

**ACTION REQUEST FORM**

**DATE:** June 21, 2006  
**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 Planning Staff

**SUMMARY OF INFORMATION:**

Zoning Text Amendment proposed by Planning Staff to amend: Chapter B-Zoning Ordinances, of the *Unified Development Ordinances* to provide greater parking flexibility for changes in use for buildings with parking nonconformities (UDO-160, Revised).

**PLANNING BOARD ACTION:**

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

## STAFF REPORT

**DOCKET #:** UDO 160 (Revised)

**STAFF:** Jesse Beckom

### **REQUEST**

UDO Text Amendment proposed by City-County Planning Board Staff to amend Chapter B Zoning Ordinance, Article V-Nonconforming Situations is amended by adding new section B.5-4.3(E) to provide an exemption for required off-street parking for existing nonconforming, nonresidential structures in GMA 1 and 2, and Article III-Other Development Standards to add a cross reference for B.5-4.3 (E).

### **CONTINUANCE HISTORY**

City Council remanded the case to the Planning Board on May 1, 2006 to reconsider the approval process for the "Restaurant" Use classification. Instead of requiring a variance granted by the Zoning Board of Adjustment as recommended by the Planning Board, City Council alternatively recommends restaurants obtain a Special Use Permit through the elected board. This change in process would require restaurants with or without drive-through service obtain a Special Use Permit from the Elected Body in order to be eligible for the parking relief under new section B.5-4.3 (E) within Chapter B Zoning Ordinance, Article V-Nonconforming Situations.

### **BACKGROUND**

The City-County Planning Staff is requesting a UDO Text Amendment to change the way the City of Winston-Salem defines and enforces off-street parking requirements for nonconforming, nonresidential structures.

Currently all structures are required to meet specific off-street parking standards for each defined UDO use classification. Unfortunately, such parking requirements have unintentionally lead to the existence of many vacant structures within older business districts in GMA 1 and 2. This takes away from the appearance and vital character of the street presence and discourages new business investment in areas that are in need of improvement.

### **ANALYSIS**

At present many older businesses in GMA 1 and 2 are considered to be nonconforming structures because they do not meet current UDO requirements for off-street parking. As a consequence many of these structures have difficulty finding new tenants once old tenants leave. This issue of nonconformity is due to the fact that most of these areas were developed prior to 1968, a time when commercial districts were designed to be more pedestrian oriented, and before current parking requirements. These structures were accessible via walking to residential neighborhoods and used on-street parking to address parking needs. The problem arises when the current parking requirements for a proposed new use exceeds the parking available at the site.

Although the Board of Adjustment (B.O.A) may grant a wavier for required off-parking, the petitioner must demonstrate a hardship to the B.O.A. The uncertainty of the B.O.A. approval substantially discourages new business investment. This lack of investment leads to diminished business corridors and provides vacant buildings for illicit activities.

Staff is proposes that nonconforming, nonresidential structures in GMA 1 and 2 built prior to September 16, 1968, be exempted from current parking regulations to make it easier to attract new business investment, with two exceptions:

- Any expansion of a nonconforming structure must provide adequate parking for the expanded floor area of the business and;
- Elected Body approval is needed for any proposed new use under the “Restaurant” classification.

Although staff is concerned about the prospect of more intensive businesses requiring more parking than an area can accommodate, staff believes that businesses generally will not locate in areas that have inadequate parking. Business owners and developers in urban settings recognize that their establishments need a certain number of customers to be successful and in turn make sure adequate parking is available. It is also for this reason that the elected body will have to grant approval via Special Use Permit for any proposed adaptive re-use under the “Restaurant” classification. The elected body review process should protect surrounding neighborhoods from parking encroachment from the more intensive uses.

The approval of this amendment will aide the City in its revitalization efforts through reuse of existing commercial structures in older areas. Such areas may include Ardmore Village along Hawthorne and Magnolia Road; West End along Reynolda Road and Burke Street; Patterson/Glenn Neighborhood Activity Center along Patterson Avenue; Liberty Street Neighborhood Activity Center; Ogburn Station Neighborhood Activity Center along Rural Hall Road and Old Walkertown Road; and other similar areas throughout the city. All of the locations cited above have been previously identified by the City as areas that are in need of business reinvestment and redevelopment. Without this amendment staff believes that these areas may continue to decline.

Given these considerations, this amendment will provide the City with another valuable tool to help in its continuing efforts to revitalize older business districts.

## **RECOMMENDATION**

### **APPROVAL**

### **PUBLIC HEARING**

FOR: None

AGAINST: None

**WORK SESSION**

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

SECOND: Carol Eickmeyer

VOTE:

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

AGAINST: None

EXCUSED: None

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A. Paul Norby, FAICP  
Director of Planning

**UDO 160**  
**AN ORDINANCE AMENDING**  
**THE ZONING ORDINANCE,**  
**OF THE *UNIFIED DEVELOPMENT ORDINANCES***  
**REGARDING PARKING REQUIREMENTS FOR NONCONFORMING**  
**NONRESIDENTIAL STRUCTURES IN GMA 1 AND 2**

Be it resolved, by the City Council of the City of Winston-Salem, North Carolina, that the *Unified Development Ordinances* (UDO) is hereby amended as follows:

**Section 1.** CHAPTER B ZONING ORDINANCE, ARTICLE III – OTHER DEVELOPMENT STANDARDS is hereby amended as follows:

**3-3        PARKING, STACKING, AND LOADING AREAS**

**3-3.1      GENERAL REQUIREMENTS**

**(C)        Changes in Use**

If a change in principal use causes an increase in the required number of off-street parking, stacking, or loading spaces, such additional spaces shall be provided in accordance with the requirements of this section. However, if the change in use requires an increase of less than five percent (5%) in the required number of spaces, no additional off-street parking, stacking, or loading spaces shall be required.

Section B.5-4.3 (E) allows parking exceptions for changes of use in older nonresidential structures that are nonconforming as to off-street parking requirements in GMA 1 and GMA 2.

**Section 2.** CHAPTER B ZONING ORDINANCE, ARTICLE V – NONCONFORMING SITUATIONS is hereby amended as follows:

**5-4        NONCONFORMING STRUCTURES AND IMPROVEMENTS**

**5-4.3      MAINTENANCE, RENOVATION, EXPANSION AND RECONSTRUCTION AND PARKING**

**(A)        Maintenance**

Normal repair and maintenance may be performed to allow the continuation of nonconforming structures or improvements.

**(B)        Renovation**

Renovation of nonconforming structures or improvements is permitted if the renovation does not increase the floor area or cubical content of the structure or the area of any improvement.

**(C) Expansion**

Expansion of nonconforming structures or improvements is permitted under the following provisions:

- (1) **Expansion Complies With Ordinance.** The proposed expansion of the nonconforming structure or improvement conforms to the dimensional requirements and other standards of this Ordinance; and,
- (2) **Other.** The proposed expansion of the nonconforming structure or improvement conforms to the parking requirements of Section B.3-3, the bufferyard requirements of Section B.3-5, and the TO District provisions of Section B.2-1.6(B). The bufferyard standards shall apply to the entire zoning lot, not to remaining vacant land existing as of the effective date of this Ordinance.

**(D) Reconstruction**

Any nonconforming structure or improvement which is demolished or destroyed may be reconstructed on the same lot, provided such reconstruction shall be accomplished:

- (1) **Permit.** Pursuant to a validly issued permit within two (2) years of demolition or destruction of the structure or improvement;
- (2) **Area.** Without any increase in the cubical content or floor area;
- (3) **Location.** Without any change in location except to provide greater front, side, or rear yard areas; and,
- (4) **Time.** Within two (2) years from issuance of a building permit.

**(E) Parking for Nonresidential Structures built prior to September 16, 1968.**

Nonresidential structures that are nonconforming as to off-street parking requirements in GMA 1 and GMA 2 may change uses within the building without any requirement to increase existing off-street parking on the zoning lot including zoning lots without any off-street parking. This exemption includes all permitted uses except the uses of “Restaurant (without drive-through service)” and “Restaurant (with drive-through service)”. A Special Use Permit from the Elected Body in accordance with Section B.6-1.5 must be granted for restaurant uses. Additions to these nonresidential structures shall be permitted in accordance with section B.5-4.3 (C), however, no new additions shall be permitted which would eliminate any existing off-street parking on the zoning lot unless the number of parking spaces remaining meets the number required by the Zoning Ordinance for the zoning lot.

**Section 3.** This Ordinance shall become effective upon adoption.