

ACTION REQUEST FORM

DATE: April 22, 2009
TO: The Honorable Mayor and City Council
FROM: A. Paul Norby, FAICP, Director of Planning

COUNCIL ACTION REQUEST:

Request for Public Hearing on Zoning Text Amendment proposed by City-County Planning Board staff

SUMMARY OF INFORMATION:

Zoning Text Amendment proposed by City-County Planning Board staff to amend Chapter B of the *Unified Development Ordinances* to clarify the purpose of certificates of appropriateness in H and HO zoning districts (UDO-199).

PLANNING BOARD ACTION:

MOTION ON PETITION: APPROVAL
FOR: UNANIMOUS
AGAINST: NONE
SITE PLAN ACTION: NOT REQUIRED

STAFF REPORT

DOCKET # UDO-199

STAFF: [Kelly Bennett](#)

REQUEST

This *Unified Development Ordinances* (UDO) Text Amendment is proposed by City County Planning Board staff to amend Chapter B of the *Unified Development Ordinances* to clarify the purpose of certificates of appropriateness in H (Historic) and HO (Historic Overlay) zoning districts.

BACKGROUND

The City and County adopted requirements for Certificates of Appropriateness (COA) in H and HO zoning districts in accordance with *N.C.G.S. 160A-400.9* in 2002. A COA is issued by the Historic Resources Commission (HRC) to approve exterior changes to properties under its authority. Typically, when local ordinance language is related to a specific statute, the exact language from the statute is used to help ensure consistency.

The second paragraph of *N.C.G.S. 160A-400.9* defines “exterior features” for the COA process: “For the purposes of this Part, ‘exterior features’ shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, ‘exterior features’ shall be construed to mean the style, material, size, and location of all such signs. Such ‘exterior features’ may, in the discretion of the local governing board, include historic signs, color, and significant landscape, archaeological, and natural features of the area.”

In adopting this definition into UDO Section B.4-7.2, the word “shall” was properly used twice, but the word “may” was inadvertently left in the last sentence, making the ordinance legally vague. For the ordinance to state “‘exterior features’ *may* include historic signs ...” does not necessarily mean these elements are included in this definition. The City Attorney’s Office suggested this word be changed to “shall” to clarify the intent and practice of the HRC.

ANALYSIS

The proposed text amendment is meant only to clarify the original intent of the local jurisdiction in regard to the COA process in H and HO zoning districts. Staff does not believe this proposal will change the expectations of property owners in these areas, as the HRC has been operating in accordance with the intent that these exterior features were included in the COA process since the adoption of the ordinance.

Please note in the attached ordinance that the single word change to Section 4-7.2 is in the last sentence of the section. Furthermore, the term “exterior features” refers to clarifying language in the General Statute and is not referenced in the UDO language.

RECOMMENDATION

APPROVAL

Kelly Bennett presented the staff report.

PUBLIC HEARING

FOR: None

AGAINST: None

WORK SESSION

MOTION: Paul Mullican moved approval of the zoning text amendment.

SECOND: Wesley Curtis

VOTE:

FOR: Wesley Curtis, Arnold King, Arthur King, Darryl Little, Lynne Mitchell, Paul Mullican, Brenda Smith

AGAINST: None

EXCUSED: None

A. Paul Norby, FAICP
Director of Planning

UDO-199
AN ORDINANCE AMENDING
CHAPTER B OF THE *UNIFIED DEVELOPMENT ORDINANCES*
TO CLARIFY THE PURPOSE OF CERTIFICATES OF APPROPRIATENESS
IN H AND HO ZONING DISTRICTS

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 IV – Historic/Historic Overlay Districts is hereby amended as follows:

Chapter B - Zoning Ordinance
Article IV – Historic/Historic Overlay Districts

**4-7.2 REQUIREMENTS FOR CERTIFICATES OF APPROPRIATENESS
IN HISTORIC AND HISTORIC OVERLAY DISTRICTS**

Within an H or HO District, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features); nor any above-ground utility structure; nor any type of outdoor advertising sign; nor important landscape and natural features may be erected, altered, restored, moved, or demolished until after the property owner or his/her designated agent has determined that the project is in compliance with the Design Review Guidelines either through consultation with Commission staff or review of the appropriate Design Review Guidelines.

The City/County/Town/Village shall require a Certificate of Appropriateness to be issued by the Commission prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving, or demolishing structures, which Certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this Ordinance.

If a Certificate of Appropriateness is required, then the applicant shall be provided with an application form and instructions. Certificates of Appropriateness shall be issued or denied in accordance with Section B.4-7.5.

A Certificate of Appropriateness shall be issued prior to any application for a building permit being made. Any building permit or other such permit not issued in conformity with this section shall be invalid. A Certificate of Appropriateness shall be required for all activities specified in this section, whether a building permit is otherwise required or not.

For the purposes of the section, the term "exterior features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building or other structure, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features.

NOTE: Items to be deleted are indicated with a ~~strikeout~~; items to be added are indicated with an underscore.
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In the case of outdoor advertising signs, the term "exterior features" shall be construed to mean the style, material, size, and location of all such signs. These "exterior features" ~~may~~ shall include historic signs, color, and significant landscape, archaeological, and natural features of the area.

Section 2. This ordinance shall be effective upon adoption.