

FORSYTH COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: _____ **AGENDA ITEM NUMBER:** _____

SUBJECT:-

Zoning Text Amendment proposed by the CDHGG Committee of the Winston-Salem City Council to change the definitions of "Boarding or Rooming House" and "Family" and associated changes. (UDO-96)

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:-

SUMMARY OF INFORMATION:-

See attached staff report.

After consideration, the Planning Board recommended approval of the zoning text amendment.

ATTACHMENTS:- YES NO

SIGNATURE: _____ **DATE:** _____

ACTION REQUEST FORM

DATE: June 23, 2004
TO: The Honorable Mayor and City Council
FROM: A. Paul Norby, AICP, Director of Planning

COUNCIL ACTION REQUEST:

Request for Public Hearing on zoning text amendment of CDHGG Committee of the Winston-Salem City Council

SUMMARY OF INFORMATION:

Zoning Text Amendment proposed by the CDHGG Committee of the Winston-Salem City Council to change the definitions of “Boarding or Rooming House” and “Family” and associated changes. (UDO-96)

PLANNING BOARD ACTION:

MOTION ON PETITION: APPROVAL
FOR: CLARK, GLENN, KING, LAMBE, MULLICAN, NORWOOD, SMITH
AGAINST: EICKMEYER
SITE PLAN ACTION: NOT REQUIRED

STAFF REPORT

DOCKET #: UDO-96

STAFF: David Reed

REQUEST

Request by the Community Development/Housing/General Government Committee (CDHGG Committee) of the City Council to amend the definition, use conditions and accessory use requirements related to Rooming or Boarding Houses and Families.

HISTORY

An earlier version of the text amendment was heard by the Planning Board at their January 9, 2003 public hearing. The CDHGG Committee sent the amendment back to an interdepartmental staff team to continue to work on it. The current draft is a result of that work.

BACKGROUND

Staff began work on this text amendment at the request of the Community Development/Housing/General Government Committee at its August 14, 2001 meeting. Residents in the Southeast Ward had voiced some concern about what they understood to be Rooming or Boarding Houses, indicating these properties had become locations for drug use, prostitution, and other illegal activities. After investigation by the Inspections staff, it was determined that many of these properties were not Rooming or Boarding Houses, but were rental homes occupied by four unrelated adults. Four Unrelated Persons meets the current definition of Family in the UDO.

At the request of the CDHGG Committee, staff compared our current code requirements with those of Raleigh, NC, Richmond, VA, and Tallahassee, FL. Each municipality has a different approach to regulating Rooming or Boarding Houses. The City Attorney also cautioned staff that code provisions in other states may not be permissible under North Carolina statutes. After reviewing code requirements from the other communities, a group of staff was convened to develop a multi-pronged approach that investigated the feasibility of various elements of the other codes.

Housing and Neighborhood Services, the Inspections Division, the City Attorney, the County Attorney, the Police Department, and Planning staff over several months explored potential amendments to the UDO in order to address the concerns of the Southeast Ward residents. Legal considerations and staffing constraints played a significant role in these discussions.

In October 2002, the CDHGG Committee directed staff to prepare a draft text amendment that included a revision to the definition of Family by reducing the number of unrelated adults who could legally reside in a dwelling unit from four to two. The Board also asked staff to determine the potential impacts on student housing that could result from the revised definition. Responses

from local colleges and schools ranged from a simple preference of retaining the current definition of Family, to a concern that reducing the number of unrelated adults who could legally live together would have a significant and dramatic negative effect in terms of availability and affordability of student housing.

Planning staff prepared a text amendment that was heard by the Planning Board at their January 9, 2003 public hearing. Both the Planning Board and staff recommended denial of the part of the text amendment recommending that the definition of Family be reduced from four to two unrelated adults (staff report attached).

After the January 9, 2003 public hearing of the Planning Board, the CDHGG Committee sent the text amendment back to the interdepartmental staff team to continue to work on a solution.

ANALYSIS

As is the case with all text amendments, the Planning Board is charged with considering the effects of the amendment on the entire community rather than focusing on the specific situation driving the amendment.

Legal considerations and staffing constraints have continued to limit the options available to address this issue. The Tallahassee, Florida code appeared to be a model that would work; however, North Carolina enabling legislation does not give the authority to make distinctions between owner occupied and rental properties. Because the problems involve enforcement by Housing and Neighborhood Services, Inspections Division, and the Police Department, it was difficult to determine how much of the problem could be dealt with by each agency and how that would result in a comprehensive approach.

Because the majority of complaints involve rental properties that have individual persons living in separate locked rooms, rather than living as a single housekeeping unit, the current draft focuses on addressing that specific situation. Rather than reducing the maximum number of unrelated adults in the definition of Family, this text amendment focuses on clarifying what a single housekeeping unit is. As such it gives the Inspections and Housing staff specific criteria for identifying rental houses that are not being maintained as a single housekeeping unit.

There are two other significant differences between the current draft and the earlier draft. First the current draft has no language regarding the discontinuance of use. In discussions with the City Attorney, an amortization period would have to be established within the adoption of the new requirements, which then allow a period of time before any nonconforming uses could be forced to be discontinued. Second is the registration of boarding or rooming houses. Some of the interdepartmental staff met with some of the major landlords in the City and determined that a registration requirement would be a burden on law abiding landlords and do little to bring noncompliant landlords into compliance.

Because this draft of the amendment does not reduce the number of persons defined as a Family and focuses more directly on the types of rental properties that are the subject of complaints, staff is supportive of the text amendment. It is assumed that any staffing and administrative impacts in the Inspections Department will be accommodated if the amendment is approved.

RECOMMENDATION

Staff recommends **APPROVAL**, provided that staffing and administrative impacts are properly accommodated in order to handle the increased workload.

David Reed presented the staff report.

PUBLIC HEARING

FOR:

Nancy Byrum, by Molly Leight, 303 S. Main Street, Winston-Salem, NC 27101

- Ms. Byrum had to leave the meeting. She asked Molly Leight to share her comments as follows.
- This is not perfect, but it's a first step. We dislike the idea that people who have a couple of students living in their house might be caught in this. But, some of the areas in our city had horrible problems with this situation and this will address those major problems.
- This is often a business, so we hope for a licensing mechanism.
- Neighborhood groups are very much in support of some way to get around this problem.

AGAINST: None

WORK SESSION

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

Motion failed for lack of second.

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

- Clarence Lambe: I think it is way too broad.
- Paul Mullican: I hate that people who we want to help are going to get caught in this and will be hurt by the regulations.
- Brenda Smith: If they could say this will really fix the problem, I could support it, but it seems to be more of an enforcement issue.

MOTION: Jimmy Norwood moved approval of the text amendment if the number of resident guests in Section 6 is left at three guests.

SECOND: Clarence Lambe

VOTE:

FOR: Clark, Glenn, King, Lambe, Mullican, Norwood, Smith

AGAINST: Eickmeyer

EXCUSED: None

Written Comments from Planning Board Members:

Carol Eickmeyer: Against because it raised # of people from 1 to 3 people with locked doors etc.

Lavastian Glenn: I voted for the UDO 96 with the change for allowing up to 3 guests on a weekly basis because I think it is reasonable for an owner occupied structure. I feel that the issue is enforcement of problem properties that are not owner occupied and being run as a business.

A. Paul Norby, AICP
Director of Planning

UDO-96
(VERSION SENT TO THE PLANNING BOARD
BY THE CITY COUNCIL)
AN ORDINANCE AMENDING
CHAPTERS A (DEFINITIONS) AND B (ZONING) OF THE
UNIFIED DEVELOPMENT ORDINANCES (UDO)
REGARDING ROOMING OR BOARDING HOUSES
AND THE DEFINITION OF FAMILY

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

Section 1. Article II of Chapter A Definitions is amended by revising the definitions as indicated below:

"BOARDING OR ROOMING HOUSE. An owner occupied dwelling, or part thereof, in which lodging is provided to more than ~~three (3)~~ one (1) but not more than eight (8) ~~paying~~ resident guests on a weekly or longer basis."

"FAMILY. One or more persons related by blood, adoption, or marriage, and their foster parents, or children, or stepparents, or stepchildren, living together in a single dwelling unit; or a number of persons eighteen (18) years or older, not exceeding four (4) and their children or stepchildren ~~under eighteen (18) years of age,~~ living together as a single housekeeping unit in a single dwelling unit, though not all related by blood, adoption, or marriage; and such domestic servants as are employed on the same premises.

For the purposes of this definition, a family living together as a single housekeeping unit implies some common and unified activity among members of the household and reasonable access to all areas of the dwelling unit. The terms "family" and "single housekeeping unit" are not to be construed as simply certain numbers of people with little or no contact or relationship. As such, the presence of certain structural features to the dwelling unit, including, but not limited to, (1) separate double key or other locking mechanisms on internal bedroom doors which have the purpose of preventing access while the bedroom is not occupied, (2) multiple mailboxes on the house or property, (3) locked or partitioned inside stairwells or doors physically separating parts of the house, (4) separate electrical meters, (5) separate kitchens, or (6) multiple exterior entrances to living areas, shall constitute evidence that there is not a single housekeeping unit established, and that the terms of the definition of "family" are not met.

A family may include five (5) or fewer foster children placed in a family foster home licensed by the State of North Carolina. The term *family* shall not be construed to include any group of persons living together as a fraternal, sororal, social, honorary, or professional organization.

For the purposes of this definition, the following persons shall be considered related by blood: (A) any relative of the head of household or of the spouse (whether living or dead) of the head of household to the third degree of collateral ~~eonsanguinity~~ kinship, or to any degree of lineal

~~consanguinity~~ kinship, as defined in State law; and, (B) a parent or child by adoption, marriage, or legitimization of any person (including the head of household or spouse of the head of household) described in (A) above; and, (C) a dependent, as defined in State law, of any person described in (A) or (B) above."

Section 2. Table 2.6 Permitted Uses Table is revised by adding "60" (or current number) in the "Conds" column opposite the use "Residential Building, Single Family".

Section 3. Section 2-5 "Use Conditions" is revised by adding a new section 2-5.60 (or current number) as follows:

2-5.60 RESIDENTIAL BUILDING, SINGLE FAMILY

No double key or other locking mechanism which has the purpose of preventing access while the room is uninhabited shall be installed on any interior bedroom door within the dwelling unit, except for a single bedroom if used as lodging for a resident guest under home occupation provisions.

Section 4. Section 2-5.8 Boarding or Rooming House Use Conditions of Chapter B Zoning is hereby revised to read as follows:

"(A) Minimum Lot Size in RM Districts

In RM Districts, the minimum lot area shall be determined based on the minimum lot area required for a two-unit dwelling in the district.

Section 5. Section 2-6 Accessory Uses of Chapter B Zoning is revised by amending Section 2-6.4(B)(1)(b)(i) and 2-6.4(C)(1)(a) to read as follows:

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

Section 6. Section 2-6 Accessory Uses of Chapter B Zoning is revised by amending Section 2-6.4(D) Home Occupation by revising subsection 2-6.4(D)(2)(a)(iii) to read as follows:

"(iii) Lodging, or boarding and lodging, of not more than ~~three~~ one resident guests, where the owner is an occupant of the property. All lodging or boarding of guests under the home occupation provisions must be registered with the Zoning Officer when established.

Section 8. This ordinance shall be effective upon adoption.

UDO-96
(VERSION RECOMMENDED BY PLANNING BOARD)
AN ORDINANCE AMENDING
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