.** An attached accessory dwelling unit shall occupy no more than fifty percent (50%) thirty percent (30%) of the heated floor area of the principal building, but in no case shall the accessory dwelling unit be greater than one thousand (1,000) square feet. The sum of all accessory uses, including home occupations, in a principal residential building shall not exceed fifty percent (50%) thirty percent (30%) of the total floor area of the building.

(4) **Parking.** Parking for the attached accessory dwelling shall be served by the same driveway as the principal dwelling. One off-street parking space per accessory unit bedroom shall be provided. In no case shall less than one off-street parking space be provided per accessory unit. It shall be demonstrated through a scaled site plan how parking will be provided.
(5) **Number of Accessory Dwellings.** ..... No more than one accessory dwelling, whether attached or detached, shall be located on a lot.

(6) **Accessory dwellings are only permitted on the same zoning lot as single-family residential uses.**

(C) **Dwelling, Accessory (Detached).** ..... A Special Use Permit shall be issued if the following conditions are met:

1. **Occupancy Requirements.** ..... A Special Use Permit for the detached accessory dwelling must be approved by the Board of Adjustment in accordance with the requirements of Section B.6-1.4. In addition, the applicant must submit a statement verifying that the occupancy requirements of this section are being met. The permit shall automatically terminate with the termination of occupancy by such persons. The principal dwelling unit or the detached accessory unit shall be occupied by the following categories of persons—No more than two (2) adult individuals shall be allowed to inhabit any detached accessory dwelling.

   a. **Relative (F).** ..... Any relative under the civil law of the first, second, or third degree of consanguinity to the head of the household owning or occupying the principal dwelling on the lot, or to the spouse (whether living or deceased) of the head of the household; [Reserved]

      Relative (W). Any relative under the civil law of the first, second, or third degree of kinship to the head of the household owning or occupying the principal dwelling on the lot, or to the spouse (whether living or deceased) of the head of the household; [Reserved]

   b. **Adopted Person.** ..... A son or daughter by legal adoption, or the adoptive parents of the head of the household or such person’s spouse, whether spouse is living or deceased; [Reserved]

   c. **Other Dependent.** ..... A dependent of the head of the household or of such person’s spouse as defined by the North Carolina Department of Revenue; or, [Reserved]

   d. **Servant.** ..... A servant employed on the premises and the servant’s family, but only if such servant receives more than one-half of his/her annual gross income in return for services rendered on the premises. [Reserved]

2. **Dimensional Requirements.** ..... Any detached accessory dwelling shall occupy no more than five percent (5%) of the lot area and shall not be greater than one thousand (1,000) square feet. However, in GMA 3, accessory dwellings on lots greater than 40,000 square feet may have a maximum size of 1,500 square feet. In GMAs 4 and 5, the square footage of the accessory dwelling shall be no greater than the principal residential structure on the lot. Detached accessory dwellings shall comply with all dimensional requirements applicable to accessory structures in Sections B.3-1.2(F) and (G). Any proposed detached accessory dwelling exceeding the dimensional requirements of this section may be considered through the Special Use District Zoning process.
(3) **Building Requirements.** .....Any detached accessory dwelling shall comply with all building, plumbing, electrical, and other applicable codes, other than a manufactured housing unit.

(4) **Manufactured Home (F).** .....A Class A or B manufactured home may be used as a detached accessory dwelling; a Class C manufactured home may be used as a detached accessory dwelling in those zoning districts where a Class C manufactured home is permitted as a principal use according to Table B.2.6.

Manufactured Home (W). A Class A or B manufactured home may be used as a detached accessory dwelling.

(5) **Number of Accessory Dwellings.** .....No more than one accessory dwelling, whether attached or detached, shall be permitted on the same lot.

(6) **Parking.** .....Parking for the detached accessory dwelling shall be served by the same driveway as the principal dwelling. One off-street parking space per accessory unit bedroom shall be provided. In no case shall less than one off-street parking space be provided per accessory unit. It shall be demonstrated how parking will be provided through the site plan submitted for the Special Use Permit process. If the detached accessory dwelling is located on a corner lot or served by an alley, a separate driveway may be provided from the side street or the alley.

(7) **Location of Unit.** .....The detached accessory dwelling may not be physically connected or attached to the principal residence on the same lot. The detached accessory dwelling shall be located behind the front facade of the principal structure. For corner lots the detached accessory dwelling must be located behind the building line of both street-facing facades. The detached accessory dwelling must be set back no less than 20 feet from the side or rear of the principal residence.

(8) **Setbacks.** .....An accessory structure must comply with all dimensional requirements applicable to accessory structures in Sections B.3-1.2(F) and (G), except as listed below:

(a) Accessory dwellings in single family residential districts must meet the rear setback requirements for principal structures in the district, except that accessory units with a minimum rear setback equal to fifty percent (50%) of the required rear setback for the district may be approved where any of the following conditions are met:

(i) The accessory dwelling is adjacent to property which has zoning other than single family residential zoning.

(ii) The accessory dwelling is adjacent to property which is currently undeveloped.

(iii) The accessory dwelling is adjacent to property which contains an existing detached accessory dwelling unit.

(iv) The accessory dwelling will be less than fourteen (14) feet tall.

(v) A five foot wide Type I Bufferyard will be installed between the proposed accessory unit and the adjoining property line.

(b) The minimum side setback for accessory dwellings shall be the same as for principal structures in any residential district.
(c) Accessory dwellings in non-residential districts shall have rear setbacks of at least twelve and a half (12.5) feet and side setbacks of at least seven (7) feet on one side and twenty (20) feet combined.

(9) Accessory dwellings are only permitted on the same zoning lot as single-family residential uses.

(10) **Lot Requirements.** Accessory dwellings must meet the following conditions:

(a) A minimum lot size of 9,000 square feet exists.

(b) The principal dwelling structure on the lot occupies no more than 30% of the lot area.

(c) In GMA 3, accessory dwellings on lots greater than 40,000 square feet may have a maximum size of 1,500 square feet.

(d) In GMAs 4 and 5, the square footage of the accessory dwelling shall be no greater than the principal residential structure on the lot.

(e) Accessory dwellings may only be proposed within a Neighborhood Conservation Overlay (NCO) Zoning District (as described in Section B.2-1.6(A)) which explicitly allows the use of accessory dwellings within the NCO boundaries in its adopted district conservation standards. Individual accessory dwelling units within eligible NCO Districts would still require approval through the Board of Adjustment Special Use Permit process.

Section 3. Chapter B, Article III of the *UDO* is amended as follows:

Chapter B – Zoning Ordinance

Article III – Other Development Standards

3-1 - DIMENSIONAL REQUIREMENTS

3-1.2 SUPPLEMENTARY DIMENSIONAL REQUIREMENTS

The following supplementary dimensional requirements shall apply to all buildings and structures not subject to the general dimensional requirements of Section B.3-1.1.

(F) Accessory Structures Permitted in Required Yards

(1) Interior Lots. An accessory structure seventeen (17) twenty-four (24) feet or less in height and structurally detached from the principal structure on the zoning lot may be erected on any interior lot in either the required side or rear yards, if no part of said structure is less than seventy-five (75) feet from the front lot line nor less than three (3) feet from a side or rear lot line.

(2) Corner Lot. An accessory structure less than seventeen (17) twenty-four (24) feet in height and structurally detached from the principal structure on the zoning lot may be erected on a corner lot, provided that:
(a) Said structure shall be erected in the required side yard not abutting the street, and no part of said structure is less than seventy-five (75) feet from the front line nor less than three (3) feet from a side or rear lot line; or,

(b) Said structure shall be erected in the required rear yard and shall not project beyond, or nearer to, the street than the front setback line of the district, as extended, of the adjacent lot whose front yard abuts the corner lot in question.

(3) Height. .....For purposes of this section, the height shall be measured from the average grade of the midpoint of the front wall to the ridge of the roof of the accessory building.

(G) Size Limits for Accessory Structures

(1) Maximum Area. .....The total area of all accessory structures on a lot Accessory structure may not exceed five percent (5%) of the actual size of the zoning lot or the minimum permitted lot size of the zoning district, whichever is larger. However, an accessory structure up to five hundred seventy-six (576) square feet in area shall be permitted in all districts.

(2) Board of Adjustment. .....Requests for structures containing greater area than prescribed in Section B.3-1.2(G)(1) may be considered under the special use permit process through the Board of Adjustment.

(3) Required Yard. .....Accessory structures may not occupy more than twenty-five percent (25%) of the area of the required yard.

(H) Accessory Structures Prohibited in Required Yards .....An accessory structure any part of which is within three (3) feet of the principal building or which is more than seventeen (17) twenty-four (24) feet in height shall comply with all the zoning regulations applicable to the principal building.

(I) Special Yard Requirements for Older Neighborhoods. .....Alternative dimensional requirements are available for neighborhoods which were originally platted or developed prior to March 3, 1948, and where at least fifty percent (50%) of the other lots on the block in question are developed. See Section B.3-8.

Section 4. Chapter B, Article III of the UDO is amended as follows:

Chapter B – Zoning Ordinance
Article III – Other Development Standards

6-1 ADMINISTRATION

To accomplish the purposes of this Ordinance and to insure compliance with these regulations, the following administrative responsibilities are assigned:

6-1.4 BOARD OF ADJUSTMENT

(B) Variances
(1) Authority. .....No provision of this Ordinance shall be interpreted as conferring upon the Board of Adjustment the authority to approve an application for a variance of the conditions of a permitted use except with respect to the specific waiving of requirements as to:

(a) General Dimension Requirements for Zoning Districts listed in Sections B.2-1.2, B.2-1.3, B.2-1.4 and B.2-1.5 and shall only include minimum zoning lot area and width, minimum setbacks, maximum impervious surface cover, or maximum height;

(b) Floodplain regulations as specified in Section C.2-2.7;

(c) Vehicular use landscaping requirements as specified in Section B.3-4;

(d) Bufferyard requirements as specified in Section B.3-5;

(e) Setback and landscaping requirements of the TO District as specified in Section B.2-1.6(B);

(f) Width of private access easements where such easement is for single family residential uses and where said private access easement was established prior to April 17, 1978;

(g) Off-street parking and loading as specified in Section B.3-3;

(h) Delay of building permits within designated Transportation Plan corridors as specified in Section B.3-7.1;

(i) Residential infill setback requirements as specified in Section B.3-8; (W); and

(j) Conservation Standards for the NCO District as specified in Section B.2-1.6(A); and

(k) Accessory dwelling requirements as specified in Section B.2-6.4, excluding the minimum lot size requirement of Section B.2-6.4(C)(10)(a), and Section B.3-1.2. A variance of these accessory dwelling requirements shall only be granted for structures existing prior to [date of adoption of UDO-267].

Section 5. This ordinance shall be effective upon adoption.
Be it ordained by the City Council of the City of Winston-Salem, North Carolina, that the Unified Development Ordinances is hereby amended as follows:

Section 1. Chapter A, Article II of the UDO is amended as follows:

Chapter A - Definitions Ordinance
Article II – Definitions

ADULT. An individual who has attained eighteen (18) years of age, or if under the age of eighteen (18), is either married or has been emancipated under applicable state law.

Section 2. Chapter B, Article II of the UDO is amended as follows:

Chapter B - Zoning Ordinance
Article II – Zoning Districts, Official Zoning Maps, and Uses

2-6 ACCESSORY USES

2-6.4 USES WHICH MAY ONLY BE ACCESSORY TO PRINCIPAL USES

(B) Dwelling, Accessory (Attached) .....The Zoning Officer shall issue a zoning permit if the following requirements are met:

(1) Occupancy Requirements. .....A zoning permit for an attached accessory dwelling shall be conditioned upon the property owner signing a statement verifying that one of the occupancy requirements is being met. The zoning permit shall automatically terminate when the occupancy requirement is no longer met. No more than two (2) adult individuals shall be allowed to inhabit any attached accessory dwelling.

(a) At Least Fifty Five (55) or Handicapped. .....The principal or accessory dwelling unit shall be occupied by a person at least fifty-five (55) years of age or handicapped; or, [Reserved]
(b) **Relation.** The principal dwelling unit or the attached accessory unit shall be occupied by the following categories of persons:  [Reserved]

(i) **Relative.** Any relative under the civil law of the first, second, or third degree of kinship to the head of the household owning and occupying the principal dwelling on the lot, or to the spouse (whether living or deceased) of the head of the household;  [Reserved]

(ii) **Adopted Person.** A son or daughter by legal adoption, or the adoptive parents of the head of the household or such person's spouse, whether spouse is living or deceased;  [Reserved]

(iii) **Other Dependent.** A dependent of the head of the household or of such person's spouse as defined by the North Carolina Department of Revenue; or,  [Reserved]

(iv) **Servant.** A servant employed on the premises and the servant's family, but only if such servant receives more than one-half of his/her annual gross income in return for services rendered on the premises.  [Reserved]

(2) **Structure.** The principal building shall not be altered in any way so as to appear from a public street to be multiple family housing.

(a) **Prohibited Alterations.** Prohibited alterations include, but are not limited to: multiple entranceways, multiple mailboxes, or multiple nameplates.

(b) **Access.** Wherever feasible and consistent with the State Residential Building Code, access to the accessory dwelling unit shall be by means of existing doors.

(c) **Stairways.** No new stairways to upper floors are permitted on any side of a building which faces a public street.

(d) **Utilities.** Electric and/or gas utilities shall be supplied to both units through a single meter.

(e) **An attached accessory dwelling must be completely contained within the same conditioned building structure as the principal residence on the lot or share an external wall of no less than 15 feet in length with the principal residence.**

(3) **Size of Unit.** An attached accessory dwelling unit shall occupy no more than fifty percent (50%) thirty percent (30%) of the heated floor area of the principal building, but in no case shall the accessory dwelling unit be greater than one thousand (1,000) square feet. The sum of all accessory uses, including home occupations, in a principal residential building shall not exceed fifty percent (50%) thirty percent (30%) of the total floor area of the building.

(4) **Parking.** Parking for the attached accessory dwelling shall be served by the same driveway as the principal dwelling. One off-street parking space per accessory unit bedroom shall be provided. In no case shall less than one off-street parking space be provided per accessory unit. It shall be demonstrated through a scaled site plan how parking will be provided.
(5) Number of Accessory Dwellings. No more than one accessory dwelling, whether attached or detached, shall be located on a lot.

(6) Accessory dwellings are only permitted on the same zoning lot as single-family residential uses.

(C) Dwelling, Accessory (Detached). A detached accessory dwelling unit may be permitted through the Special Use District Rezoning process described in Section B.6-2.2 where the following requirements are met:

(1) Occupancy Requirements. A Special Use Permit for the detached accessory dwelling must be approved by the Board of Adjustment in accordance with the requirements of Section B.6-1.4. In addition, the applicant must submit a statement verifying that the occupancy requirements of this section are being met. The permit shall automatically terminate with the termination of occupancy by such persons. The principal dwelling unit or the detached accessory unit shall be occupied by the following categories of persons. No more than two (2) adult individuals shall be allowed to inhabit any detached accessory dwelling.

   (a) Relative (F). Any relative under the civil law of the first, second, or third degree of consanguinity to the head of the household owning or occupying the principal dwelling on the lot, or to the spouse (whether living or deceased) of the head of the household; [Reserved]

   Relative (W). Any relative under the civil law of the first, second, or third degree of kinship to the head of the household owning or occupying the principal dwelling on the lot, or to the spouse (whether living or deceased) of the head of the household; [Reserved]

   (b) Adopted Person. A son or daughter by legal adoption, or the adoptive parents of the head of the household or such person's spouse, whether spouse is living or deceased; [Reserved]

   (c) Other Dependent. A dependent of the head of the household or of such person's spouse as defined by the North Carolina Department of Revenue; or; [Reserved]

   (d) Servant. A servant employed on the premises and the servant's family, but only if such servant receives more than one-half of his/her annual gross income in return for services rendered on the premises; [Reserved]

(2) Dimensional Requirements. Any detached accessory dwelling shall occupy no more than five percent (5%) of the lot area and shall not be greater than one thousand (1,000) square feet. However, in GMA 3, accessory dwellings on lots greater than 40,000 square feet may have a maximum size of 1,500 square feet. In GMAs 4 and 5, the square footage of the accessory dwelling shall be no greater than the principal residential structure on the lot. Detached accessory dwellings shall comply with all dimensional requirements applicable to accessory structures in Sections B.3-1.2(F) and (G). Any proposed detached accessory dwelling exceeding the dimensional requirements of this section may be considered through the Special Use District Zoning process.
(3) Building Requirements. .....Any detached accessory dwelling shall comply with all building, plumbing, electrical, and other applicable codes, other than a manufactured housing unit.

(4) Manufactured Home (F). .....A Class A or B manufactured home may be used as a detached accessory dwelling; a Class C manufactured home may be used as a detached accessory dwelling in those zoning districts where a Class C manufactured home is permitted as a principal use according to Table B.2.6. Manufactured Home (W). A Class A or B manufactured home may be used as a detached accessory dwelling.

(5) Number of Accessory Dwellings. .....No more than one accessory dwelling, whether attached or detached, shall be permitted on the same lot.

(6) Parking. .....Parking for the detached accessory dwelling shall be served by the same driveway as the principal dwelling. One off-street parking space per accessory unit bedroom shall be provided. In no case shall less than one off-street parking space be provided per accessory unit. It shall be demonstrated how parking will be provided through the site plan submitted for the Special Use District rezoning process. If the detached accessory dwelling is located on a corner lot or served by an alley, a separate driveway may be provided from the side street or the alley.

(7) Location of Unit. .....The detached accessory dwelling may not be physically connected or attached to the principal residence on the same lot. The detached accessory dwelling shall be located behind the front facade of the principal structure. For corner lots the detached accessory dwelling must be located behind the building line of both street-facing facades. The detached accessory dwelling must be set back no less than 20 feet from the side or rear of the principal residence.

(8) Setbacks. .....An accessory structure must comply with all dimensional requirements applicable to accessory structures in Sections B.3-1.2(F) and (G), except as listed below:

(a) Accessory dwellings in single family residential districts must meet the rear setback requirements for principal structures in the district, except that accessory units with a minimum rear setback equal to fifty percent (50%) of the required rear setback for the district may be approved where any of the following conditions are met:

(i) The accessory dwelling is adjacent to property which has zoning other than single family residential zoning.

(ii) The accessory dwelling is adjacent to property which is currently undeveloped.

(iii) The accessory dwelling is adjacent to property which contains an existing detached accessory dwelling unit.

(iv) The accessory dwelling will be less than fourteen (14) feet tall.

(v) A five foot wide Type I Bufferyard will be installed between the proposed accessory unit and the adjoining property line.

(b) The minimum side setback for accessory dwellings shall be the same as for principal structures in any residential district.
(c) Accessory dwellings in non-residential districts shall have rear setbacks of at least twelve and a half (12.5) feet and side setbacks of at least seven (7) feet on one side and twenty (20) feet combined.

(9) Accessory dwellings are only permitted on the same zoning lot as single-family residential uses.

(10) Lot Requirements. Accessory dwellings must meet the following conditions:

(a) A minimum lot size of 9,000 square feet exists.

(b) The principal dwelling structure on the lot occupies no more than 30% of the lot area.

(c) In GMA 3, accessory dwellings on lots greater than 40,000 square feet may have a maximum size of 1,500 square feet.

(d) In GMAs 4 and 5, the square footage of the accessory dwelling shall be no greater than the principal residential structure on the lot.

Section 3. Chapter B, Article III of the UDO is amended as follows:

Chapter B – Zoning Ordinance
Article III – Other Development Standards

3-1 - DIMENSIONAL REQUIREMENTS

3-1.2 SUPPLEMENTARY DIMENSIONAL REQUIREMENTS

The following supplementary dimensional requirements shall apply to all buildings and structures not subject to the general dimensional requirements of Section B.3-1.1.

(F) Accessory Structures Permitted in Required Yards

(1) Interior Lots. An accessory structure seventeen (17) twenty-four (24) feet or less in height and structurally detached from the principal structure on the zoning lot may be erected on any interior lot in either the required side or rear yards, if no part of said structure is less than seventy-five (75) feet from the front lot line nor less than three (3) feet from a side or rear lot line.

(2) Corner Lot. An accessory structure less than seventeen (17) twenty-four (24) feet in height and structurally detached from the principal structure on the zoning lot may be erected on a corner lot, provided that:

(a) Said structure shall be erected in the required side yard not abutting the street, and no part of said structure is less than seventy-five (75) feet from the front line nor less than three (3) feet from a side or rear lot line; or,

(b) Said structure shall be erected in the required rear yard and shall not project beyond, or nearer to, the street than the front setback line of the district, as extended, of the adjacent lot whose front yard abuts the corner lot in question.
Height. .....For purposes of this section, the height shall be measured from the average grade of the midpoint of the front wall to the ridge of the roof of the accessory building.

(G) Size Limits for Accessory Structures

(1) Maximum Area. .....The total area of all accessory structures on a lot Accessory structure may not exceed five percent (5%) of the actual size of the zoning lot or the minimum permitted lot size of the zoning district, whichever is larger. However, an accessory structure up to five hundred seventy-six (576) square feet in area shall be permitted in all districts.

(2) Board of Adjustment. .....Requests for structures containing greater area than prescribed in Section B.3-1.2(G)(1) may be considered under the special use permit process through the Board of Adjustment.

(3) Required Yard. .....Accessory structures may not occupy more than twenty-five percent (25%) of the area of the required yard.

(H) Accessory Structures Prohibited in Required Yards .....An accessory structure any part of which is within three (3) feet of the principal building or which is more than seventeen (17) twenty-four (24) feet in height shall comply with all the zoning regulations applicable to the principal building.

(I) Special Yard Requirements for Older Neighborhoods .....Alternative dimensional requirements are available for neighborhoods which were originally platted or developed prior to March 3, 1948, and where at least fifty percent (50%) of the other lots on the block in question are developed. See Section B.3-8.

Section 4. Chapter B, Article III of the UDO is amended as follows:

**Chapter B – Zoning Ordinance**

**Article III – Other Development Standards**

**6-1  ADMINISTRATION**

To accomplish the purposes of this Ordinance and to insure compliance with these regulations, the following administrative responsibilities are assigned:

**6-1.4 BOARD OF ADJUSTMENT**

(B) Variances

(1) Authority. .....No provision of this Ordinance shall be interpreted as conferring upon the Board of Adjustment the authority to approve an application for a variance of the conditions of a permitted use except with respect to the specific waiving of requirements as to:

(a) General Dimension Requirements for Zoning Districts listed in Sections B.2-1.2, B.2-1.3, B.2-1.4 and B.2-1.5 and shall only include minimum zoning lot area and width, minimum setbacks, maximum impervious surface cover, or maximum height;
(b) Floodplain regulations as specified in Section C.2-2.7;
(c) Vehicular use landscaping requirements as specified in Section B.3-4;
(d) Bufferyard requirements as specified in Section B.3-5;
(e) Setback and landscaping requirements of the TO District as specified in Section B.2-1.6(B);
(f) Width of private access easements where such easement is for single family residential uses and where said private access easement was established prior to April 17, 1978;
(g) Off-street parking and loading as specified in Section B.3-3;
(h) Delay of building permits within designated Transportation Plan corridors as specified in Section B.3-7.1;
(i) Residential infill setback requirements as specified in Section B.3-8; (W); and
(j) Conservation Standards for the NCO District as specified in Section B.2-1.6(A); and
(k) Accessory dwelling requirements as specified in Section B.2-6.4, excluding the minimum lot size requirement of Section B.2-6.4(C)(10)(a), and Section B.3-1.2. A variance of these accessory dwelling requirements shall only be granted for structures existing prior to [date of adoption of UDO-267].

Section 5. This ordinance shall be effective upon adoption.
TO: Mayor Allen Joines and Members of City Council  
FROM: A. Paul Norby, Director of Planning and Development Services  
DATE: November 18, 2016  
SUBJECT: Revisions to Accessory Dwelling Provisions (UDO-267)

The Community Development/Housing/General Government Committee has been discussing UDO-267 (a text amendment to revise accessory dwelling regulations) since its May 2016 meeting. This amendment is necessary to ensure that our accessory dwelling provisions reflect current case law, community desires, and Legacy 2030 recommendations. At its November 10th meeting, the committee asked staff to prepare revised text amendment language that would accommodate the following two provisions:

• Create provisions to allow accessory dwelling units on residential lots smaller than 9,000 square feet through a special review process. After consulting with the City Attorney’s Office, staff believes the best process for such a review would be to use the existing Special Use District rezoning process for smaller lot proposals. The Special Use rezoning process would require public hearings before both the Planning Board and City Council which would allow neighborhood residents to weigh in on the suitability of a proposed accessory unit before Council’s decision on the matter. Additionally, such a process would require a site plan showing where the accessory unit would be located on the subject property. The only issue staff would note with using the Special Use District rezoning process for accessory dwelling unit review would be the minimum $1000 application fee for such a request (this fee is significantly higher than the $100 review fee for the Board of Adjustment, which would be required for the review of accessory units on lots larger than 9,000 square feet). However, if Council wished, a reduced fee could be established for this particular type of application review.

• Create provisions requiring minimum rear setbacks for accessory units to be equal to rear setback requirements for principal residences in the zoning district, except where certain conditions are met. Where these conditions are met, rear setbacks equal to ½ of the rear setbacks for principal residences in the zoning district would be allowed. Staff suggests that such a reduced setback would be allowed where any of the following conditions are met:
  o The proposed accessory unit would adjoin a currently undeveloped lot.
  o The proposed accessory unit would adjoin a non-single family zoned lot.
  o The proposed accessory unit would be less than 14 feet tall.
  o The proposed accessory unit would adjoin a lot which contains an existing detached accessory dwelling unit.
  o A five foot wide Type I Bufferyard would be installed between the proposed accessory unit and the adjoining property line.
The specific ordinance language for the provisions described above can be found in the attached revised draft ordinance. Staff will also be available at the December 2016 Community Development/Housing/General Government Committee meeting to assist the Committee in its continued discussion on this item.
UDO-267

PLANNING STAFF PROPOSAL
RECOMMENDED FOR DENIAL BY PLANNING BOARD
FURTHER MODIFIED IN RESPONSE TO
NOVEMBER 2016 CD/H/GG COMMITTEE COMMENTS
(MODIFICATIONS HIGHLIGHTED IN YELLOW)

AN ORDINANCE REVISING
CHAPTER B OF THE UNIFIED DEVELOPMENT ORDINANCES
TO AMEND REGULATIONS FOR ACCESSORY DWELLINGS

Be it ordained by the City Council of the City of Winston-Salem, North Carolina, that the Unified Development Ordinances is hereby amended as follows:

Section 1. Chapter A, Article II of the UDO is amended as follows:

Chapter A - Definitions Ordinance
Article II – Definitions

ADULT. An individual who has attained eighteen (18) years of age, or if under the age of eighteen (18), is either married or has been emancipated under applicable state law.

Section 2. Chapter B, Article II of the UDO is amended as follows:

Chapter B - Zoning Ordinance
Article II – Zoning Districts, Official Zoning Maps, and Uses

2-6 ACCESSORY USES

2-6.4 USES WHICH MAY ONLY BE ACCESSORY TO PRINCIPAL USES

(B) Dwelling, Accessory (Attached). .....The Zoning Officer shall issue a zoning permit if the following requirements are met:

   (1) Occupancy Requirements. .....A zoning permit for an attached accessory dwelling unit shall be conditioned upon the property owner signing a statement verifying that one of the occupancy requirements is being met. The zoning permit shall automatically terminate when the occupancy requirement is no longer met. No more than two (2) adult individuals shall be allowed to inhabit any attached accessory dwelling.

(a) At Least Fifty-Five (55) or Handicapped. .....The principal or accessory dwelling unit shall be occupied by a person at least fifty-five (55) years of age or handicapped; or, [Reserved]
(b) **Relation.**  The principal dwelling unit or the attached accessory unit shall be occupied by the following categories of persons: [Reserved]

(i) **Relative.**  Any relative under the civil law of the first, second, or third degree of kinship to the head of the household owning and occupying the principal dwelling on the lot, or to the spouse (whether living or deceased) of the head of the household; [Reserved]

(ii) **Adopted Person.**  A son or daughter by legal adoption, or the adoptive parents of the head of the household or such person's spouse, whether spouse is living or deceased; [Reserved]

(iii) **Other Dependent.**  A dependent of the head of the household or of such person's spouse as defined by the North Carolina Department of Revenue; or, [Reserved]

(iv) **Servant.**  A servant employed on the premises and the servant's family, but only if such servant receives more than one-half of his/her annual gross income in return for services rendered on the premises. [Reserved]

(2) **Structure.**  The principal building shall not be altered in any way so as to appear from a public street to be multiple family housing.

(a) **Prohibited Alterations.**  Prohibited alterations include, but are not limited to: multiple entranceways, multiple mailboxes, or multiple nameplates.

(b) **Access.**  Wherever feasible and consistent with the State Residential Building Code, access to the accessory dwelling unit shall be by means of existing doors.

(c) **Stairways.**  No new stairways to upper floors are permitted on any side of a building which faces a public street.

(d) **Utilities.**  Electric and/or gas utilities shall be supplied to both units through a single meter.

(e) **An attached accessory dwelling must be completely contained within the same conditioned building structure as the principal residence on the lot or share an external wall of no less than 15 feet in length with the principal residence.**

(3) **Size of Unit.**  An attached accessory dwelling unit shall occupy no more than fifty percent (50%) thirty percent (30%) of the heated floor area of the principal building, but in no case shall the accessory dwelling unit be greater than one thousand (1,000) square feet. The sum of all accessory uses, including home occupations, in a principal residential building shall not exceed fifty percent (50%) thirty percent (30%) of the total floor area of the building.

(4) **Parking.**  Parking for the attached accessory dwelling shall be served by the same driveway as the principal dwelling. One off-street parking space per accessory unit bedroom shall be provided. In no case shall less than one off-street parking space be provided per accessory unit. It shall be demonstrated through a scaled site plan how parking will be provided.
(5) **Number of Accessory Dwellings.** .....No more than one accessory dwelling, whether attached or detached, shall be located on a lot.

(6) **Accessory dwellings are only permitted on the same zoning lot as single-family residential uses.**

(C) **Dwelling, Accessory (Detached).** .....A Special Use Permit shall be issued if the following conditions are met:

(1) **Occupancy Requirements.** .....A Special Use Permit for the detached accessory dwelling must be approved by the Board of Adjustment in accordance with the requirements of Section B.6-1.4. In addition, the applicant must submit a statement verifying that the occupancy requirements of this section are being met. The permit shall automatically terminate with the termination of occupancy by such persons. The principal dwelling unit or the detached accessory unit shall be occupied by the following categories of persons—No more than two (2) adult individuals shall be allowed to inhabit any detached accessory dwelling.

(a) Relative (F) .....Any relative under the civil law of the first, second, or third degree of consanguinity to the head of the household owning or occupying the principal dwelling on the lot, or to the spouse (whether living or deceased) of the head of the household;

Relative (W) .....Any relative under the civil law of the first, second, or third degree of kinship to the head of the household owning or occupying the principal dwelling on the lot, or to the spouse (whether living or deceased) of the head of the household;

(b) Adopted Person .....A son or daughter by legal adoption, or the adoptive parents of the head of the household or such person's spouse, whether spouse is living or deceased;

(c) Other Dependent .....A dependent of the head of the household or of such person's spouse as defined by the North Carolina Department of Revenue; or

(d) Servant .....A servant employed on the premises and the servant's family, but only if such servant receives more than one-half of his/her annual gross income in return for services rendered on the premises.

(2) **Dimensional Requirements.** .....Any detached accessory dwelling shall occupy no more than five percent (5%) of the lot area and shall not be greater than one thousand (1,000) square feet. However, in GMA 3, accessory dwellings on lots greater than 40,000 square feet may have a maximum size of 1,500 square feet. In GMAs 4 and 5, the square footage of the accessory dwelling shall be no greater than the principal residential structure on the lot. Detached accessory dwellings shall comply with all dimensional requirements applicable to accessory structures in Sections B.3-1.2(F) and (G). Any proposed detached accessory dwelling exceeding the dimensional requirements of this section may be considered through the Special Use District Zoning process.
(3) **Building Requirements.** Any detached accessory dwelling shall comply with all building, plumbing, electrical, and other applicable codes, other than a manufactured housing unit.

(4) **Manufactured Home (F).** A Class A or B manufactured home may be used as a detached accessory dwelling; a Class C manufactured home may be used as a detached accessory dwelling in those zoning districts where a Class C manufactured home is permitted as a principal use according to Table B.2.6.

Manufactured Home (W). A Class A or B manufactured home may be used as a detached accessory dwelling.

(5) **Number of Accessory Dwellings.** No more than one accessory dwelling, whether attached or detached, shall be permitted on the same lot.

(6) **Parking.** Parking for the detached accessory dwelling shall be served by the same driveway as the principal dwelling. One off-street parking space per accessory unit bedroom shall be provided. In no case shall less than one off-street parking space be provided per accessory unit. It shall be demonstrated how parking will be provided through the site plan submitted for the Special Use Permit process. If the detached accessory dwelling is located on a corner lot or served by an alley, a separate driveway may be provided from the side street or the alley.

(7) **Location of Unit.** The detached accessory dwelling may not be physically connected or attached to the principal residence on the same lot. The detached accessory dwelling shall be located behind the front facade of the principal structure. For corner lots the detached accessory dwelling must be located behind the building line of both street-facing facades. The detached accessory dwelling must be set back no less than 20 feet from the side or rear of the principal residence.

(8) **Setbacks.** An accessory structure must comply with all dimensional requirements applicable to accessory structures in Sections B.3-1.2(F) and (G), except as listed below:

(a) Accessory dwellings in single family residential districts must meet the rear setback requirements for principal structures in the district, except that accessory units with a minimum rear setback equal to fifty percent (50%) of the required rear setback for the district may be approved where any of the following conditions are met:

(i) The accessory dwelling is adjacent to property which has zoning other than single family residential zoning.

(ii) The accessory dwelling is adjacent to property which is currently undeveloped.

(iii) The accessory dwelling is adjacent to property which contains an existing detached accessory dwelling unit.

(iv) The accessory dwelling will be less than fourteen (14) feet tall.

(v) A five foot wide Type I Bufferyard will be installed between the proposed accessory unit and the adjoining property line.

(b) The minimum side setback for accessory dwellings shall be the same as for principal structures in any residential district.
(c) Accessory dwellings in non-residential districts shall have rear setbacks of at least twelve and a half (12.5) feet and side setbacks of at least seven (7) feet on one side and twenty (20) feet combined.

(9) Accessory dwellings are only permitted on the same zoning lot as single-family residential uses.

(10) Lot Requirements. Accessory dwellings must meet the following conditions:

(a) A minimum lot size of 9,000 square feet exists, unless the conditions of section B.2-6.4(C)(10)(e) below are met.

(b) The principal dwelling structure on the lot occupies no more than 30% of the lot area.

(c) In GMA 3, accessory dwellings on lots greater than 40,000 square feet may have a maximum size of 1,500 square feet.

(d) In GMAs 4 and 5, the square footage of the accessory dwelling shall be no greater than the principal residential structure on the lot.

(e) Accessory dwellings may be permitted on lots smaller than 9,000 square feet through the Special Use District rezoning process described in Section B.6-2.2.

Section 3. Chapter B, Article III of the UDO is amended as follows:

Chapter B – Zoning Ordinance
Article III – Other Development Standards

3-1 - DIMENSIONAL REQUIREMENTS

3-1.2 SUPPLEMENTARY DIMENSIONAL REQUIREMENTS

The following supplementary dimensional requirements shall apply to all buildings and structures not subject to the general dimensional requirements of Section B.3-1.1.

(F) Accessory Structures Permitted in Required Yards

(1) Interior Lots. An accessory structure seventeen (17) twenty-four (24) feet or less in height and structurally detached from the principal structure on the zoning lot may be erected on any interior lot in either the required side or rear yards, if no part of said structure is less than seventy-five (75) feet from the front lot line nor less than three (3) feet from a side or rear lot line.

(2) Corner Lot. An accessory structure less than seventeen (17) twenty-four (24) feet in height and structurally detached from the principal structure on the zoning lot may be erected on a corner lot, provided that:

(a) Said structure shall be erected in the required side yard not abutting the street, and no part of said structure is less than seventy-five (75) feet from the front line nor less than three (3) feet from a side or rear lot line; or,
(b) Said structure shall be erected in the required rear yard and shall not project beyond, or nearer to, the street than the front setback line of the district, as extended, of the adjacent lot whose front yard abuts the corner lot in question.

(3) Height. .....For purposes of this section, the height shall be measured from the average grade of the midpoint of the front wall to the ridge of the roof of the accessory building.

(G) Size Limits for Accessory Structures

(1) Maximum Area. .....The total area of all accessory structures on a lot Accessory structure may not exceed five percent (5%) of the actual size of the zoning lot or the minimum permitted lot size of the zoning district, whichever is larger. However, an accessory structure up to five hundred seventy-six (576) square feet in area shall be permitted in all districts.

(2) Board of Adjustment. .....Requests for structures containing greater area than prescribed in Section B.3-1.2(G)(1) may be considered under the special use permit process through the Board of Adjustment.

(3) Required Yard. .....Accessory structures may not occupy more than twenty-five percent (25%) of the area of the required yard.

(H) Accessory Structures Prohibited in Required Yards .....An accessory structure any part of which is within three (3) feet of the principal building or which is more than seventeen (17) twenty-four (24) feet in height shall comply with all the zoning regulations applicable to the principal building.

(I) Special Yard Requirements for Older Neighborhoods. .....Alternative dimensional requirements are available for neighborhoods which were originally platted or developed prior to March 3, 1948, and where at least fifty percent (50%) of the other lots on the block in question are developed. See Section B.3-8.

Section 4. Chapter B, Article III of the UDO is amended as follows:

Chapter B – Zoning Ordinance
Article III – Other Development Standards

6-1 ADMINISTRATION

To accomplish the purposes of this Ordinance and to insure compliance with these regulations, the following administrative responsibilities are assigned:

6-1.4 BOARD OF ADJUSTMENT

(B) Variances

(1) Authority. .....No provision of this Ordinance shall be interpreted as conferring upon the Board of Adjustment the authority to approve an application for a variance of the conditions of a permitted use except with respect to the specific waiving of requirements as to:
(a) General Dimension Requirements for Zoning Districts listed in Sections B.2-1.2, B.2-1.3, B.2-1.4 and B.2-1.5 and shall only include minimum zoning lot area and width, minimum setbacks, maximum impervious surface cover, or maximum height;

(b) Floodplain regulations as specified in Section C.2-2.7;

(c) Vehicular use landscaping requirements as specified in Section B.3-4;

(d) Bufferyard requirements as specified in Section B.3-5;

(e) Setback and landscaping requirements of the TO District as specified in Section B.2-1.6(B);

(f) Width of private access easements where such easement is for single family residential uses and where said private access easement was established prior to April 17, 1978;

(g) Off-street parking and loading as specified in Section B.3-3;

(h) Delay of building permits within designated Transportation Plan corridors as specified in Section B.3-7.1;

(i) Residential infill setback requirements as specified in Section B.3-8; (W) and

(j) Conservation Standards for the NCO District as specified in Section B.2-1.6(A); and

(k) Accessory dwelling requirements as specified in Section B.2-6.4, excluding the minimum lot size requirement of Section B.2-6.4(C)(10)(a), and Section B.3-1.2. A variance of these accessory dwelling requirements shall only be granted for structures existing prior to [date of adoption of UDO-267].

Section 5. This ordinance shall be effective upon adoption.
Planning and Development Services staff gave a presentation on UDO-267 (a text amendment to revise accessory dwelling regulations) at the May 10 Community Development/Housing/General Government Committee meeting. This amendment is necessary to ensure that our accessory dwelling provisions reflect current case law, community desires, and Legacy 2030 recommendations. The Committee continued its discussions on this item at the August 9 CD/H/GG meeting. Four research requests arose during this meeting which staff were asked to answer prior to the October Committee meeting. Planning and Development Services staff collaborated with the City Attorney’s Office to provide the answers below:

Requests and Answers

- **What single-family residential building design elements are able to be legally regulated through a Neighborhood Conservation Overlay (NCO) District rezoning?**

S.L. 2015-86 became effective in North Carolina on June 19, 2015, and prohibits, with certain exceptions, the regulation of “building design elements.” The law provides a list of what cannot be regulated, including:

1) Exterior building color;
2) Type or style of exterior cladding material;
3) Style or materials of roofs or porches
4) Exterior nonstructural architectural ornamentation;
5) Location or architectural styling of windows and doors, including garage doors;
6) Location of rooms; and
7) Interior layout of rooms.

The law specifically excludes the following items as “building design elements”, allowing for regulation:

1) Height, bulk, orientation on the lot, location of structure on a lot;
2) Use of buffering or screening to minimize visual impacts, to mitigate impacts of light or noise, or to protect the privacy of neighbors; and
3) Regulations governing permitted uses of land or structures.
• Are subdivisions or neighborhoods within a community legally able to either vote-in or vote-out of allowing accessory dwelling units in that area (similar to City Code provisions currently in place for front yard parking in residential areas)?

It is legally permissible to create a vote-in or vote-out mechanism for allowing accessory dwelling units in an area. However, the City Attorney’s Office recommends exercising extreme caution if this avenue is chosen, as it could be possible to accumulate signatures of properties and “draw” the boundaries of an area so that the resultant character of a neighborhood or neighborhoods would be split or divided.

Another option would be to allow the “opting out” of said use by virtue of adoption of a Neighborhood Conservation Overlay (NCO) District for a neighborhood wishing to initiate such an overlay which prohibits accessory dwellings. Similarly, parallel zoning districts could be created, for example RS9 and RS9-ADU (Accessory Dwelling Unit), whereby Council through a rezoning could determine if said use is appropriate for a particular parcel of property, or even a neighborhood which applies for that zoning.

• Prepare a graphic showing an example of how a 7,000 square foot residential lot could accommodate a detached accessory dwelling meeting the requirements of UDO-267.

Staff has prepared two graphics to illustrate how a detached accessory dwelling could be accommodated on a 7,000 square foot RS-7 lot. Exhibit A shows the minimum setbacks for an accessory unit proposed in UDO-267 as well as the minimum UDO setbacks for the RS-7 district. Exhibit B shows how an accessory dwelling could be accommodated on an actual RS-7 zoned lot in Winston-Salem.

• Research how many new detached accessory units have been approved in Winston-Salem since staff was directed to stop enforcing the current UDO kinship provisions by the City Attorney.

Based on legal advice from the City Attorney, the Board of Adjustment and staff stopped enforcing the kinship provisions in the current attached dwelling ordinance in May 2013. Since that time 14 new detached accessory dwellings have been approved by the Board of Adjustment. This averages to 4-5 new detached units per year. The attached map (Exhibit C) shows where these units are located.

Staff will be available at the October 2016 Community Development/Housing/General Government Committee meeting to assist the Committee in its continued discussion on this item.
Proposed Accessory Dwelling Unit Setbacks for a 7,000 Square Foot Single Family Residential Lot (RS-7 Zoning)

Proposed Accessory Unit Setbacks (5' Side, Rear Equal to 1/2 Principal Residence Setback, or 10')
RS-7 Accessory Unit Example

Lot Size: 7,000 sf
Maximum Accessory Unit Size: 350 sf

20' Setback
Side Setback: 5'
Rear Setback: 10'
Potential Building

Exhibit B
Exhibit C
New Detached Accessory Dwelling Units Approved in Winston-Salem Since May 2013

Dwelling Type
- Red: Standard Dwelling
- Green: Manufactured Home
Planning and Development Services staff gave a presentation on UDO-267 (a text amendment to revise accessory dwelling provisions) at the May 10 Community Development/Housing/General Government Committee meeting. This amendment is necessary to ensure that our accessory dwelling provisions reflect current case law, community desires, and Legacy 2030 recommendations. Following the May 10 meeting, Committee Chair Leight asked that Council be provided a list of key decisions regarding specific provisions of the proposed ordinance, to help focus discussions at the August CD/H/GG meeting. Questions regarding key ordinance provisions are as follows:

**General Questions**

- Allow detached accessory dwellings at all, or prohibit entirely?
- If detached accessory dwellings are allowed, should a Special Use Permit from the Board of Adjustment be required (as in both the existing and proposed draft ordinance)?
- Set a maximum number of people who may live in an accessory unit? (The proposed ordinance prohibits more than two adults from living in a unit.)

**Minimum Lot Size**

- Only allow detached units on lots larger than 9,000 square feet in size, or a different minimum lot size?
- Only allow detached units on lots where the principal residence occupies no more than 30% of the total lot area, as the current proposal suggests?

**Maximum Size of Accessory Units**

- Set the maximum size limit for accessory units at 1,000 square feet as proposed?
- Allow a maximum accessory unit size of 1,500 square feet in Growth Management Area 3 (Suburban Neighborhoods) on lots with at least 40,000 square feet (almost 1 acre) as proposed?
Setback Requirements for Accessory Units

- Set a minimum rear setback for detached accessory units at 50% of the required rear setback for the primary residence, as proposed?
- Require a setback of 20 feet between the principal residence on the lot and an accessory dwelling as proposed?
  (Note: Existing accessory structures with less than the required setbacks must request a variance from the Board of Adjustment, according to the draft ordinance)

Other Requirements

- Set an accessory unit height limit of 24 feet as proposed? (accommodates a unit above a detached garage, for example)
- Only allow variances from certain ordinance requirements to be granted for lots which are more than 9,000 square feet in size, as proposed?
- If variances are allowed, limit variances only to structures existing prior to the adoption of UDO-267, as proposed?

Staff will be available at the August 9, 2016 Community Development/Housing/General Government Committee meeting to assist the Committee in its discussion on this item.
At the August 2015 Community Development/Housing/General Government Committee (CD/H/GG) meeting, Planning and Development Services staff gave a presentation on a potential amendment to current standards regulating accessory dwelling units in Winston-Salem, prompted by some recent court decisions. Residential accessory dwelling units have been allowed in Winston-Salem since the 1930s, and these structures may be either detached stand-alone buildings, or units attached to the principal residence which exists on a property. A number of accessory units can be found within the older neighborhoods surrounding Downtown Winston-Salem, and they are also found in some of the more outlying areas of the City and County jurisdictions.

The **Unified Development Ordinances** (UDO) currently permits accessory dwellings, but limits occupancy of these units to relatives, adopted persons, dependents or servants of the property owner. Existing provisions also extend occupancy rights for attached dwelling units to individuals over the age of 55 and handicapped persons. As staff discussed last August, the City Attorney’s Office has expressed concerns regarding the enforceability of the current occupancy provisions in the UDO. Recent North Carolina case law suggests that although municipalities have the authority to regulate the use of property, they do not have the authority to limit the use of land based on the identity or status of the users or owners of the property. The Attorney’s Office has recommended revising our current ordinance provisions to prevent them from being challenged in court.

Planning Staff agrees that removing ordinance language that runs counter to case law is necessary, but recommends adding additional regulations governing building placement and size to ensure accessory units fit within neighborhoods. After researching other municipalities across the state, staff found that the large majority of cities, both large and small, currently allow accessory dwellings in single family neighborhoods. In fact, only 4 of the state’s 30 largest municipalities prohibit accessory residential units. **Legacy 2030** also recognizes that accessory dwellings can provide creative housing options to accommodate a growing population within existing municipal limits, and allow for greater opportunities for aging in place and affordable housing.

After gaining input from Council at the August 2015 CD/H/GG meeting, staff held two public meetings to provide interested citizens an opportunity to learn about proposed changes and provide feedback in September 2015. A number of issues were discussed at these meetings including setbacks of accessory units, unit size limitations, design issues, and the impact of the ordinance on the local Tiny House movement. Based on these discussions and our research, staff
prepared an initial draft ordinance proposal which was presented to the City-County Planning Board at its October 2015 work session. This initial staff proposal eliminated kinship provisions and added the following accessory dwelling requirements:

- Parking for the unit must be provided and served by the same driveway as the principal residence, unless the accessory unit is on a corner lot or accesses an alley
- Detached accessory units must be behind the front façade of the principal residence
- Accessory units may only be permitted in association with single-family residential uses
- Detached units have a maximum height of 24 feet
- Accessory dwelling have a maximum area of 1,000 square feet, plus:
  - Attached units may be no more than 30% of the floor area of the principal structure
  - Detached units may be no more than 5% of the total lot area
- Detached units would require a greater setback than for other accessory structures but would allow minimum rear setbacks equal to 50% of the required rear setback for primary structures in the zoning district (for residential districts). Side setbacks for these units would be the same as the required side setbacks for primary structures in the zoning district.
- Detached units in non-residential districts must have minimum rear setbacks of 12.5 feet and side setbacks of 7 feet
- Existing accessory structures with less than these required setbacks must request a variance from the Board of Adjustment

In addition to the proposed requirements detailed above, accessory dwellings would still be approved in the same fashion as they currently are. Attached dwelling units would be permitted by right with the issuance of a zoning permit from staff, while detached dwelling units would continue to require a Special Use Permit from the Board of Adjustment (BOA). To receive a Special Use Permit, an accessory unit must meet all conditions of the ordinance, as well as meet four findings of fact related to the impact of a unit on its neighborhood. The BOA process also requires a public hearing allowing neighbors to voice their concerns about the impact of such structures on their neighborhoods.

Over the next three months, Planning staff answered further Planning Board questions related to the draft ordinance, and briefed the Board again at its January 2016 work session. A Planning Board public hearing was held on a revised draft ordinance on February 11, 2016. In addition to the provisions listed above, the February 2016 ordinance proposed the following requirements:

- One parking space must be provided per bedroom in an accessory unit
- Detached units may only be located on lots at least 9,000 square feet in size
- Detached units are only allowed on lots where the principal residence occupies no more than 30% of the total lot area
- A maximum unit size of 1,500 square feet is allowed in Growth Management Area (GMA) 3 on lots with at least 40,000 square feet
- No maximum unit size exists in GMAs 4 or 5, except that the accessory unit must be smaller than the principal residence on the lot
• Detached units must be set back at least 20 feet from the principal residence on the lot
• No more than two adults are allowed to live in an accessory unit

During discussion at the February Planning Board meeting, some Board members and citizens voiced concerns over the impact of proposed parking requirements on neighborhoods which lacked adequate off-street parking, as well as concerns relating to variances from the proposed standards. The Board continued discussing the ordinance at its February 2016 work session, and staff added the following provisions to the draft ordinance:

• Parking for accessory units must be provided in the form of off-street parking
• Variances may not be granted for lots which are less than 9,000 square feet in size
• Variances may only be granted for structures existing prior to the adoption of UDO-267

The Planning Board continued discussions on the revised ordinance at its March 10, 2016 meeting. After substantial discussion, a motion to approve the ordinance as presented by staff was made, and was denied unanimously, with Planning Board members citing opposing reasons that it was either too lenient or too restrictive. Another motion, which would have completely removed accessory dwelling provisions from the ordinance, failed with a 2-6 vote. A motion to simply remove the legally questionable occupancy provisions from the current ordinance passed on a 6-2 vote. All three ordinance versions considered and voted on by the Planning Board are attached to this memo for Council consideration.

Staff will discuss UDO-267 at the May 10, 2016 Community Development/Housing/General Government Committee. Following the presentation, staff will be available to answer questions.
**ACTION REQUEST FORM**

**DATE:** April 27, 2016  
**TO:** The Honorable Mayor and City Council  
**FROM:** A. Paul Norby, Director of Planning and Development Services

**COUNCIL ACTION REQUEST:**

Request for Public Hearing on zoning text amendment proposed by City-County Planning and Development Services staff

**SUMMARY OF INFORMATION:**

An ordinance amendment proposed by City-County Planning and Development Services staff to revise Chapter B of the *Unified Development Ordinances* to amend regulations for Accessory Dwellings (UDO-267).

**PLANNING BOARD ACTION:**

**MOTION ON PETITION:** APPROVAL WITH CHANGES  
**FOR:** TOMMY HICKS, ARNOLD KING, CLARENCE LAMBE, DARRYL LITTLE, PAUL MULLICAN, BRENDA SMITH  
**AGAINST:** GEORGE BRYAN, MELYNDA DUNIGAN  
**SITE PLAN ACTION:** NOT REQUIRED
REQUEST

This UDO text amendment is proposed by City-County Planning and Development Services staff to amend Chapter B of the *Unified Development Ordinances* (UDO) concerning regulations for accessory dwelling units.

BACKGROUND

Accessory dwelling units are structures that may be detached or attached to a principal structure on the same lot and are sometimes referred to as granny flats, in-law apartments, guest houses, carriage houses or laneway/alley housing. Accessory dwelling provisions have existed in the UDO for many years, and before that, were in the Winston-Salem Zoning Ordinance as early as 1930. Accessory dwellings are commonly allowed in single-family zoning districts in many cities under certain conditions.

*Legacy 2030* highlights the importance of accessory dwelling. Allowing for accessory dwellings allows the integration of some of our future housing needs within existing neighborhoods making use of existing infrastructure while retaining the character of residential neighborhoods. Accessory dwellings provide creative housing options that can accommodate the growing population within municipal limits, and can offer a number of additional community benefits: they are likely smaller and more affordable than other housing options in the market, they utilize existing infrastructure, can generate income for the owner of the principal structure, and provide for aging in place for the elderly, sick or those on fixed-incomes.

Presently, the *Unified Development Ordinances* (UDO) sets forth regulations for accessory dwelling units which limits occupancy of these units to relatives, adopted persons, dependents or servants of the property owner. Existing provisions also extend occupancy rights to individuals over the age of fifty-five (55) and handicapped persons in attached dwellings only.

Based on recent North Carolina case law, the City Attorney’s Office has identified concerns regarding the enforceability of these occupancy provisions of the UDO. While municipalities have the authority to regulate the use of property, case law suggests that they do not have the authority to limit the use of land based on the identity or status of the users of the property. The Attorney’s Office has recommended revising our current ordinance provisions to prevent them from being challenged in court. When looking at other municipalities across the state, the large majority of cities both large and small currently allow accessory dwellings in single family neighborhoods.
ANALYSIS

Planning Staff agrees that revising the current accessory dwelling regulations is necessary. Staff is recommending that a number of new restrictions be included in the accessory dwelling regulations to ensure the appropriate placement and design of units and to protect the character of single-family neighborhoods. These revisions to the regulations begin with refining the definition of attached and detached accessory dwellings. Attached accessory units would have to be completely contained within the same conditioned building structure as the principal residence or share at least 15 feet of an external wall with the principal residence. Detached accessory units could not be physically connected or attached to the principal structure and must be no less than 20 feet from the side or rear of the principal residence.

Several proposed ordinance revisions have been included for both attached and detached accessory units:

- Accessory dwellings are only permitted in association with single-family residential uses, and only one accessory unit is allowed per lot.
- The elimination of the kinship provisions, as suggested by recent case law.
- A requirement that no more than two adult individuals may inhabit an accessory dwelling, whether attached or detached, to limit the impact of noise, light, traffic and other measures on neighbors.
- Parking for the unit must be provided and served by the same driveway as the principal dwelling in most cases.
- One parking space per accessory unit bedroom shall be provided. Units without a bedroom must have one space provided. Given the size limitations further discussed, the number of spaces will remain low.

The following proposed revision applies only to attached accessory units:

- The accessory dwelling can’t be more than 30% of the heated floor area of the principal building, not to exceed 1,000 square feet.

Given the greater impact that detached accessory units pose to single-family neighborhoods, additional unique restrictions have been proposed for these units, which include:

- Detached accessory dwellings could only be placed on lots with a minimum lot size of 9,000 square feet and which have a principal structure that occupies no more than 30% of the lot area.
- The accessory unit would have to be located behind the front façade of the principal structure. If located on a corner lot then the detached unit must be located behind the building line of both street-facing facades.
- Unit limitations are based on the Growth Management Area (GMA) in which the accessory unit is located in:
  - In GMAs 1, 2 and 3 the detached accessory dwelling could not exceed 5% of the lot area with a maximum size of 1,000 square feet, except that lots in GMA 3 greater than 40,000 square feet in size allow units up to 1,500 square feet.
  - In GMAs 4 and 5, the square footage of the accessory dwelling could not be greater than that of the principal residential structure on site.
Detached accessory dwellings in single-family residential districts would require a minimum rear setback equal to 50% of the required rear setback for the zoning district. The minimum side setback for the district remains and there must be 20 feet of spacing between the detached unit and the principal residence on the lot.

Accessory dwellings in non-residential districts would require rear setbacks of at least 12.5 feet and side setbacks of at least 7 feet on one side and 20 feet combined.

Maximum height would be increased to 24 feet to allow for the high-pitch rooflines found in the design of many homes today.

A separate driveway for a detached accessory unit could only be created if the unit is located on a corner lot or served by an alley.

Beyond these regulatory changes to the ordinance, accessory dwellings are still proposed to be permitted in the same fashion as they currently are. Attached dwelling units would continue to be permitted by right with the issuance of a zoning permit from staff, while detached dwelling units would continue to require a Special Use Permit from the Board of Adjustment (BOA). The Special Use Permit process requires a public hearing allowing neighbors the opportunity to share their concerns about the impact of such structures on their neighborhoods. To receive approval from the BOA, an accessory unit must meet all conditions and requirements of the ordinance, as well as four findings of fact. This deliberate process reflects the importance of protecting the character of single-family neighborhoods while continuing to allow this limited housing option.

Over the past months, staff has engaged the public in the revision process by giving presentations and holding public input sessions. Based on public input, several additional ordinance provisions were created to reduce the potential for negative impacts from accessory units.

Overall, the proposed regulations for accessory dwelling units balance the need for providing appropriately designed accessory dwellings that will benefit the greater community with preserving neighborhood character. Most of our peer cities in North Carolina already have similar provisions for accessory dwellings. However, the provisions of this proposed ordinance are more restrictive than most peer city ordinances and provide for better design and placement. The City Attorney’s Office has reviewed the proposed amendments and has confirmed that the proposed language is within the bounds of the land use regulation authority granted municipalities by the State. This text amendment should promote new affordable housing options, encourage gentle density, and provide diverse housing options for a growing community while maintaining the character and appearance of single-family neighborhoods.

**RECOMMENDATION**

**APPROVAL**
Walter Farabee presented the staff report. Kirk Ericson addressed concerns expressed in an email received earlier today from Carolyn Highsmith with the Konnoak Hills Community Association.

PUBLIC HEARING

FOR: None

AGAINST:

Bonnie Crouse, 2001 Boone Avenue, Winston-Salem, NC  27103
- My concern is with off-street parking in the Ardmore area. Some homes in Ardmore already have to have parking permits to park and that is in large part due to the pressure put on them by businesses and the medical complex. The potential exists for all of Ardmore to become duplexes which would generate phenomenal parking issues. A lot of homes already have no off-street parking, so I request that you consider requiring any home that wants to put in an accessory building to first provide off-street parking for the primary residence and then provide additional off-street parking for the accessory building.
- One of the charms of Ardmore is the quiet of our backyards. Under this proposal people could build close to our homes on all sides of our yards destroying that atmosphere.
- The setback requirements should be increased. Why should a nonresidential area have more rigorous setback requirements than a residential neighborhood?
- Manufactured homes would be appalling. Please prohibit them or at the least put very tight restrictions on them.

Carol Eickmeyer, 500 Magnolia Street, Winston-Salem, NC  27103
- I appreciate the need for quality gentle density increase in our urban areas.
- However, I share the same concerns about parking and setbacks.
- There needs to be an off-street parking space for each driving age resident of the accessory dwelling. Stacked parking should not be counted since people will park on the street rather than use stacked parking.
- The 50% setback for a new dwelling is inappropriate. Anyone wishing to add a new accessory dwelling should have to go to the Zoning Board of Adjustment to get a variance because they should have to meet the same setback requirement.
Our ordinance has greater setback requirements for a chicken coop than for accessory dwellings. Having lived next door to a rental unit for over 20 years, sometimes I would rather live next door to chickens than to people.

Eric Bushnell, 2113 Walker Rd, Winston-Salem, NC 27106

I represent the Winston-Salem Neighborhood Alliance (WSNA).

These are significant, sweeping changes.

A number of our members are concerned about the stability of their neighborhoods and unintended consequences.

This proposal replaces something we felt we understood with something which is rather complicated and which is untested and unproven.

This version of the proposal only came out a couple of days ago and WSNA members are just beginning to try to understand how these changes would apply to their neighborhoods. Ardmore has followed this more closely for a longer time and studied it more.

Most of our members are far from ready to endorse this. They aren’t comfortable that it can achieve the benefits it is supposed to achieve and that it can safely prevent unintended consequences.

Without the previous kinship provision, limiting the number of adults living in accessory dwellings is crucial.

They are concerned about such unintended consequences as drastic increases in the number of people and cars so I am very pleased to see that there is something to address that in this latest version.

When accessory dwellings were proposed during the Legacy 2030 preparation the concept was not embraced by everyone. Many neighborhoods were not comfortable with it.

Combining an increase in accessory dwellings with the aftermath of the owner-occupancy court case makes this more difficult for the neighborhoods to accept, not easier.

Setbacks are an issue we hear over and over. Preserving those setback requirements is a point of contention for many of our neighborhoods.

Short-term rentals needs to be addressed somehow. Otherwise this proposal has the potential to bring back some previous problems associated with short-term rentals.

There is a lot here. It will require neighborhood associations to spend a lot of time to figure out what is here, what the changes are, and how those changes will apply to them.

Sunny Stewart, 106 Gloria Avenue, Winston-Salem, NC 27127

We share all the concerns which have already been expressed, especially about setbacks and parking because Washington Park, like Ardmore, has issues with in-street parking already.

We would like to suggest that temporary structures be prohibited and that structures be placed on permanent foundations so that we don’t have tiny homes on wheels.

My neighbors are concerned about enforceability and how the owners are using it especially when you are dealing with rentals.

We are even more concerned with the use of units for short-term rentals such as one-night and B&Bs. How will that be enforced? We don’t feel that is addressed currently.
WORK SESSION

During discussion by the Planning Board, the following points were made:

Melynda Dunigan: Manufactured housing is already in the ordinance. It isn’t new. If someone wants a manufactured home, is it allowed by right? Staff responded that it would require a Board of Adjustment (BOA) Special Use Permit unless it was located in a manufactured home park or if the property is already zoned MH. Both would include consideration of whether it blended in with the neighborhood including whether or not there were any other manufactured homes in the area.

Currently the draft ordinance specifies one parking space per bedroom with one space minimum for an accessory dwelling unit. Off street parking is not a requirement. Chris Murphy explained that if you have road frontage sufficient to park the required number of cars but don’t have off-street parking, a Special Use Permit could still be granted.

In response to comments about the appearance of manufactured homes, Kirk Ericson stated that particularly with some of the 2015 State Enabling Legislation, unless a structure is in a locally designated historic overlay district or a designated historic district, materials and things of that nature cannot be regulated.

Chris Murphy explained that a lot of manufactured homes would a) be too large to meet the required setbacks or b) be too large to meet the size of the secondary dwelling which could be placed on the lot.

Property owners in GMA3, GMA4, and GMA5 could potentially subdivide their lots to facilitate an additional dwelling. However in the more rural areas sewer may not be available and subdividing lots would then require room for septic and repair areas which may prohibit dividing the land. In addition, accessory dwellings in the County are often used for aging relatives and it is easier to have all expenses such as taxes on one bill. Paul Norby reminded the Board that the ordinance is written to accommodate both urban and rural situations which are very different.

George Bryan: Mr. Bushnell, there are so many neighborhoods that haven’t shown up to speak about this. What kind of penetration has occurred to the neighborhoods about a text amendment which will impact their property? Eric Bushnell: We’ve tried to keep our member neighborhoods up to date with what’s happening but the ordinance has been fluid and some changes have only occurred recently. So as I said in my presentation, neighborhoods are only now beginning to be able to figure out what this means to them.

Discussion was held about ways to convey information about upcoming text amendments to potentially impacted parties. Paul Norby noted that text amendments are listed on our web site with the same information about getting more information concerning them as the zoning items. We held two community/stakeholder meetings on this particular text amendment in the fall. If someone will provide staff with a list of contacts we will be glad to send a draft of an amendment out to them. However the faster way is probably by email to those folks who know who each other are as Mr. Bushnell was talking about.
Paul Norby reminded everybody that accessory dwellings are allowed now and have been since 1930. The difference is that State case law has caused cities to look at accessory dwellings differently about who is allowed to live there. Also, allowing accessory dwellings in single family districts is a typical thing even in smaller communities. Each time we’ve discussed accessory dwellings we’ve added more and more restrictions. We are getting close to being the most restrictive community in the State other than prohibiting accessory dwellings altogether.

Adjusting the height restriction for accessory structures from a 17’ maximum to a 24’ maximum is primarily for things like garages which may have apartments above them or have space which is to be used for storage. This is for the RS Districts which have a height limit of 40’. Also, modern buildings have steeper pitched roofs which are reflected in these calculations. So even with this height change from 17’ to 24’, it’s still preserving the relationship with the principal structure being the larger, more impactful.

Melynda Dunigan asked if a lot which was too small to meet the minimum lot size requirement would be eligible for a variance? Due to some vague language in the variance section of the UDO, staff will confer with the City Attorney’s office and have that answer at the work session.

Kirk Ericson noted that when we were looking into this, in the urban area zoning districts lot sizes primarily ranged from 6,000 square feet to 15,000 square feet. RS9 was seen as a standard single family lot, which would probably have enough room to accommodate an accessory structure, meet setback requirements, and not negatively impact neighbors. We also didn’t want to encourage smaller lots in older neighborhoods to add accessory structures feeling that neighbors in those circumstances would be too negatively impacted, so RS9 seemed like a good compromise. Paul Norby: That’s not to say that any lot of 9,000 square feet or more would automatically be okay - it’s still up to the BOA and there could be a compatibility problem.

Arnold King: The plan is to work on this at work session and have what we hope is a finished document at the March 10th meeting.

Neighborhoods can still write comments which we will consider at work session or the next meeting on March 10th. The Board can decide to incorporate some of those, even deciding to continue the amendment at that point if desired.

MOTION: Clarence Lambe moved continuance of the text amendment to March 10, 2016.
SECOND: Brenda Smith
VOTE:
   FOR: George Bryan, Melynda Dunigan, Tommy Hicks, Arnold King, Clarence Lambe, Darryl Little, Paul Mullican, Brenda Smith, Allan Younger
   AGAINST: None
   EXCUSED: None
Kirk Ericson summarized the history of this item.

PUBLIC HEARING

FOR: None

AGAINST: None

WORK SESSION

During discussion by the Planning Board, the following points were made:

George Bryan asked about the process for placing a manufactured home on a lot and whether that would involve a separate hearing or be done at the same time as the approval for the accessory dwelling. Chris Murphy responded that the request would be processed as a Special Use Permit through the Board of Adjustment and not require a separate hearing unless it also required a variance. It would not go on to the Elected Body.

George Bryan asked about off-street parking, notably variances, parking on front lawns and stackability. Staff responded that parking could not be considered for a variance, the site plan would define the parking area and explain what the parking surface material would be, and if there were concerns with issues such as the design of the proposed parking that could certainly be considered as part of the Special Use Permit approval. Staff further noted that the Board of Adjustment is going to consider the site plan holistically and any aspect of the site plan that could cause a problem would have to be worked out before a Special Use Permit would be granted.

Melynda Dunigan asked for clarification about which structures would not be eligible for a variance. Staff explained that any structure, whether it was or was not used as an accessory dwelling at the time of adoption of this ordinance, would be eligible for a variance. Any structure constructed after the adoption of this ordinance would not be eligible for a variance.

Clarence Lambe asked if it is likely that more accessory dwellings would be developed under this proposed ordinance than under the existing ordinance? Kirk Ericson responded that more accessory dwellings could potentially be developed with the removal of the kinship situation currently mentioned in the UDO. However the additional restrictions would result in more thoughtful development.
Chairman King asked how this proposed ordinance compares with those of other communities? Kirk Ericson responded that with all the latest restrictions this is probably the most restrictive ordinance other than those which completely prohibit accessory dwellings altogether. Chairman King then asked if that is where we want to be? Paul Norby answered that from a Planning perspective you want to have the right balance.

Melynda Dunigan expressed concern about allowing accessory dwellings to be as large as 1,500 square feet in lots of 40,000 square feet in GMA 3. Staff explained that this ordinance applies to City and County jurisdictions and needs for both urban and outlying environments must be addressed.

Melynda Dunigan also asked about short-term rentals of accessory dwellings and how those could be controlled. She expressed concern that they could be used in a similar manner to a Bed and Breakfast and shared the opinion that they should go through a separate approval process from accessory dwellings. Chris Murphy reminded the Board that we don’t currently regulate short-term rentals, either in an existing single family house or accessory dwelling or a multifamily condo. Melynda Dunigan stated she would like us to find a mechanism by which we might address the issue. Paul Norby stated that the really tough part is to find an effective way of enforcing any type of short term rental mechanism, since an alleged violation may not be in existence by the time it is reported to zoning enforcement staff and they have the opportunity to investigate it. Melynda Dunigan stated that she finds it very difficult to make a decision on this ordinance with that big gaping hole about whether or not or how we might regulate the short term rentals.

Paul Mullican noted that short-term rentals are not regulated now and passing this ordinance would not change anything.

Melynda Dunigan objected to the comparison being made repeatedly between the existing ordinance that we can’t enforce and what we are proposing now. There is a third possibility which is to not allow accessory dwellings at all. We are not even looking at that option. The existing ordinance is moot. We have to do something else. We have to change it. Clarence Lambe responded that we don’t have to change it.

MOTION: Clarence Lambe moved approval of the text amendment.
SECOND: Paul Mullican

George Bryan: We’re just not close enough at this point to approve this item. We’re just a few modifications away from making this a lot more sellable. It’s got a long ways to go in front of the governing bodies and I think we have some necessity to pursue those elements so that those kinds of issues will be already worked out as it moves to the County Commissioners and to others. I think when we’re talking to neighbors and saying in single family neighborhoods that we’re going to make it fairly clear in a very delineated way so that instead of having a single family dwelling next to you, you will have a two-family dwelling next to you is a radical change in what the expectation is of people who elected to go to a single family neighborhood and make a purchase. On the other hand, I feel that we haven’t engendered as a Board enough discussion from low-income neighborhoods about how this might benefit or not benefit them and I would love to hear that discussion because it may be totally different dynamics than I’ve been hearing from the other neighborhoods.
Melynda Dunigan: We’ve made a lot of positive changes but I think it’s just out of balance, tilted too far against the concerns of neighbors.

Arnold King: If I understand Ms. Dunigan and Mr. Bryan, you’re opposed to this where it is right now. I’m going to agree with you. I’m going to vote against it because I think it goes too far.

VOTE:
FOR: None
AGAINST: George Bryan, Melynda Dunigan, Tommy Hicks, Arnold King, Clarence Lambe, Darryl Little, Paul Mullican, Brenda Smith
EXCUSED: None

MOTION FAILED.

Discussion ensued that simply leaving the current UDO language in place creates a conflict with current case law, which does not allow regulation of accessory dwellings based on who owns, or occupies the property.

MOTION: Clarence Lambe moved to deny the ordinance as proposed but to approve a revised version of the proposed ordinance with the only change being to modify or eliminate the kinship and other relational requirements to come into compliance with current case law (eliminating subsections (B)(1) and (C)(1) from the current ordinance).
SECOND: Paul Mullican seconded the motion.

Melynda Dunigan: I don’t agree with striking the kinship requirement and leaving it at that. The ordinance obviously needs to be changed, but striking the kinship requirement does not go far enough.

Chairman King noted that the Planning Board could place this on next year’s work program and begin again and get input from the communities which may not have been involved so far so we can still work on this, but for right now this would bring us into compliance with case law.

Clarence Lambe: And that addresses the initial issue. We’ve not come up with a satisfactory accessory dwellings ordinance but we’ve addressed the initial issue.

Staff explained how the proposed motion would relate to the language in staff’s draft ordinance.

SUBSTITUTE MOTION: Melynda Dunigan moved to approve an ordinance amendment with the elimination of Accessory Dwellings altogether (Sections B.2-6.4(B) and (C) to the end).
SECOND: George Bryan
VOTE:
FOR: George Bryan, Melynda Dunigan
AGAINST: Tommy Hicks, Arnold King, Clarence Lambe, Darryl Little, Paul Mullican, Brenda Smith
EXCUSED: None
SUBSTITUTE MOTION FAILED.

VOTE ON MAIN MOTION by Clarence Lambe to approve a revised version of the proposed ordinance with the only change being to modify or eliminate the kinship and other relational requirements:
  FOR: Tommy Hicks, Arnold King, Clarence Lambe, Darryl Little, Paul Mullican, Brenda Smith
  AGAINST: George Bryan, Melynda Dunigan
  EXCUSED: None

A. Paul Norby, FAICP
Director of Planning and Development Services
Be it ordained by the City Council of the City of Winston-Salem, North Carolina, that the Unified Development Ordinances is hereby amended as follows:

Section 1. Chapter A, Article II of the UDO is amended as follows:

Chapter A - Definitions Ordinance
Article II – Definitions

ADULT. An individual who has attained eighteen (18) years of age, or if under the age of eighteen (18), is either married or has been emancipated under applicable state law.

Section 2. Chapter B, Article II of the UDO is amended as follows:

Chapter B - Zoning Ordinance
Article II – Zoning Districts, Official Zoning Maps, and Uses

2-6 ACCESSORY USES

2-6.4 USES WHICH MAY ONLY BE ACCESSORY TO PRINCIPAL USES

(B) Dwelling, Accessory (Attached). .....The Zoning Officer shall issue a zoning permit if the following requirements are met:

(1) Occupancy Requirements. .....A zoning permit for an attached accessory dwelling shall be conditioned upon the property owner signing a statement verifying that one of the occupancy requirements is being met. The zoning permit shall automatically terminate when the occupancy requirement is no longer met. No more than two (2) adult individuals shall be allowed to inhabit any attached accessory dwelling.

(a) At Least Fifty-Five (55) or Handicapped. .....The principal or accessory dwelling unit shall be occupied by a person at least fifty-five (55) years of age or handicapped; or, [Reserved]
(b) Relation. The principal dwelling unit or the attached accessory unit shall be occupied by the following categories of persons: [Reserved]

(i) Relative. Any relative under the civil law of the first, second, or third degree of kinship to the head of the household owning and occupying the principal dwelling on the lot, or to the spouse (whether living or deceased) of the head of the household; [Reserved]

(ii) Adopted Person. A son or daughter by legal adoption, or the adoptive parents of the head of the household or such person's spouse, whether spouse is living or deceased; [Reserved]

(iii) Other Dependent. A dependent of the head of the household or of such person's spouse as defined by the North Carolina Department of Revenue; or, [Reserved]

(iv) Servant. A servant employed on the premises and the servant's family, but only if such servant receives more than one-half of his/her annual gross income in return for services rendered on the premises. [Reserved]

(2) Structure. The principal building shall not be altered in any way so as to appear from a public street to be multiple family housing.

(a) Prohibited Alterations. Prohibited alterations include, but are not limited to: multiple entranceways, multiple mailboxes, or multiple nameplates.

(b) Access. Wherever feasible and consistent with the State Residential Building Code, access to the accessory dwelling unit shall be by means of existing doors.

(c) Stairways. No new stairways to upper floors are permitted on any side of a building which faces a public street.

(d) Utilities. Electric and/or gas utilities shall be supplied to both units through a single meter.

(e) An attached accessory dwelling must be completely contained within the same conditioned building structure as the principal residence on the lot or share an external wall of no less than 15 feet in length with the principal residence.

(3) Size of Unit. An attached accessory dwelling unit shall occupy no more than fifty percent (50%) of the heated floor area of the principal building, but in no case shall the accessory dwelling unit be greater than one thousand (1,000) square feet. The sum of all accessory uses, including home occupations, in a principal residential building shall not exceed fifty percent (50%) of the total floor area of the building.

(4) Parking. Parking for the attached accessory dwelling shall be served by the same driveway as the principal dwelling. One off-street parking space per accessory unit bedroom shall be provided. In no case shall less than one off-street parking space be provided per accessory unit. It shall be demonstrated through a scaled site plan how parking will be provided.
(5) **Number of Accessory Dwellings.** .....No more than one accessory dwelling, whether
attached or detached, shall be located on a lot.

(6) **Accessory dwellings are only permitted on the same zoning lot as single-family
residential uses.**

(C) **Dwelling, Accessory (Detached).** .....A Special Use Permit shall be issued if the following
conditions are met:

(1) **Occupancy Requirements.** .....A Special Use Permit for the detached accessory
dwelling must be approved by the Board of Adjustment in accordance with the
requirements of Section B.6-1.4. In addition, the applicant must submit a statement
verifying that the occupancy requirements of this section are being met. The permit
shall automatically terminate with the termination of occupancy by such persons. The
principal dwelling unit or the detached accessory unit shall be occupied by the
following categories of persons:—No more than two (2) adult individuals shall be
allowed to inhabit any detached accessory dwelling.

(a) **Relative (F).** .....Any relative under the civil law of the first, second, or third degree
of consanguinity to the head of the household owning or occupying the principal
dwelling on the lot, or to the spouse (whether living or deceased) of the head of the
household; [Reserved]

Relative (W). Any relative under the civil law of the first, second, or third
degree of kinship to the head of the household owning or occupying the
principal dwelling on the lot, or to the spouse (whether living or deceased) of
the head of the household; [Reserved]

(b) **Adopted Person.** .....A son or daughter by legal adoption, or the adoptive parents of
the head of the household or such person's spouse, whether spouse is living or
deceased; [Reserved]

(c) **Other Dependent.** .....A dependent of the head of the household or of such person's
spouse as defined by the North Carolina Department of Revenue; or, [Reserved]

(d) **Servant.** .....A servant employed on the premises and the servant's family, but only
if such servant receives more than one-half of his/her annual gross income in return
for services rendered on the premises. [Reserved]

(2) **Dimensional Requirements.** .....Any detached accessory dwelling shall occupy no
more than five percent (5%) of the lot area and shall not be greater than one thousand
(1,000) square feet. However, in GMA 3, accessory dwellings on lots greater than
40,000 square feet may have a maximum size of 1,500 square feet. In GMAs 4 and 5,
the square footage of the accessory dwelling shall be no greater than the principal
residential structure on the lot. Detached accessory dwellings shall comply with all
dimensional requirements applicable to accessory structures in Sections B.3-1.2(F) and
(G). Any proposed detached accessory dwelling exceeding the dimensional
requirements of this section may be considered through the Special Use District Zoning
process.
(3) **Building Requirements.** .....Any detached accessory dwelling shall comply with all building, plumbing, electrical, and other applicable codes, other than a manufactured housing unit.

(4) **Manufactured Home (F).** .....A Class A or B manufactured home may be used as a detached accessory dwelling; a Class C manufactured home may be used as a detached accessory dwelling in those zoning districts where a Class C manufactured home is permitted as a principal use according to Table B.2.6.

Manufactured Home (W). A Class A or B manufactured home may be used as a detached accessory dwelling.

(5) **Number of Accessory Dwellings.** .....No more than one accessory dwelling, whether attached or detached, shall be permitted on the same lot.

(6) **Parking.** .....Parking for the detached accessory dwelling shall be served by the same driveway as the principal dwelling. One off-street parking space per accessory unit bedroom shall be provided. In no case shall less than one off-street parking space be provided per accessory unit. It shall be demonstrated how parking will be provided through the site plan submitted for the Special Use Permit process. If the detached accessory dwelling is located on a corner lot or served by an alley, a separate driveway may be provided from the side street or the alley.

(7) **Location of Unit.** .....The detached accessory dwelling may not be physically connected or attached to the principal residence on the same lot. The detached accessory dwelling shall be located behind the front facade of the principal structure. For corner lots the detached accessory dwelling must be located behind the building line of both street-facing facades. The detached accessory dwelling must be set back no less than 20 feet from the side or rear of the principal residence.

(8) **Setbacks.** .....An accessory structure must comply with all dimensional requirements applicable to accessory structures in Sections B.3-1.2(F) and (G), except as listed below:

(a) Accessory dwellings may be erected in any single-family residential district with a minimum rear setback equal to fifty percent (50%) of the required rear setback for the district. The minimum side setback for the district remains the same.

(b) Accessory dwellings in non-residential districts shall have rear setbacks of at least twelve and a half (12.5) feet and side setbacks of at least seven (7) feet on one side and twenty (20) feet combined.

(9) **Accessory dwellings are only permitted on the same zoning lot as single-family residential uses.**

(10) **Lot Requirements.** .....Accessory dwellings must meet the following conditions:

(a) A minimum lot size of 9,000 square feet exists.

(b) The principal dwelling structure on the lot occupies no more than 30% of the lot area.

(c) In GMA 3, accessory dwellings on lots greater than 40,000 square feet may have a maximum size of 1,500 square feet.
(d) In GMAs 4 and 5, the square footage of the accessory dwelling shall be no greater than the principal residential structure on the lot.

Section 3. Chapter B, Article III of the UDO is amended as follows:

**Chapter B – Zoning Ordinance**

**Article III – Other Development Standards**

**3-1 - DIMENSIONAL REQUIREMENTS**

**3-1.2 SUPPLEMENTARY DIMENSIONAL REQUIREMENTS**

The following supplementary dimensional requirements shall apply to all buildings and structures not subject to the general dimensional requirements of Section B.3-1.1.

(F) Accessory Structures Permitted in Required Yards

1. Interior Lots. .....An accessory structure seventeen (17) twenty-four (24) feet or less in height and structurally detached from the principal structure on the zoning lot may be erected on any interior lot in either the required side or rear yards, if no part of said structure is less than seventy-five (75) feet from the front lot line nor less than three (3) feet from a side or rear lot line.

2. Corner Lot. .....An accessory structure less than seventeen (17) twenty-four (24) feet in height and structurally detached from the principal structure on the zoning lot may be erected on a corner lot, provided that:

   a. Said structure shall be erected in the required side yard not abutting the street, and no part of said structure is less than seventy-five (75) feet from the front line nor less than three (3) feet from a side or rear lot line; or,
   
   b. Said structure shall be erected in the required rear yard and shall not project beyond, or nearer to, the street than the front setback line of the district, as extended, of the adjacent lot whose front yard abuts the corner lot in question.

3. Height. .....For purposes of this section, the height shall be measured from the average grade of the midpoint of the front wall to the ridge of the roof of the accessory building.

(G) Size Limits for Accessory Structures

1. Maximum Area. .....The total area of all accessory structures on a lot Accessory structure may not exceed five percent (5%) of the actual size of the zoning lot or the minimum permitted lot size of the zoning district, whichever is larger. However, an accessory structure up to five hundred seventy-six (576) square feet in area shall be permitted in all districts.

2. Board of Adjustment. .....Requests for structures containing greater area than prescribed in Section B.3-1.2(G)(1) may be considered under the special use permit process through the Board of Adjustment.
(3) Required Yard. .....Accessory structures may not occupy more than twenty-five percent (25%) of the area of the required yard.

(H) Accessory Structures Prohibited in Required Yards .....An accessory structure any part of which is within three (3) feet of the principal building or which is more than seventeen (17) twenty-four (24) feet in height shall comply with all the zoning regulations applicable to the principal building.

(I) Special Yard Requirements for Older Neighborhoods .....Alternative dimensional requirements are available for neighborhoods which were originally platted or developed prior to March 3, 1948, and where at least fifty percent (50%) of the other lots on the block in question are developed. See Section B.3-8.

Section 4. Chapter B, Article III of the UDO is amended as follows:

Chapter B – Zoning Ordinance
Article III – Other Development Standards

6-1 ADMINISTRATION

To accomplish the purposes of this Ordinance and to insure compliance with these regulations, the following administrative responsibilities are assigned:

6-1.4 BOARD OF ADJUSTMENT

(B) Variances

(1) Authority. .....No provision of this Ordinance shall be interpreted as conferring upon the Board of Adjustment the authority to approve an application for a variance of the conditions of a permitted use except with respect to the specific waiving of requirements as to:

(a) General Dimension Requirements for Zoning Districts listed in Sections B.2-1.2, B.2-1.3, B.2-1.4 and B.2-1.5 and shall only include minimum zoning lot area and width, minimum setbacks, maximum impervious surface cover, or maximum height;

(b) Floodplain regulations as specified in Section C.2-2.7;

(c) Vehicular use landscaping requirements as specified in Section B.3-4;

(d) Bufferyard requirements as specified in Section B.3-5;

(e) Setback and landscaping requirements of the TO District as specified in Section B.2-1.6(B);

(f) Width of private access easements where such easement is for single family residential uses and where said private access easement was established prior to April 17, 1978;
Section 5. This ordinance shall be effective upon adoption.
UDO-267

PROPOSAL TO COMPLETELY REMOVE ACCESSORY DWELLING PROVISIONS
RECOMMENDED FOR DENIAL BY THE PLANNING BOARD

AN ORDINANCE REVISING
CHAPTER B OF THE UNIFIED DEVELOPMENT ORDINANCES
TO AMEND REGULATIONS FOR ACCESSORY DWELLINGS

Be it ordained by the City Council of the City of Winston-Salem, North Carolina, that the Unified Development Ordinances is hereby amended as follows:

Section 1. Chapter B, Article II of the UDO is amended as follows:

Chapter B - Zoning Ordinance
Article II – Zoning Districts, Official Zoning Maps, and Uses

2-6 ACCESSORY USES

2-6.4 USES WHICH MAY ONLY BE ACCESSORY TO PRINCIPAL USES

(B) Dwelling, Accessory (Attached). [Reserved]

(1) Occupancy Requirements. …..A zoning permit for an attached accessory dwelling shall be conditioned upon the property owner signing a statement verifying that one of the occupancy requirements is being met. The zoning permit shall automatically terminate when the occupancy requirement is no longer met. [Reserved]

(a) At Least Fifty-Five (55) or Handicapped. …..The principal or accessory dwelling unit shall be occupied by a person at least fifty-five (55) years of age or handicapped; or, [Reserved]

(b) Relation. …..The principal dwelling unit or the attached accessory unit shall be occupied by the following categories of persons: [Reserved]

(i) Relative. …..Any relative under the civil law of the first, second, or third degree of kinship to the head of the household owning and occupying the principal dwelling on the lot, or to the spouse (whether living or deceased) of the head of the household; [Reserved]

(ii) Adopted Person. …..A son or daughter by legal adoption, or the adoptive parents of the head of the household or such person's spouse, whether spouse is living or deceased; [Reserved]
(iii) Other Dependent. A dependent of the head of the household or of such person's spouse as defined by the North Carolina Department of Revenue; or, [Reserved]

(iv) Servant. A servant employed on the premises and the servant's family, but only if such servant receives more than one half of his/her annual gross income in return for services rendered on the premises. [Reserved]

(2) Structure. The principal building shall not be altered in any way so as to appear from a public street to be multiple family housing. [Reserved]

(a) Prohibited Alterations. Prohibited alterations include, but are not limited to: multiple entranceways, multiple mailboxes, or multiple nameplates. [Reserved]

(b) Access. Wherever feasible and consistent with the State Residential Building Code, access to the accessory dwelling unit shall be by means of existing doors. [Reserved]

(c) Stairways. No new stairways to upper floors are permitted on any side of a building which faces a public street. [Reserved]

(d) Utilities. Electric and/or gas utilities shall be supplied to both units through a single meter. [Reserved]

(3) Size of Unit. An attached accessory dwelling unit shall occupy no more than fifty percent (50%) of the heated floor area of the principal building, but in no case be greater than one thousand (1,000) square feet. The sum of all accessory uses, including home occupations, in a principal residential building shall not exceed fifty percent (50%) of the total floor area of the building. [Reserved]

(4) Parking. Parking for the attached accessory dwelling shall be served by the same driveway as the principal dwelling. [Reserved]

(5) Number of Accessory Dwellings. No more than one accessory dwelling, whether attached or detached, shall be located on a lot. [Reserved]

(C) Dwelling, Accessory (Detached). [Reserved]

(1) Occupancy Requirements. A Special Use Permit for the detached accessory dwelling must be approved by the Board of Adjustment in accordance with the requirements of Section B.6-1.4. In addition, the applicant must submit a statement verifying that the occupancy requirements of this section are being met. The permit shall automatically terminate with the termination of occupancy by such persons. The principal dwelling unit or the detached accessory unit shall be occupied by the following categories of persons. [Reserved]

(a) Relative (F). Any relative under the civil law of the first, second, or third degree of consanguinity to the head of the household owning or occupying the principal
dwelling on the lot, or to the spouse (whether living or deceased) of the head of the household; [Reserved]

Relative (W). Any relative under the civil law of the first, second, or third degree of kinship to the head of the household owning or occupying the principal dwelling on the lot, or to the spouse (whether living or deceased) of the head of the household; [Reserved]

(b) Adopted Person. A son or daughter by legal adoption, or the adoptive parents of the head of the household or such person's spouse, whether spouse is living or deceased; [Reserved]

(c) Other Dependent. A dependent of the head of the household or of such person's spouse as defined by the North Carolina Department of Revenue; or, [Reserved]

d) Servant. A servant employed on the premises and the servant's family, but only if such servant receives more than one-half of his/her annual gross income in return for services rendered on the premises. [Reserved]

(2) Dimensional Requirements. Any detached accessory dwelling shall comply with all dimensional requirements applicable to accessory structures in Sections B.3-1.2(F) and (G). [Reserved]

(3) Building Requirements. Any detached accessory dwelling shall comply with all building, plumbing, electrical, and other applicable codes, other than a manufactured housing unit. [Reserved]

(4) Manufactured Home. A Class A or B manufactured home may be used as a detached accessory dwelling; a Class C manufactured home may be used as a detached accessory dwelling in those zoning districts where a Class C manufactured home is permitted as a principal use according to Table B.2.6. [Reserved]

Manufactured Home (W). A Class A or B manufactured home may be used as a detached accessory dwelling. [Reserved]

(5) Number of Accessory Dwellings. No more than one accessory dwelling, whether attached or detached, shall be permitted on the same lot. [Reserved]

Section 2. This ordinance shall be effective upon adoption.
Be it ordained by the City Council of the City of Winston-Salem, North Carolina, that the Unified Development Ordinances is hereby amended as follows:

Section 1. Chapter B, Article II of the UDO is amended as follows:

Chapter B - Zoning Ordinance
Article II – Zoning Districts, Official Zoning Maps, and Uses

2-6 ACCESSORY USES

2-6.4 USES WHICH MAY ONLY BE ACCESSORY TO PRINCIPAL USES

(B) Dwelling, Accessory (Attached). The Zoning Officer shall issue a zoning permit if the following requirements are met:

1. Occupancy Requirements. A zoning permit for an attached accessory dwelling shall be conditioned upon the property owner signing a statement verifying that one of the occupancy requirements is being met. The zoning permit shall automatically terminate when the occupancy requirement is no longer met. [Reserved]

a. At Least Fifty-Five (55) or Handicapped. The principal or accessory dwelling unit shall be occupied by a person at least fifty-five (55) years of age or handicapped; or, [Reserved]

b. Relation. The principal dwelling unit or the attached accessory unit shall be occupied by the following categories of persons: [Reserved]

i. Relative. Any relative under the civil law of the first, second, or third degree of kinship to the head of the household owning and occupying the principal dwelling on the lot, or to the spouse (whether living or deceased) of the head of the household; [Reserved]

ii. Adopted Person. A son or daughter by legal adoption, or the adoptive parents of the head of the household or such person's spouse, whether spouse is living or deceased; [Reserved]
(iii) Other Dependent. A dependent of the head of the household or of such person's spouse as defined by the North Carolina Department of Revenue; or, [Reserved]

(iv) Servant. A servant employed on the premises and the servant's family, but only if such servant receives more than one half of his/her annual gross income in return for services rendered on the premises. [Reserved]

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(c) Stairways. No new stairways to upper floors are permitted on any side of a building which faces a public street.

(d) Utilities. Electric and/or gas utilities shall be supplied to both units through a single meter.

(3) Size of Unit. An attached accessory dwelling unit shall occupy no more than fifty percent (50%) of the heated floor area of the principal building, but in no case be greater than one thousand (1,000) square feet. The sum of all accessory uses, including home occupations, in a principal residential building shall not exceed fifty percent (50%) of the total floor area of the building.

(4) Parking. Parking for the attached accessory dwelling shall be served by the same driveway as the principal dwelling.

(5) Number of Accessory Dwellings. No more than one accessory dwelling, whether attached or detached, shall be located on a lot.

(C) Dwelling, Accessory (Detached). A Board of Adjustment Special Use Permit shall be issued if the following conditions are met:

(1) Occupancy Requirements. A Special Use Permit for the detached accessory dwelling must be approved by the Board of Adjustment in accordance with the requirements of Section B.6.1.4. In addition, the applicant must submit a statement verifying that the occupancy requirements of this section are being met. The permit shall automatically terminate with the termination of occupancy by such persons. The principal dwelling unit or the detached accessory unit shall be occupied by the following categories of persons. [Reserved]

(a) Relative (F). Any relative under the civil law of the first, second, or third degree of consanguinity to the head of the household owning or occupying the principal
dwelling on the lot, or to the spouse (whether living or deceased) of the head of the household; [Reserved]

Relative (W). Any relative under the civil law of the first, second, or third degree of kinship to the head of the household owning or occupying the principal dwelling on the lot, or to the spouse (whether living or deceased) of the head of the household; [Reserved]

(b) Adopted Person. A son or daughter by legal adoption, or the adoptive parents of

(c) Other Dependent. A dependent of the head of the household or of such person's spouse as defined by the North Carolina Department of Revenue; or, [Reserved]

(d) Servant. A servant employed on the premises and the servant's family, but only if such servant receives more than one-half of his/her annual gross income in return for services rendered on the premises. [Reserved]

(2) Dimensional Requirements. Any detached accessory dwelling shall comply with all dimensional requirements applicable to accessory structures in Sections B.3-1.2(F) and (G).

(3) Building Requirements. Any detached accessory dwelling shall comply with all building, plumbing, electrical, and other applicable codes, other than a manufactured housing unit.

(4) Manufactured Home (F). A Class A or B manufactured home may be used as a detached accessory dwelling; a Class C manufactured home may be used as a detached accessory dwelling in those zoning districts where a Class C manufactured home is permitted as a principal use according to Table B.2.6.

Manufactured Home (W). A Class A or B manufactured home may be used as a detached accessory dwelling.

(5) Number of Accessory Dwellings. No more than one accessory dwelling, whether attached or detached, shall be permitted on the same lot.

Section 2. This ordinance shall be effective upon adoption.
## Accessory Dwelling Provisions in the 30 Largest North Carolina Municipalities

<table>
<thead>
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<th>Municipality</th>
<th>Acc. Dwellings Permitted in Single-Family Zoning</th>
<th>Allowed by Right or Another Process</th>
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</thead>
<tbody>
<tr>
<td>1 Charlotte</td>
<td>Yes</td>
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</tr>
<tr>
<td>2 Raleigh</td>
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</tr>
<tr>
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<tr>
<td>5 Winston-Salem</td>
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<td>By Right (attached); BOA (detached)</td>
</tr>
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<td>7 Cary</td>
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<tr>
<td>9 High Point</td>
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<td>Special Use Permit, City Council</td>
</tr>
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<td>28 Wake Forest</td>
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<td>29 New Bern</td>
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</tr>
<tr>
<td>30 Sanford</td>
<td>Yes</td>
<td>By Right</td>
</tr>
</tbody>
</table>
Cross-Section of existing and proposed Accessory Dwelling Unit setbacks for a lot in RS-9 zoning

Existing Ordinance

R.O.W

40' Height Limit

20' Front Setback

Principal Residence

Accessory Dwelling

Property Line

17' Height Limit

3' Rear Setback

Proposed Ordinance

R.O.W

40' Height Limit

20' Front Setback

Principal Residence

Accessory Dwelling

Property Line

24' Height Limit

12.5' Rear Setback
Comparison of Potential Accessory Dwelling Unit Setbacks for a 9,100 Square Foot Single Family Residential Lot (RS-9 Zoning)
Existing Conditions Example
Lot Size: 10,454 sf
Accessory Unit Size: 435 sf
Lot Coverage of Principal Residence: 20.8%
Lot Coverage of Accessory Unit: 4.2%

Rear Setback: 28'
Side Setback: 5'
Existing Ordinance Example
Lot Size: 10,454 sf
Accessory Unit Size: 522 sf
Lot Coverage of Accessory Unit: 5%
Proposed Ordinance Example

Lot Size: 10,454 sf
Accessory Unit Size: 522 sf allowed, 522 actual
Lot Coverage of Principal Residence: 20.8%
Lot Coverage of Accessory Unit: 5%
Existing Conditions Example
Lot Size: 16,552 sf
Accessory Unit Size: 435 sf
Lot Coverage of Principal Residence: 18.4%
Lot Coverage of Accessory Unit: 2.6%

Side Setback: 7'
Rear Setback: 2'
**Existing Ordinance Example**

Lot Size: 16,552 sf  
Max Accessory Unit Size: 827 sf  
Lot Coverage of Accessory Unit: 5%
Proposed Ordinance Example
Lot Size: 16,552 sf
Max Accessory Unit Size: 827 sf allowed, 500 actual
Lot Coverage of Principal Residence: 18.4%
Lot Coverage of Accessory Unit: 5%

Potential Building Area
20’ Setback
Rear Setback: 12.5’
Side Setback: 7’
Planning and Development Services Staff Responses to Questions Related to Accessory Units

Questions Posed at 10/22/15 Planning Board Work Session

Does the NC Building Code require a minimum amount of square footage per person in a residential unit? The building code does not require this. However, the Winston-Salem City Code requires at least 120 square feet of floor space in habitable rooms to be provided for the first occupant in each housing unit, and at least 100sf of additional space for each additional occupant (excluding children under 1 year of age).

How would housing be treated in conjunction with a nonresidential use in zoning districts that allow both uses (i.e. LO, PB, etc.)? Both uses would be considered principal uses where the uses were in separate structures on the zoning lot. Where these uses existed within the same building, the use would be considered “Combined Use” per the UDO.

Can you limit the number of people who live in an accessory unit to a number smaller than the limits of family in the UDO (i.e. can you allow a maximum of 2 people per accessory dwelling)? The City’s Code of Ordinances already places occupancy limits on units based on the square footage of the units. Absent a rational basis for doing so, picking an arbitrary number as an occupancy limit would be met with a strong legal challenge, especially considering the variety of sizes of accessory dwellings that could potentially exist (up to 1,000 square feet).

Can you require there be only one “family” (maximum of 4 unrelated persons) per zoning lot where an accessory residential unit exists? The Attorney’s Office believes that in theory you could require the two units to be used by a single “family” living together as a single housekeeping unit. This, however, would be very difficult to oversee and enforce (making sure all parties have keys to both units, a free flow of traffic within the units, etc.). Given that the accessory dwelling has its own separate entry, the argument would be made that it is its own separate household and cannot be arbitrarily lumped in with the primary dwelling. In addition, the current definition of family refers to a single dwelling unit, so that would conflict and would require an amendment. As a result of these several issues, the Attorney’s Office would not recommend going this route.

Additionally, one could not limit the total number of unrelated persons to 4 between both the primary and accessory dwelling, even though the 2 units are not operating as a single housekeeping unit. Courts have stricken down zoning definitions of "family" which are so narrowly drawn as to exclude certain family members or families which are not biologically related or are non-traditional.
Is an accessory unit connected by an open-air, non-heated or cooled covered breezeway considered attached or detached? The UDO would actually consider this example an attached unit. Additionally, the UDO considers two totally disconnected structures as attached if they are within 3 feet or less of each other, regardless of the fact that their exteriors do not touch. Structures which are separated by more than 3 feet are considered detached.

If the Planning Board is concerned about certain accessory units being considered attached rather than detached, an option would be to propose a different, more restrictive definition of what constitutes an attached or detached unit for use with accessory dwellings (this would be located within the definitions section of the UDO).

What was the purpose of the registration list for rooming houses put in place a few years ago?
Regulations were put in place in 2004 to prohibit the conversion of single-family homes into rooming houses. However, amortization of existing rooming houses was not undertaken at the time due to challenges in determining when rooming houses were established. In 2007, a text amendment was adopted which required all RS- and RSQ-zoned rooming houses which existed prior to adoption of the 2004 amendment to become subject to amortization. Rooming houses which existed prior to 2004 were required to register with the City during calendar year 2008. Those rooming houses were allowed to exist until January 1, 2012 after which time the use was to be discontinued. Units which failed to register by January 1, 2009 were in violation of the ordinance and were subject to zoning enforcement. Rooming houses established after 2004 had to cease immediately (UDO Section B.5-2.9(B)).

Questions from George Bryan on the Proposed Accessory Dwellings Ordinance – 10/26/15

Confirm that this revision will affect Town and Country, Sherwood, Greenbriar and other single family homes. The proposed ordinance, like the current ordinance, will affect single family neighborhoods in all Growth Management Areas, including those listed above. The current and proposed ordinances permit accessory dwellings on the same zoning lot as single-family residential uses (the regulation is based on use, rather than zoning). Therefore, if there is a single family residential use on a lot, it has the potential to be approved for an accessory unit, under both current and proposed regulations.

I am particularly interested in how it will affect an RSQ zoned neighborhood like WE (West End). What is your thought? We have several properties with garage apartments - in fact one is for sale this week. Zoning has been conservative on allowing duplex conversions yet as attached this revision is essentially a duplex. What are your thoughts? WE has a lot of on street parking. In the lots that can be adapted to off street (this could happen through alleys) how do you assure that the main residence has two or more parking places while allowing one for the accessory dwelling? The ordinance will affect RSQ zoned properties containing single family uses, but not those with multiple-family dwellings. Unlike duplex units, where both units are usually the same size and are treated equally, accessory unit provisions establish a principal residence and a significantly smaller accessory unit. Parking for accessory units will be
demonstrated through the site plan required for review by staff (for attached units) or the Board of Adjustment (for detached units).

How many structures are allowed on a lot in the WE. We have a recent example of a main house, garage and now another structure being built. Can three and four structures be built on one lot? The ordinance permits only one accessory dwelling per lot. However, multiple accessory buildings may exist on a zoning lot, as long as the total square footage for all of these buildings is no more than 5% of the total lot area (however, this maximum may be no less than 576 square feet regardless of lot size). Existing accessory structures not meeting the dimensional requirements of the proposed ordinance have the potential to be permitted as legally nonconforming structures through the Board of Adjustment review process. Additionally, since the West End is a historic overlay district, accessory structures in this neighborhood would also need to be reviewed by the Historic Resources Commission (HRC) and receive a Certificate of Appropriateness (COA). In these cases, the HRC would review the design of the accessory dwelling unit prior to its review by the Board of Adjustment.

It seems, per this revision, that someone could develop a property and then be a non-owner occupied property simply rented out. (Be aware that the WE was created the second time out of many split larger houses. The neighborhood is already 45% rental) Can this be limited? The City Attorney’s office believes that we cannot legally limit occupancy of the primary or accessory residential units based on ownership status.

How are you going to keep property owners from getting around the ZBA by simulating "attached"? Please refer to staff’s response to a question asked at the October work session.

How is the "tiny house" inclination going to affect a neighborhood like WE and others? Tiny houses would be allowed in all situations that would allow other accessory dwelling units, as long as such tiny houses met all building code and UDO requirements. All accessory dwellings must be on permanent foundations. They must also be connected to water and sewer and meet all applicable building, plumbing, electrical and other codes. Therefore, mobile tiny homes on a trailer/wheels would not fit these requirements. Our building code and the local minimum housing code require a dwelling to meet specific size and room requirements – to satisfy these requirements, an accessory dwelling would need to be over 200 square feet in size. Also, for West End, any proposed “tiny house” would be subject to a requirement to get a COA from the HRC.

What is referred to under "special yard requirements for older neighborhoods" in Section B 3-8.? This reference is a remnant of a former version of this UDO section and as such will be removed in the draft ordinance heard by the Planning Board in December.

Will storm water be affected by any of this? Should it be, as more property is impervious? No change is proposed to current stormwater regulations as part of this amendment. While there are currently no impervious surface limits for single family districts, the ordinance already limits accessory structures (both residential and non-residential) to occupying no more than 5% of the total lot area of a single family lot – this limit is not proposed for change under this ordinance.
As a result, any additional stormwater impacts generated by an accessory dwelling unit would be minimal.

What types of manufactured homes would be allowed? WE almost had a manufactured garage recently. Manufactured units could be allowed within the City of Winston-Salem or Forsyth County as an accessory unit, as both our current and proposed ordinance do not specify building construction or materials. Depending on the zoning district and the jurisdiction (i.e. City or County) other restrictions may also apply as to what class of manufactured housing is allowed. Manufactured homes require a Special Use Permit from the Board of Adjustment (BOA). If someone in any neighborhood proposed to construct a manufactured home as an accessory detached unit then it would go through the BOA public hearing process. Neighbors would have that opportunity to speak against the proposal if they desired. However, in the West End, such a proposal would be subject to the additional requirement that it go through the COA approval process with the HRC.

Does the "new Stairway" regulation mean anywhere on the front of the accessory building - even if it is located behind a main home or almost behind? This requirement is existing and has been enforced in the past. It means that no new stairways may be on any side of the structure facing the public street. Therefore, a stairway located behind or to the side of the structure would work as long such a stairway was not visible from the street.

The "non-relative" occupancy of accessory structures has been ignored in the WE and other neighborhoods. It needs to be corrected but how to do this without mass allowing accessory structures. Our City Attorney’s Office has raised concern over the enforceability/legality of the kinship occupancy provisions and recommended they be removed based upon recent case law. Some property owners may have already been in violation of this in the past. Staff has revised the ordinance in a manner that allows accessory dwelling units to be used in accordance with current legal standards, but which also included a number of additional dimensional, setback, parking and other requirements intended to reduce the impact of these units on neighborhoods. Detached units must be approved through the Special Use Permit process which provides public notification and a public hearing where affected citizens may state any concerns on the proposed units.

Isn't this Revision a new zoning area rather than the single family zoning that was purchased by owners? The proposed ordinance will not lead to any zoning changes. Accessory residential units are currently allowed in single family neighborhoods under prescribed conditions, and they will continue to be allowed in the same neighborhoods, simply under different conditions.

Can this be done without changing any setbacks? Again owners bought with the expectation of certain setbacks. Different setbacks currently exist in the UDO for principal structures and for accessory structures. Currently, accessory buildings may be 3 feet from any property line. Principal residences may be as close to a side property line as 7 feet and 25 feet from a rear property line in RS-9 zoning. This ordinance attempts to create setbacks for occupied accessory structures that are significantly more restrictive than those of unoccupied accessory structures, but more flexible than those for principal residences. The ordinance proposes detached accessory units have a minimum rear setback equal to half of the required rear setback for the
district. The minimum side setback would remain the same as that of the principal residence on the lot. Attached accessory dwellings would be subject to existing residential setbacks, as they are part of the residence.

If the current allowance and definition of a "family" is 4 unrelated people - how will this control the number of people in the accessory dwelling? A family meeting the UDO definition of “family” will be allowed in the principal dwelling on a lot, and a second “family” meeting this UDO definition will be allowed to occupy the accessory dwelling, subject to square feet/occupant requirements of the City Code as addressed further in another question.

Two of the overlays in our city have been passed because they control the size of the lot in the neighborhood. This Revision seems to negate that if accessory buildings are allowed. As stated, the two Neighborhood Conservation Overlay Districts (NCOs) currently approved in Winston-Salem limited minimum lot size within the neighborhoods. However, those NCOs did not limit the presence of accessory residential units. The standards of the NCO would remain in place and would not be affected by the proposed text amendment. The City Attorney’s Office does believe that a neighborhood could choose to prohibit accessory dwellings as part of a NCO request.
Planning and Development Services Staff Responses to Questions Related to Accessory Dwelling Units

Comments, responses, and additional staff recommendations from the 11.12.15 CCPB Meeting

1. Consider basing parking requirements for accessory dwelling units on the number of bedrooms in the accessory unit. Staff agrees that a parking standard of 1 space per bedroom but no less than 1 space per accessory unit would make sense. The location of the parking space would be determined through the required staff or Board of Adjustment site plan review process.

2. Would it be legal to revise the definition of family to be “an unlimited number of people related by blood or marriage plus 4 unrelated people” and allow this definition to cover all residential units on a lot (It was also proposed to remove the “single housekeeping unit” language in the existing ordinance, which may have consequences in how we regulate other UDO uses). The definition could be revised in such a manner, but would require further policy decisions on how other uses in the UDO are treated going forward (for example, boarding or rooming houses). The City Attorney’s staff would caution against doing such, as equal protection concerns could be triggered upon the imposition of separate family standards. Planning staff would also not recommend this.

3. Consider requiring accessory units to have the same minimum rear and side setbacks as those of the principal residence on the lot. Staff has prepared an illustration comparing current UDO setbacks, proposed draft ordinance setbacks, and setbacks equal to those of the principal residence. It is attached to these responses. Because use of the principal residence setbacks for accessory dwellings would make the backyard less useable, Planning staff would not recommend this additional restriction.

4. Is it possible to prohibit single night rentals of accessory units? The Attorney’s Office believes it would be legally permissible to prohibit single night rentals (short term rentals) in principal as well as accessory single family dwellings. However, such a provision would be very difficult to enforce, and Planning staff would not recommend its addition to the ordinance.

5. What would be the complaint process for problems with accessory units? The process for registering complaints against accessory dwelling units would be the same as the current complaint process for other land uses. If a citizen suspected an accessory dwelling unit was operating illegally, they could contact the Inspections Division. Zoning enforcement staff in Inspections would research the complaint, and if an issue was found, staff would require it to be corrected. Where the proper action was not taken by the property owner, enforcement steps would be followed per the UDO. It is worth pointing out that some issues (such as noise complaints) are not within the purview of Inspections, and would need to be addressed by the police department.
6. Should we restrict what constitutes attached vs. detached further than the existing UDO definition? It would be possible to develop a unique definition of “attached” and “detached” for accessory dwelling units. A possible definition for an attached unit could be “An accessory dwelling unit that is completely contained within the same conditioned building envelope or that shares an external wall of at least X feet in length with the principal residence on the lot”. A potential definition for a detached unit could be “An accessory dwelling unit that is not physically connected or attached to the principal residence on the lot”. It is worth noting that from a building code perspective, if an exterior wall of a principal structure and an accessory structure are within less than 3’ of each other, these walls must be fire-rated, regardless of whether such a relationship is defined as attached or detached in the UDO. Planning staff could support a requirement that an attached accessory unit must be either contained within the existing principal residence or share an exterior wall of no less than 15 feet in length.

7. Is it possible to limit accessory structures to only being allowed in conjunction with principal residences that are at least 5 years old? Conversely, can you limit accessory units to only being used in conjunction with new subdivisions? The Attorney’s Office believes such regulations would not be on solid legal ground. Additionally, Planning and Development Services staff believes such limitations may not be good policy, as situations exist where accessory units would be appropriate in both new and pre-existing subdivisions. For example, the “smart growth” and “new urbanism” movements of more recent times encourage accessory dwellings with alley access as a means of allowing more affordable housing options with little impact on neighborhood character. Planning staff would not recommend a restriction based on the age of principal residence.

In addition to the parking requirement and attached accessory dwelling limitations discussed in questions 1 and 6 above, the Planning staff could support the following additional measures as ways to minimize the impacts of accessory dwellings:

- If a minimum 9,000 square foot lot requirement existed for detached accessory units, many lots in Growth Management Areas (GMAs) 1 and 2 would not be allowed to include these units. Under this requirement, it would eliminate all but the larger lots in several neighborhoods, including Boston Thurmond, Greenway, East Winston, Waughtown, Sunnyside, Washington Park, West Salem, and West End. Other areas, such as Ardmore and Konnoak would have pockets where detached accessory units could not be constructed. Neighborhoods in the northwest part of GMA 2, such as Buena Vista and Country Club Estates, would be largely unaffected by this requirement. A map showing the residential lots that are larger than 9,000 square feet in GMAs 1 and 2 is attached to this memo.
In addition to a minimum lot size requirement for detached accessory dwellings, a no more than 30% principal residence lot coverage requirement to qualify for a detached accessory dwelling may be a suitable cutoff. Lots where the principal residence occupies more than 30% of the lot may be unsuitable for adding a detached accessory unit, and this would be a way of ensuring lot coverage is not too high. However, in most cases, lots larger than 9,000 square feet would not generally have problems accommodating both a principal residence and an accessory unit plus adequate open space, regardless of the lot coverage of the principal residence.

A third additional restriction which Planning staff could support would be to provide a 10’ or 20’ separation requirement between a principal residence and a detached accessory unit. This in some cases would make it harder for lots to qualify for accessory unit development, would ensure more open space on a lot, as well as greater separation between buildings on the lot.
Comparison of Potential Accessory Dwelling Unit Setbacks for a 9,100 Square Foot Single Family Residential Lot (RS-9 Zoning)
## Representative Single Family Lot Size Ranges for Selected Neighborhoods in GMA 2

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<th>Neighborhood Name</th>
<th>Representative Lot Size Ranges</th>
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<td>Ardmore</td>
<td>8,000-11,000 SF</td>
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<td>Buena Vista</td>
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<tr>
<td>East Winston</td>
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<tr>
<td>Greenway</td>
<td>7,500-11,000 SF</td>
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<tr>
<td>Konnoak</td>
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<tr>
<td>Waughtown</td>
<td>7,500-10,000 SF</td>
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<tr>
<td>West End</td>
<td>6,500-14,000 SF</td>
</tr>
<tr>
<td>West Salem</td>
<td>5,000-9,000 SF</td>
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Section 6-1.4 (A) (3) of the UDO (Special Use Permits)

(3) **Required Findings.** ..... 

The Board of Adjustment shall issue a special use permit only when the Board of Adjustment makes an affirmative finding as follows:

(a) That the use will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved;

(b) That the use meets all required conditions and specifications;

(c) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and

(d) That the location and character of the use, if developed according to the application and plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with Legacy.

Except with regard to the conversion of nonconforming uses in Section B.5-2, no provision of this Ordinance shall be interpreted as conferring upon the Board of Adjustment the authority to approve an application for a special use permit for any use unless authorized in Table B.2.6. In approving an application for the issuance of a special use permit, the Board of Adjustment may impose additional reasonable and appropriate conditions and safeguards to protect the public health and safety, and the value of neighboring properties, and the health and safety of neighboring residents. If the Board of Adjustment denies the application for the issuance of a special use permit, it shall enter the reasons for denial in the minutes of the meeting at which the action was taken.
Statement from Melynda Dunigan regarding UDO-267

For years single family neighborhoods have coexisted in a reasonable manner with accessory dwellings, due to an important safeguard: limitations on who is allowed to occupy them. Up until now we have required that the occupants be caregivers, older adults or relatives of the owner of the principal dwelling. Our attorneys have concluded that we must eliminate these protections due to a court decision, so we are faced with the issue of how to reestablish a balance in order to maintain the quality of life in single family neighborhoods. It is clear that simply removing the kinship/caregiver requirement without additional changes will create problems. Our existing regulations are minimal and treat detached accessory units in the same manner as garages or other outbuildings. Without regulations on the number of occupants, the size of the dwellings and their location on lots, and without provision for adequate parking, neighborhoods will be unfairly burdened.

UDO-267 was designed to provide the necessary rules to accommodate the expanded availability of accessory dwellings. The ordinance goes a long way toward meeting these goals, but I believe that it still needs some additional revision, which is why I voted to recommend denial. However, it is unacceptable and unreasonable in my opinion to abandon the attempt at further regulation altogether, as the board has effectively done in its recommendation.

Like speakers at the public hearing, I am concerned about the setbacks allowed for detached accessory dwellings. I am also concerned about the provisions to allow for larger than 1,000 square foot accessory dwellings on larger lots. However, the principal issue that I think needs to be addressed in the text amendment is that of short term rentals. The internet and companies such as AirBnB have made it easy to rent out property on a short term basis, and this is a growing trend across the country. If we have no limits on short term rentals, an accessory dwelling could essentially be turned into a backyard motel. The constant coming and going of a transient clientele is simply not compatible with single family living, and if carried out on a wide scale would significantly change the character of single family neighborhoods.

In the course of our discussions, it has been stated that limits on short term rentals would be too hard to enforce or that the matter should be addressed separately as a policy for all residential property. What would happen, however, if it turns out later that we conclude that it is impractical to regulate short term rentals at all? Eliminating the kinship requirement on accessory dwellings would significantly widen the scope of the short term rental problem, because it would expand the availability of rental units in neighborhoods. Therefore, I believe that we need to know up front as we evaluate how to treat accessory dwellings how short term rentals will be regulated.

Because we are legally prohibited from placing safeguards on accessory dwellings that require the owner or a relative to live in a home with a rented unit, we should carefully evaluate whether accessory dwellings should be allowed at all in single family neighborhoods. If it becomes clear that it is impractical to regulate short term rentals, then I believe it would be better to prohibit accessory dwellings altogether, as some municipalities have done.
Email received Thursday, February 11, 2016, 12:01 p.m.

I want to speak at today's meeting on the matter of accessory buildings. I'm a property owner and resident of Ardmore. Many of out lots are small. My setback concerns are that cutting them in half will put huge sight barriers on all sides of existing homes. Off street parking is another concern I will speak to if given the chance. Some homes in Ardmore have no off street parking and before getting a permit to add an accessory building, they should be required to construct off street parking for the primary residence.

Bonnie Crouse 682-4804
Dear Planning Board Members:

Again, I regret that no one from the Konnoak Hills Community Association will be able to attend today's Public Hearing on UDO 267.

However, I just found out that the Planning Board Staff has identified the Konnoak Hills Neighborhood area as having many properties that would be ineligible for Accessory Dwellings because they would not meet the minimum lot size. Other neighborhoods affected would be West Salem and Washington Park.

The Konnoak Hills Community Association understands the need to protect the integrity of these older neighborhoods but individual properties should not be penalized from using their Accessory Building because of an overly restrictive minimum LOT size--not counting the fact--this data is not currently being correctly entered into the Forsyth County Tax database for all LOTS.

So, how is the Planning Staff obtaining the correct LOT size for the Konnoak Hills Community area? LOTS on many of the streets in Konnoak Hills have "0" listed as their LOT square footage and acreage. Therefore, how can the Planning Staff accurately know if house LOTS in the Konnoak Hills area meet or do not meet the minimum LOT size? If the LOT square footage and acreage are missing, then the only square footage being listed is for the actual buildings on the property. So, how is the Planning Staff accurately determining the size of the properties in the Konnoak Hills area to consider making minimum LOT sizes in the proposed UDO 267 revisions?

As such, the Konnoak Hills Community Association CANNOT SUPPORT this current version of the proposed UDO 267 for Accessory Dwellings until other ideas are considered for this UDO 267 to create a better balance that does not exclude entire neighborhood areas. Plus, the absolute need to have CORRECT and UPDATED DATA on ALL PROPERTIES in the Forsyth Co. Tax Property database in order for all parties to know how the Planning Dept. is obtaining their data about LOT SIZES.

Thank you.

Sincerely yours,
From: Carolyn A. Highsmith <konnoak_hills@outlook.com>
Sent: Thursday, February 11, 2016 2:20 AM
To: planning@cityofws.org
Cc: Walter Farabee; pauln@cityofws.org
Subject: Public Comment regarding UDO 267--Amending Regulations to the Accessory Dwellings Ordinance--Unable to attend Public Hearing

Dear Members of the City-County Planning Board:

The Konnoak Hills Community Association has a few technical concerns and questions regarding the proposed revised UDO-267 Accessory Building Ordinance. We understand that there have been major concerns brought up about the exploitation of the use of Accessory Buildings especially in older, established neighborhoods. And, the Konnoak Hills Community Association does want to see any major loop holes addressed that would permit predator developers from exploiting the use of Accessory Dwellings in established older neighborhoods.

However, some of the size limitations appear to be excluding the use of entire groups of Accessory Buildings, especially in older neighborhoods. So, the Konnoak Hills Community Association wants to know if that's the intent of these new size regulations, because it appears to go against the desire to permit "gentle density" in some older neighborhoods. The Konnoak Hills Community Association is not sure if a true balance has been reached between permitting "gentle density" in older neighborhoods and total elimination of any chance for older neighborhoods to use their Accessory Dwellings.

For example, in many GMA 1 and 2 neighborhoods--these neighborhoods are older and have irregularly-sized Detached Accessory Buildings. The Konnoak Hills neighborhood area has several such Detached Accessory Buildings--such as 2- and 3-car garages that are irregularly-sized--and are GREATER in SIZE than the stated REQUIRED MAXIMUM SIZE of 1000 square feet for Detached Accessory Units in the current UDO 267 revisions.

If the purpose of these revisions is to permit "gentle density" in older neighborhoods, this
requirement will effectively exclude such Accessory Buildings in many older neighborhoods from being used as an Accessory Dwelling. **Is there not a less restrictive approach that would place some size restrictions without totally excluding entire neighborhoods from using their Accessory Buildings?**

Would a better solution be to have a higher maximum size limit for houses built before 1950? Or, 1965? Etc.

Or, should older neighborhoods with irregularly-sized Accessory Buildings (say before 1950 or 1965, etc.) be grandfathered in and permitted to have a maximum size greater than 1000 square feet provided that the Accessory Building was built when the original house was originally built?

The Konnoak Hills Community Association is unsure of the best balance for this concern and suggests that all possible solutions be addressed to achieve the best possible balanced solution for all neighborhoods in this UDO revision.

2. REGARDING A DETACHED ACCESSORY BUILDING THAT SHOULD ONLY BE PLACED ON A MINIMUM LOT SIZE of 9000 square feet—the Konnoak Hills Community Association has found a major inconsistency in the Forsyth County GIS Property Tax database for the recording of the land square footage and acreage. That is, it appears that if a house has not been sold in recent years, there is no recording of the land square footage and acreage on the Forsyth Co. TAX PROPERTY CARD.

The Konnoak Hills Community Association decided to look up several properties in the Forsyth County GIS Property Tax database to get a better idea about how large 9000 square feet of land really is. As such, we found that the system has a new online TAX PROPERTY CARD. Then, when several TAX PROPERTY CARDS were looked at for houses on various blocks in the Konnoak Hills Community—we found that the system is NOT SHOWING TOTAL LOT SQUARE FOOTAGE OR ACREAGE for many of these houses. The area on the TAX PROPERTY CARD is as listed as "0" for land square footage and acreage. Then, for other houses in the Konnoak Hills area and nearby neighborhoods the land square footage WAS NOTED on the TAX PROPERTY CARD.

HOW IS THE CITY and COUNTY GOING TO REGULATE the minimum square footage of lots for Accessory Dwellings via UDO 267 if this vital information is not even listed consistently on all of the Forsyth County Tax Records? That is, how can minimum lot sizes be regulated for Accessory Dwellings if this information may not be on the Property Tax Record. And, the Konnoak Hills Community Association does not think that the property owner should have to bear the burden of obtaining this information to satisfy UDO 267 required minimum lot sizes for Accessory Dwellings--when the Forsyth Co. Tax Office should already have this data in their records and properly recorded. As such, this entire issue needs to be addressed in relationship to revising UDO 267.
Thank you for reading these concerns from the Konnoak Hills Community Association regarding revising UDO 267, and we regret that some of our members are unable to attend the Feb. 11th City-County Planning Public Hearing on UDO 267.

Sincerely yours,

Carolyn A. Highsmith
President, Konnoak Hills Community Association, konnoak_hills@outlook.com
Vice President, New South Community Coalition, newsouthcommunitycoalition@outlook.com
336-788-9461; carolyn_highsmith@outlook.com
Over the years, the City of Winston-Salem has conducted citizen satisfaction surveys to receive feedback about the quality of City services and suggestions on how to improve service delivery and facilities. The City contracted with research firms to conduct surveys in 1999, 2006-2008, and 2011. The surveys were conducted via telephone or mail to ensure a statistically valid sampling of city residents. The City also made the survey available through the City’s website. The surveys included both closed-ended and open-ended questions.

Overall, respondents to the surveys rated the quality of City services positively. Citizens who participated in the surveys conducted in 1999 and 2006-2008 generally graded City services at B+. In 2011, the City participated in the National Citizen Survey, which was conducted through a partnership between the National Research Center and the International City/County Management Association (ICMA). Unlike the earlier surveys, the National Citizen Survey compared survey responses provided by Winston-Salem residents to benchmarks created from similar sized cities that participated in the survey. Winston-Salem residents’ rating of City services generally met or exceeded the benchmarks. The survey asked respondents to identify the most pressing issues facing the city. A large percentage of respondents noted jobs and the economy as the most pressing issues. The full report is available on the City’s website at:

http://www.cityofws.org/portals/0/pdf/City-Manager/forms-reports/City%20of%20Winston-Salem%20Report%20of%20Results%20FINAL-2011.pdf

The use of citizen satisfaction surveys to engage citizens and improve service delivery is considered a key component of strategic planning and performance management. Many cities across the United States survey their citizens on a regular basis to discern community priorities, allocate resources, and track performance. Cities such as Kansas City publish survey results through open data platforms to increase transparency and accountability to citizens.

The Mayor and City Council will hold a strategic planning workshop on January 30th and 31st to discuss City priorities for the next several years. As follow-up to that discussion, the Mayor and City Council could direct City staff to restart a program of regular citizen satisfaction surveys, at least annually, to monitor community perceptions and focus efforts to improve services and facilities. If requested, City staff would recommend participation in the National Citizen Survey again in order to utilize the benchmark data maintained by the National Research Center and ICMA.
TO: Mayor Allen Joines and Members of the City Council  
FROM: A. Paul Norby, Director of Planning and Development Services  
DATE: December 21, 2016  
SUBJECT: Historic Landmark Application

Attached is the Local Historic Landmark Questionnaire that have been reviewed again by the Forsyth County Historic Resources Commission (HRC). The changes requested by both City Council members at Committees and the HRC are included. The HRC agreed at the December 7, 2016 meeting to include this form as part of the Landmark application.

If you have questions, please do not hesitate to contact me at 336-747-7061 or pauln@cityofws.org.
# Local Historic Landmark Designation Application Questionnaire

<table>
<thead>
<tr>
<th>Field</th>
<th>Details</th>
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<tr>
<td><strong>Historic Name:</strong></td>
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<td><strong>Current Name:</strong></td>
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<td><strong>Physical Address:</strong></td>
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<td><strong>Zoning:</strong></td>
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<td><strong>Ward:</strong></td>
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<td><strong>Block(s):</strong></td>
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<td><strong>Lot(s):</strong></td>
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<td><strong>PIN#:</strong></td>
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<td><strong>Date of Construction:</strong></td>
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<td><strong>Lot Size / Acreage:</strong></td>
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<td><strong>Original Use:</strong></td>
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<td><strong>Present Use:</strong></td>
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<td><strong>Restoration/Rehabilitation (Check One):</strong></td>
<td>□ No</td>
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<td>□ Yes, year completed:</td>
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<td>Cost:</td>
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<td>□ Yes, in the next Five Years</td>
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<td>Estimated Cost:</td>
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<td><strong>Ownership (Check One):</strong></td>
<td>□ Private</td>
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<td></td>
<td>□ Public</td>
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<tr>
<td><strong>Status (Check One):</strong></td>
<td>□ Occupied</td>
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<td></td>
<td>□ Unoccupied</td>
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<td>□ Work in Progress</td>
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<td><strong>Is the house currently for sale?</strong></td>
<td>□ Yes</td>
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<td></td>
<td>□ No</td>
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<td><strong>Public Access (Check One):</strong></td>
<td>□ Restricted</td>
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<tr>
<td></td>
<td>□ Unrestricted</td>
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<td></td>
<td>□ None</td>
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<td><strong>Requested Landmark Designation for (Check Appropriate Boxes):</strong></td>
<td>□ Complete Exterior</td>
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<td>□ Complete Interior</td>
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<td></td>
<td>□ Complete Exterior &amp; Interior</td>
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<td></td>
<td>□ Partial Exterior or Interior or Other, Explain:</td>
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<td><strong>How will the applicant make the property available to the public for the enjoyment, pleasure, and education?</strong></td>
<td>Applicant is willing to open the property at least once every five years to the public by hosting an event; □ Yes □ No</td>
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<td>OR,</td>
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<td>Applicant is willing to open the property at least once every five years to the public by hosting a meeting of a preservation or similar group, or tour; □ Yes □ No</td>
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<td>OR,</td>
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<td>Applicant is willing to open the property at least once every five years to the public by hosting a house tour or participating in a neighborhood tour, or any other type of educational tour that includes the Landmark property; □ Yes □ No</td>
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<td>OR,</td>
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<td>Applicant is willing to have the designated portions of the Landmark photographed (in any format) and placed on the City/County's website; □ Yes □ No</td>
</tr>
<tr>
<td><strong>List any other ways the applicant plans to allow an opportunity for the public to be educated about the Local Historic Landmark in its entirety:</strong></td>
<td></td>
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</table>
## STAFF COMPLETION

| Meets Special Historic Significance Requirement: | ☐ Yes ☐ No |
| Meets Integrity Requirement: | ☐ Yes ☐ No |

### Potential Motions that can be made by the Elected Body

1. Designation of the portion of the property as proposed;

2. Designation of a portion of the proposed designation (ex: Designation of the exterior of the building only);

3. Deny the entire designation.

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**Signature of Owner:**

**Date:**
Chair Montgomery called the meeting to order and commented that this would be the first meeting without Council Member Molly Leight and the Committee also has other new Committee Members.

Chair Montgomery called the meeting to order and stated without objection, the Committee would first consider the Consent Agenda. No items were pulled. Council Member Adams made a motion to approve the balance of the Consent Agenda. The motion was duly seconded by Council Member Clark and carried unanimously.

CONSENT AGENDA

C-1. APPROVAL OF COMMUNITY DEVELOPMENT/HOUSING/GENERAL GOVERNMENT COMMITTEE SUMMARY OF MINUTES – November 10, 2016.

GENERAL AGENDA

G-1. CONSIDERATION OF ITEMS AUTHORIZING THE CITY OF WINSTON-SALEM TO PROVIDE FINANCIAL ASSISTANCE TO THE HOUSING AUTHORITY OF WINSTON-SALEM FOR THE ACQUISITION, DEMOLITION, AND REHABILITATION OF NEW HOPE MANOR APARTMENTS: [Item continued from the November 14, 2016, Committee meeting.]

   a. RESOLUTION AUTHORIZING THE CITY OF WINSTON-SALEM TO PROVIDE FINANCIAL ASSISTANCE TO THE HOUSING AUTHORITY OF WINSTON-SALEM FOR THE ACQUISITION, DEMOLITION, AND REHABILITATION OF NEW HOPE MANOR APARTMENTS. [$1.6 million]

Mr. Ritchie Brooks, Community and Business Development Director, gave a staff report on this item.

Mr. Evan Raleigh, Community and Business Development Deputy Director, gave a presentation on this item.

Council Member Clark stated the Finance Committee voted on this item and the key concern was about the pilot payments. If the property is sold in two or three years the City would receive all of the $10,000 back with the exception of the pilot money, it would be used to reduce one of the loans. If never sold, it would be 20 years before any of the money would amortize.

Council Member Adams stated the City is being asked to support many projects and programs. The taxpayer’s money plays a major role in contributing to how the City helps to give out loans, grants or deferred loans. The City takes care of these projects now but in five years from now, the City will need to put stake in the game for those that need these funds moving forward.

In response to Council Member Besse, Mr. Lee Garrity, City Manager, stated the New Hope Manor community has conditions that are deplorable. The residents deal with having to call law enforcement every night. There have been multiple shootings, and the struggle is there is limited funds. The recommendation is to demolish the property and get the residents moved to a better and safer location but that would cost double.

Council Member Adams requested a report on how other Housing Authority of Winston-Salem (HAWS) projects have been structured and how would the City strategically handle the current and moving forward types of projects.

In response to Council Member MacIntosh, Mr. Raleigh stated as the performa states, regardless of the forgiveness clause on the $700,000, if enacted in 20 years or not, due to the debt not being serviced, it does not affect the cash flow of the project. Essentially it remains the same.

Council Member Clark suggested a compromise with HAWS where HAWS would pay the $10,000. The first $5,000 would go towards a reduction of the loan balance and the remaining $5,000 would go to the City’s general fund account.

Council Member Clark made a motion to approve this item in that HAWS would pay $10,000. The first $5,000 would go towards a reduction of the loan balance and the remaining $5,000 would go to the City’s general fund account.

The motion was duly seconded by Council Member Adams with Chair Montgomery abstaining.

G-2. RESOLUTION APPROVING THE ALLOCATION OF ADDITIONAL REVITALIZING URBAN COMMERCIAL AREAS (RUCA) III MATCHING FUNDS FOR THE PATTERSON/GLENN AREA.
Mr. Raleigh gave the staff report on this item.

In response to Council Member Besse, Mr. Raleigh stated initially there were two phases planned for this project. The $475,000 was the projected amount needed for the first phase of the project. The $202,100 was for the second phase of the project that dealt with the truck driveway access and additional parking on the site. Subsequent phases are characterized as items insufficiently funded and/or unforeseen items.

In response to Council Member Clark, Mr. Raleigh stated staff performs site visits on a weekly basis. For each item on the scope of work, invoices are established to see if the items have been performed accurately. This is how staff monitors the funding is going to what it has been requested for.

Council Member Adams requested the tax value of this site and what is the expected tax value at completion of this site.

In response to Council Member Besse, Mr. Raleigh stated this has been a 50/50 match throughout this process of the project.

Council Member MacIntosh suggested general contractors that are performing work on their own properties be excluded from receiving funding from the City.

Council Member Clark made a motion to approve this item. The motion was duly seconded by Council Member Adams with one in favor and three abstaining. Chair Montgomery was in favor and Council Members Adams, Besse and Clark abstained.

G-3. ORDINANCE REVISING CHAPTER B OF THE UNIFIED DEVELOPMENT ORDINANCES TO AMEND REGULATIONS FOR ACCESSORY DWELLINGS – UDO-267 – Proposed of the City-County Planning and Development Services Staff [Recommended by Planning Board. Item continued from the November 10, 2016, meeting of the Community Development/Housing/General Government Committee.]

Mr. Paul Norby, Planning Director and Kirk Erickson, Planning Department gave a presentation on this item.

In response to Council Member Besse, Mr. Erickson stated the opt-in language is that special use rezoning provisions in subsection 2-6.4(C) and subsection 2. It talks about the dimensional requirements for the accessory dwellings. Any proposed detached accessory dwelling may be considered through the special use district rezoning process. In subsection 10 (Lot Requirements) it says accessory dwellings may be permitted on lots smaller than 9,000 square feet through the special use district rezoning process.

Council Member Clark requested Planning staff provide locations and addresses of the 14 accessory dwellings shown on the map provided in the committee book. He also asked if any of these dwellings meet the new proposed ordinance requirements.
Council Member Besse requested information on the Wilmington case that struck down the kinship requirements and, for other cities that permit accessory dwellings, how many of those contain unenforceable provisions for kinship provisions similar to the City of Winston-Salem.

Council Member Adams requested information on the effect of allowing or not allowing citizens to make decisions for property they own. The City could create some strict policies on obtaining accessory dwellings, and if this would hurt the City later.

In response to Council Member Clark, Mr. Erickson stated most other City ordinances state some type of square footage restrictions and are either expressed as an absolute number or a percentage of total lot area. Some examples can be provided for the Committee.

In response to Council Member Larson, Mr. Erickson stated he thinks the City does require a second address for attached accessory dwelling. But does require one for detached dwellings. He committed to check this information with Inspections.

By consensus, the Committee agreed to hold this item for more discussion.

G-4. RESOLUTION AUTHORIZING SUBORDINATION OF FINANCING FOR CHATHAM MILL APARTMENTS.

Mr. Brooks gave a staff report on this item.

Council Member Adams made a motion to approve this item. The motion was duly seconded by Council Member Clark and carried unanimously.

G-5. HOUSING STUDY SCOPE OF WORK SUGGESTIONS.

Mr. Brooks gave the staff presentation on this item.

Council Member Besse requested a breakdown of the housing market and housing demands analysis for citywide and downtown. The request is, for it to be broken down under GMA2 and GMA3.

Council Member Clark requested the numbers for median income be tested concerning workforce and affordable housing to see what amount is needed for citizens that need housing.

Mr. Brooks stated the requests would be addressed and staff would deliver those answers to Committee in the following two weeks.

Chair Montgomery included that the Committee would consider the opportunities to deal with the backlog of housing cases (preferably demolitions) mentioned by the former Committee Chair Molly Leight. Staff would potentially look into breaking it up into three categories. The first category, would be the properties that are at the 65% level and are ready for demolition. The second category would be those houses eligible for in-rem repair, and the last category would be those able to have eminent domain enacted upon them.
ADJOURNMENT: 6:03 p.m.