

May 20, 2009

Richard L. Moore
4502 Dantzler Court
High Point, NC 27265

RE: ZONING TEXT AMENDMENT UDO-200

Dear Mr. Moore:

The attached report of the Planning Board to the Forsyth County Board of Commissioners and City of Winston-Salem City Council is sent to you at the request of the Commissioners and Council Members.

When the text amendment is scheduled for public hearing, you will be notified by the Clerk to the County Commissioners and the City Secretary, of the date on which the Commissioners and City Council will hear this petition.

Sincerely,

A. Paul Norby, FAICP
Director of Planning

Attachment

pc: County Manager's Office
City Secretary
Stephanie Allred, 1630 Cedrow Drive, High Point, NC 27260

ACTION REQUEST FORM

DATE: May 20, 2009
TO: The Honorable Mayor and City Council
FROM: A. Paul Norby, FAICP, Director of Planning

COUNCIL ACTION REQUEST:

Request for Public Hearing on UDO Text Amendment proposed by Richard L. Moore

SUMMARY OF INFORMATION:

UDO Text Amendment proposed by Richard L. Moore to revise Article III, Section 3-2.1 (E) pertaining to signage for Outdoor Display Retail uses (UDO-200).

PLANNING BOARD ACTION:

MOTION ON PETITION: DENIAL
FOR: WESLEY CURTIS, CAROL EICKMEYER, ARNOLD KING,
ARTHUR KING, LYNNE MITCHELL, PAUL MULLICAN,
BRENDA SMITH
AGAINST: CLARENCE LAMBE
SITE PLAN ACTION: NOT REQUIRED

STAFF REPORT

DOCKET # UDO-200

STAFF: [Aaron King](#)

REQUEST

This text amendment is proposed by Richard L. Moore to amend Chapter B of the UDO regarding sign regulations pertaining to Outdoor Display, Retail uses.

BACKGROUND

For the better part of the last two decades, the City of Winston-Salem regulated signs based on an ordinance developed and adopted in the 1980's. In response to specific recommendations regarding sign regulations in *Legacy* and the City Council's 2002 Strategic Plan, staff commenced the process of drafting a revised sign ordinance in 2003. One of the main goals of UDO-164 was to reduce visual clutter within the community. The process ended on May 21, 2007 when the City Council adopted UDO-164, the revised sign ordinance.

UDO-200 proposes changes that were neither allowed in the 1980's sign regulations nor in UDO-164. This text amendment deals with two aspects of the sign ordinance regarding signage for Outdoor Display, Retail uses. First, this proposal seeks to allow signage that would be placed on the actual vehicles themselves. An example of this type of signage can be seen below:



Second, this proposal also seeks to allow identification/directional banner signage for Outdoor Display, Retail uses. An example of this type of signage can be seen below:



Despite this type of signage not being allowed under either the present or previous sign regulations, staff acknowledges that both types of signs described above are often seen at Outdoor Display, Retail uses throughout the city. The Zoning Enforcement function in the Inspections Division is staffed and funded to handle violations on a complaint driven basis. The issues regarding both types of signs were brought to the attention of the Inspections Division between October and December 2008 due to a complaint(s) filed about the signage violations at a particular site. As those violations were enforced, further complaints were received about other sites.

ANALYSIS

The subject request would formally increase the amount of signage that could be placed on an Outdoor Display, Retail lot. Essentially, the request would allow two retail pricing stickers to be placed on each vehicle in the lot along with two directional/identification banners to be placed on each light pole in the lot.

One concern that staff has with this request is its relationship to the current sign ordinance. As mentioned above, one of the main goals of the sign ordinance was to reduce the amount of sign clutter. Approval of this request would appear to encourage more sign clutter as it would permit additional signage that has not, and is not currently allowed. Given how much time was spent on compiling a sign ordinance that reduced sign clutter while respecting the needs of the business community, staff believes that this request would run counter to the goals of the current sign ordinance.

Second, staff also thinks it is important to note the unique nature of Outdoor Display, Retail uses. Generally speaking, most retail establishments display their merchandise within a retail building and are not allowed to display merchandise outside. Due to the unique nature of car dealerships, the products (cars) are on display twenty-four hours/day to anyone driving on an adjacent road. Few, if any, other retail operations listed in the UDO are able to display their products in this manner.

Third, staff has concerns that approval of this request will set a precedent for other amendments that water down the effectiveness of the current sign ordinance. As with any text amendment, Planning staff has to take into account any precedent that may be established. Support for this request may be seen as a precedent for supporting future requests for other uses that intend to add more signage to what is currently allowed.

While both types of signs included in this request have been present in the community for several years, the issue has now garnered attention due to the complaint-driven enforcement process. It is understandable that some car dealers may have falsely assumed that the retail pricing and directional banner signs were legal, since no complaints had been filed until 2008. However, staff does not believe that approval of this text amendment is warranted due to its effect on the existing sign ordinance, the unique advertising nature of car dealerships, and the precedent that this request would set.

RECOMMENDATION

DENIAL

Aaron King presented the staff report.

PUBLIC HEARING

FOR:

Rich Moore, 4502 Dantzler Court, High Point, NC 27265

- Car dealerships are unique in retail because their product is outside. To sell product, retail establishments merchandise.
- Under UDO-164, car dealerships are not allowed to merchandise their product.
- Prohibited signs, 3-2.1(D)(3) should allow car dealers to merchandise their cars because those cars are for sale and selling those cars is the normal day-to-day operation of the business.
- No cars, no business.
- Under the current interpretation of UDO-164, car dealers cannot merchandise. They can only display their product.
- The importance of merchandising is that it helps sell the product by connecting the customers to the product: how much it costs, payment per month, interest rate, if there is a discount.
- Merchandising inspires a customer to buy.
- Car dealerships are unique in retail because the car lot is the store. In that store are places to park and products to sell. Those products include different categories such as new cars, used cars, or certified cars.
- Banners not only merchandise the cars, but tell the customer where to park and where the type of vehicle they are looking for is located.
- Merchandising is good for business. The City of Winston-Salem uses banners to direct people where they are and where they need to go. The City uses banners to sell product.
- Displayed photographs.
- For car dealerships, like the City, banners are good for direction and sales.
- Car dealerships have an advantage in being able to display their product 24 hours a day.
- The car lot is the store and the dealers should be allowed to merchandise their product in that store.
- Car dealerships are now in a slump. Keeping UDO-164 as it is doesn't help car dealerships, the business community, or the City of Winston-Salem.
- UDO-164 does not foster an environment for car dealerships which fosters business.
- All retail has a right to merchandise products. The uniqueness of car dealerships is that their product is outside.
- Stating that cars sell themselves and that customers driving by will purchase a vehicle simply is not realistic.
- To obtain the sale, dealerships must peak the interest of buyers and cause them to pull onto that specific lot.

- No giant sale signs, hoods open, or giant balloons bobbing in the breeze. That is not professional merchandising. None of us want that kind of visual clutter. We want a professional, image building look for dealers.
- Through the 80s and 90s, and up to October 2008, there were no complaints against car dealerships merchandising that I know of.
- For the general public, merchandising at car dealerships is not a problem.
- We are asking you to approve UDO-200.
- Mr. Moore then focused on the reasons behind recommending against this text amendment as cited in the staff report, and displayed the staff's points with rebuttals.
- Only one person has complained and we believe that was a disgruntled business owner in the area who was not allowed to display signs on his property.
- By fostering economic growth and development, UDO-200 is in conformance with the sign ordinance.
- After hours and on Sundays, many people shop for cars when dealerships are closed. Signage acts as a sales person, giving customers pertinent information and continuing the sales process when no one is available.
- Support for this ordinance shows your fairness. People have to still go through this text amendment approval process and they still have to pay the \$1,000 fee for a text amendment.
- The general public doesn't have a problem with professional signage at car dealerships. They like it and they want it.
- There will not be an increase in signage because dealers will continue doing business as usual.
- The unique advertising nature of car dealerships is exactly why the ordinance should change in favor of car dealerships.
- This is not setting a precedent. It is being fair and flexible.
- Please approve this amendment for car dealerships.

AGAINST: None

Mr. Norby noted that an e-mail was received from the President of the Neighborhood Alliance expressing their opinion in opposition to this request.

WORK SESSION

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

1. Paul Mullican: What does the ordinance say about what is visible from the right-of-way. David Reed read the definition of Sign, On-Premise.
2. Clarence Lambe: How far do the cars have to be set back before these things are not defined as signs? Paul Norby noted that if the signs are set back far enough that they cannot get your attention from the public right-of-way, they are not considered signs. Chris Murphy responded by reading the definition in the UDO of Signs. The key is being visible from the public right-of-way. Directional signs are covered elsewhere.

3. Clarence Lambe: I did not even think about this kind of signs when we considered the sign ordinance. I think it just wasn't something that we thought about in considering the sign ordinance. It hadn't been an issue. That's not to argue that we should do this. If we're going to do something like this, it should be broadened to more than one industry. There is the quandry. I do think it's appropriate to have text amendments because we can't draft a completely accurate ordinance.
4. Paul Mullican: We're the first to try to help a business. If we can understand them and what they have legally, we can come to a happy medium. If we just approve this today, there's going to be a ten-fold increase in other requests here. There's a lot to look at here. There isn't such a thing as a perfect ordinance. Anything that comes before us we have to take a look at.
5. Clarence Lambe: If an individual has a car parked in their yard with a "for sale" message and a price on it, is that considered a sign? I think we have an extremely broad definition of sign, but I don't know how else you draft it.
6. Paul Norby: During your hearings on UDO-164, you may recall we had some input from car dealers. As part of your discussion, we ended up liberalizing the spacing of signs based on road frontage. Also, message boards on signs are allowed. They can indicate special sales or financing or new car models coming in. That ordinance tried to accommodate some of the more unique needs of something that had a lot of street frontage on it.
7. Arnold King: There's no prohibition on a car dealer having a sign inside the window telling all the details that we are accustomed to.
8. Signs inside the windows of retail stores are allowed. Therefore, those within car windows are allowed also.
9. Paul Mullican: Signs could be hung from the rear view mirror inside the vehicle and would be easily read from the street.
10. Clarence Lambe: I can imagine this starting a complaint process for every car dealership and other businesses in the county.
11. Carol Eickmeyer: What did we decide about gas stations and how can that apply in this situation? Paul Norby: There are specific regulations for accessory signs for those uses, and they have size limitations as well.
12. Carol Eickmeyer: I did not know that car purchase was an impulse purchase, that you could be driving down the road and see a good price and decide to purchase that vehicle.

13. Carol Eickmeyer: If we do not pass this, I'd like to ask the Winston-Salem Neighborhood Alliance to send a list to Inspections of all the people who are abusing this because it's not really fair for one car dealership to bear the burden of this and somehow or other it needs to be spread. The Neighborhood group is probably an excellent source of manpower.
14. Clarence Lambe: I think if you get enough complaints registered, there will be enough political will to adopt an amendment to the sign ordinance.
15. Chris Murphy explained that the coke signs and such that are on the bollards of gas stations are illegal. Enforcement is complaint-driven. However, neither the sign on the actual vending machine nor the "Exxon" or "BP" sign is illegal. There are special provisions for signs on pumps and ATMs. Regarding the MSRP stickers inside cars, they are visible but not legible from the road, so we have made a determination that they are not considered signs because you can't read it.
16. Clarence Lambe: So that's the new definition of sign - that it has to be legible rather than visible? This won't help this situation, but that would address a much larger issue and that is if we get the signs so they aren't legible, then they really shouldn't be considered signs. Chris Murphy noted that if there is nothing legible from the right-of-way, it isn't considered a sign based on the definition.
17. Clarence Lambe: So it has to be legible and visible. If it's not legible, the sign definition doesn't even come into play. That's reasonable. To respond to Carol, I think we are a country of impulsive buyers and that a sign advertising a huge discount does work.
18. Gasoline price signs are part of the free-standing, monument sign permitted to gas stations and are limited to the overall size limitations of those free-standing signs.
19. Wesley Curtis: If a business has a sign inside a glass window, that's not counted against them. In this particular type of merchandising, if the sign is within the windshield of the vehicle, that's not counted against them? Chris Murphy responded that a sign within a vehicle which is legible from the street would be considered a sign.
20. Lynne Mitchell: It's interesting that we have a sign ordinance which is not being followed because of all these situations. I'd be interested in what it would look like if it all came down. Then, if there's political will, see what happens.
21. Brenda Smith: With the economic times we have now, it may not be the best time to play with something like that just to see what happens. I don't think that's appropriate to do. The whole reason we have this in front of us is that someone is trying to adjust to the economic times and what's happening with it. There's validity to the points that this is a unique business and we make adjustments for unique businesses in a lot of things that we do. I think the lot is their store in this circumstance. I'm torn between it being okay to display within a business, but not

okay to display more outside a building when the business is primarily outside. If they put up glass walls all around the lot, they could put up all the signs they wanted inside the area that people could see. The purpose of a sign is to draw attention to a product.

22. Clarence Lambe: I think the distance from the right-off-way is something to consider in the future.
23. Wesley Curtis: I'm satisfied with leaving the sign ordinance the way it is for today because car dealers did have input into the ordinance when it was being written and allowances were made for their situations. I also agree that it is worth looking at the definition of sign in the future as well as some areas like this that may need some tweaking as warranted.
24. Arnold King: If I am looking for a car, I'm going to get out and look at all the stickers in the windows. Just seeing the price doesn't tell me what's included and what's on the car and that sort of thing. None of the car dealers have stood up and supported this or expressed the need for it.
25. Carol Eickmeyer: The beauty and the down-side of the complaint-driven system is that when someone gets angry at one particular group, you can really take it out on them. This is a case where there is a larger group of people who could and should be impacted by it. I think for today's purposes, it's worth denying this. If we choose to approve this, it impacts everyone with outdoor display. That would not just be car dealers so we would not be considering the precedent that it sets.
26. Paul Norby: I think you could also have an argument from people who have their whole retail businesses indoors saying that they are at a bigger disadvantage; Therefore we need banners on our light poles and the freedom to put paste signs on our employees cars up front, etc.
27. Carol Eickmeyer: It's not uncommon to drive by a furniture store and see furniture outside in the parking lot. Is that a sign?

MOTION: Carol Eickmeyer moved denial of the zoning text amendment.

SECOND: Lynne Mitchell

VOTE:

FOR: Wesley Curtis, Carol Eickmeyer, Arnold King, Arthur King, Lynne Mitchell, Paul Mullican, Brenda Smith

AGAINST: Clarence Lambe

EXCUSED: None

A. Paul Norby, FAICP
Director of Planning

UDO-200
AN ORDINANCE AMENDING
CHAPTER B OF THE *UNIFIED DEVELOPMENT ORDINANCES*
TO AMEND THE SIGN REGULATIONS FOR OUTDOOR DISPLAY, RETAIL USES

Be it ordained by the _____, North Carolina, that the *Unified Development Ordinances* is hereby amended as follows:

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

Chapter B - Zoning Ordinance

Article III – Other Development Standards

3-2 SIGN REGULATIONS

3-2.1 SIGN REGULATIONS (W)

3-2.1(E) Signs Allowed in Any District Without a Zoning Permit

(20) Outdoor Display, Retail Pricing Signs

On-premises signs that display pricing, financing, incentives, vehicular information, or the name, trademark or logo of the company or brand it advertises provided the sign is an integral part of the vehicle and attached directly to the surface of the vehicle. These vehicles on which the signs are displayed shall be located on the property of the retail establishment and shall not be allowed or installed in the public right-of-way. There shall be no more than two (2) such signs on any vehicle. See graphic below.



(21) Outdoor Display, Retail Directional and Identification Banners

Directional and identification banners used for Outdoor Display, Retail purposes shall not exceed a dimension of six (6) feet in height and shall not exceed a maximum area of twenty-five (25) square feet and shall contain no commercial content other than a symbol, name, or logo of the establishment it serves (see graphic below). Any symbol, name, or logo shall not comprise more than twenty (20) percent of the sign area of the directional or identification sign it is associated with. The directional or identification signs are meant to identify such areas as customer parking, pre-owned display areas, and new car display areas. No more than two (2) such banners shall be allowed per light pole. Such signs shall be located on the property of the retail establishment.



Section 2. This ordinance shall be effective upon adoption.