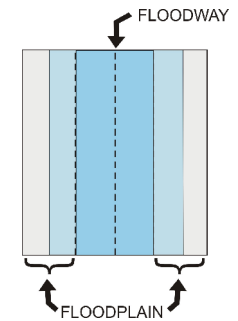


**DOCKET #:** W3055

**PROPOSED ZONING:**  
PB and SUP for  
Parking Reduction

**EXISTING ZONING:**  
HB

**PETITIONER:**  
Marshall Street LLC  
for property owned  
by Same



**SCALE:** 1" represents 200'

**STAFF:** Reed

**GMA:** 2

**ACRES:** 0.12

**NEAREST  
BLDG:** 8' southwest

**MAP(S):** 630850



March 17, 2010

Marshall Street LLC  
c/o Mark Freedman  
6303 High View Road  
Greensboro, NC 27410

RE: ZONING MAP AMENDMENT W-3055

Dear Mr. Freeman:

The attached report of the Planning Board to the City Council is sent to you at the request of the Council Members. You will be notified by the City Secretary's Office of the date on which the Council will hear this petition.

Sincerely,

A. Paul Norby, FAICP  
Director of Planning

pc: City Secretary's Office, P.O. Box 2511, Winston-Salem, NC 27102  
Teresa O'Brien, 924 S. Marshall Street, Winston-Salem, NC 27101  
Margaret Snyder, 1001 S. Marshall Street, Winston-Salem, NC 27101

**ACTION REQUEST FORM**

**DATE:** March 17, 2010  
**TO:** The Honorable Mayor and City Council  
**FROM:** A. Paul Norby, FAICP, Director of Planning

**COUNCIL ACTION REQUEST:**

Request for Public Hearing on zoning map amendment of Marshall Street LLC

**SUMMARY OF INFORMATION:**

Zoning map amendment of Marshall Street LLC from HB to PB and Special Use Permit for a reduction in off-street parking: property is located on the southwest side of South Marshall Street, north of West Salem Avenue (Zoning Docket W-3055).

**PLANNING BOARD ACTION:**

<b>MOTION ON PETITION:</b>	APPROVAL
<b>FOR:</b>	UNANIMOUS
<b>AGAINST:</b>	NONE
<b>MOTION ON SPECIAL USE PERMIT:</b>	APPROVAL
<b>FOR:</b>	UNANIMOUS
<b>AGAINST:</b>	NONE
<b>SITE PLAN ACTION:</b>	NOT APPLICABLE

CITY ORDINANCE - GENERAL USE

Zoning Petition of Marshall Street LLC, Docket W-3055

AN ORDINANCE AMENDING THE WINSTON-SALEM  
CITY ZONING ORDINANCE AND THE  
OFFICIAL ZONING MAP OF THE CITY OF  
WINSTON-SALEM, N.C.

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BE IT ORDAINED by the City Council of the City of Winston-Salem as follows:

Section 1. The Winston-Salem City Zoning Ordinance and the Official Zoning Map of the City of Winston-Salem, N.C. are hereby amended by changing from HB to PB the zoning classification of the following described property:

PIN #6835-21-5222

Section 2. This ordinance shall become effective upon adoption.

CITY ORDINANCE - SPECIAL USE PERMIT

Special Use Permit of Marshall Street LLC,  
Docket W-3055

AN ORDINANCE ISSUING A SPECIAL USE  
PERMIT FOR A REDUCTION IN OFF-STREET PARKING

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BE IT ORDAINED by the City Council of the City of Winston-Salem as follows:

Section 1. The City Council hereby makes an affirmative finding as follows, based upon the material and competent evidence presented at the public hearing:

1. 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;
2. That the use meets all required conditions and specifications;
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and,
4. That the location and character of the use, if developed according to the application submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with *Legacy*.

Section 2. The Winston-Salem City Council hereby issues a special use permit for a reduction in off-street parking in accordance with Section 6-1.5 of the Zoning Ordinance of the *Unified Development Ordinances* to Marshall Street LLC to be established on the following described property:

PIN #6835-21-5222

Section 3. The City Council hereby directs the issuance of a Special Use Permit pursuant to Section 6-1.5 of the Zoning Ordinance of the *Unified Development Ordinances* for a development to be known as 924 South Marshall.

Section 4. This Ordinance shall be effective from and after its adoption.

**CITY-COUNTY PLANNING BOARD  
STAFF REPORT**

<b>PETITION INFORMATION</b>	
<b>Docket #</b>	W-3055
<b>Staff</b>	<a href="#">David Reed</a>
<b>Petitioner(s)</b>	Marshall Street LLC
<b>Owner(s)</b>	Same
<b>Subject Property</b>	PIN # 6835-21-5222
<b>Address</b>	924 South Marshall Street
<b>Type of Request</b>	General Use Zoning and Special Use Permit
<b>Proposal</b>	<p>The petitioner is requesting to amend the Official Zoning Maps for the subject property <b>from</b> HB (Highway Business) <b>to</b> PB (Pedestrian Business) and obtain a Special Use Permit to waive the parking requirement for a restaurant in a Nonresidential Structure existing prior to September 16, 1968.</p> <p><b>NOTE:</b> Both general, special use limited, and special use district zoning were discussed with the petitioner(s) who decided to pursue the rezoning as presented. With a General use, all uses in the District must be considered.</p>
<b>Zoning District Purpose Statement</b>	<p>The PB District is primarily intended to accommodate office, retail, service, institutional, and high density residential uses which customarily serve community and convenience business needs of smaller communities and urban nodes in the city and county. The district is intended to encourage the development of attractive, identifiable small towns, and to accommodate the pattern of building in the business concentrations surrounding the central core of Winston-Salem, and the central core of other municipalities in the County. The district should demonstrate pedestrian oriented design through elements such as buildings pulled up to the street, on-street parking, street trees, covered arcades, awnings, storefront display windows, public/private outdoor spaces, wide sidewalks, and building entrances facing the street. This district is intended for application in Growth Management Areas 1, 2 and 3.</p>
<b>Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(R)</b>	<p><b>(R)(1) - Is the proposal consistent with the purpose statement(s) of the requested zoning district(s)?</b></p> <p>Yes, the request is consistent with the purpose statement of the proposed PB District because the site is within the Urban Neighborhoods (GMA 2) and is adjacent to PB zoning on two sides.</p>
<b>GENERAL SITE INFORMATION</b>	
<b>Location</b>	Southwest side of South Marshall Street, north of West Salem Avenue
<b>Jurisdiction</b>	City of Winston-Salem
<b>Ward(s)</b>	South Ward
<b>Site Acreage</b>	± 0.12 acres
<b>Current Land Use</b>	Restaurant (without drive-through)

<b>Surrounding Property Zoning and Use</b>	<b>Direction</b>	<b>Zoning District</b>		<b>Use</b>
	North	HB		Parking Lot
	South	PB		The Enrichment Center
	East	HB		The Hewitt Business Center
	West	PB		The Enrichment Center
<b>Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(R)</b>	<b>(R)(2) - Is/are the use(s) permitted under the proposed classification/request compatible with uses permitted on other properties in the vicinity?</b>			
	Yes. The area has a mixture of established PB and HB uses.			
<b>Physical Characteristics</b>	The site is relatively flat with no streams or wetlands.			
<b>Proximity to Water and Sewer</b>	The site is served by public water and sewer.			
<b>Stormwater/ Drainage</b>	No known issues.			
<b>Watershed and Overlay Districts</b>	The subject property is not located within a water supply watershed.			
<b>Analysis of General Site Information</b>	The site contains a relatively flat topography with no streams or wetlands. Located on the site is the Celtic Cafe. No site modifications are proposed with this request.			
<b>SITE ACCESS AND TRANSPORTATION INFORMATION</b>				
<b>Street Name</b>	<b>Classification</b>	<b>Frontage</b>	<b>ADT Count</b>	<b>Capacity/LOS D</b>
Marshall Street	Minor Thoroughfare	50 feet	1,000	12,700
<b>Proposed Access Point(s)</b>	Site is served only by pedestrian access			
<b>Trip Generation - Existing/Proposed</b>	No trip generation available for General Use Zoning.			
<b>Sidewalks</b>	Sidewalks exist along the site's frontage.			
<b>Transit</b>	Route 29 along South Marshall Street.			
<b>Traffic Impact Study (TIS)</b>	No TIS is required.			
<b>Analysis of Site Access and Transportation Information</b>	The site is located on the periphery of downtown Winston-Salem with an established network of roads and sidewalks to serve the property. Sidewalks currently exist along South Marshall Street in front of the property.			
<b>CONFORMITY TO PLANS AND PLANNING ISSUES</b>				
<b>Legacy GMA</b>	GMA 2 (Urban Neighborhoods)			
<b>Relevant Legacy Recommendations</b>	<ul style="list-style-type: none"> <li>• Encourage compact, pedestrian-oriented neighborhoods that contain a mixture of residential and commercial buildings, public spaces and amenities, and offer a variety of transportation options.</li> <li>• Apply traditional neighborhood design principles and standards to existing neighborhoods and neighborhood commercial areas.</li> </ul>			

<b>Relevant Area Plan(s)</b>	<i>South Central Area Plan</i>
<b>Area Plan Recommendations</b>	<ul style="list-style-type: none"> <li>The site is located in the Southeast Gateway Neighborhood Activity Center. The <i>South Central Area Plan</i> recommends providing neighborhood services in this area. It recognizes that the major strengths of this Activity Center are good pedestrian access and the potential to share parking with existing uses in the general area.</li> </ul>
<b>Greenway Plan Information</b>	The Strollway is located one block east along Old Salem Road.
<b>Special Use Permit Findings</b>	<p><u>Planning Board Findings</u> Findings of the Planning Board accompanying a favorable recommendation shall include:</p> <ol style="list-style-type: none"> <li>The development is in conformity with <i>Legacy</i>; <i>Yes</i></li> <li>Water and sewer service are available in adequate capacity; <i>Yes</i></li> <li>Where buildings greater than thirty-five (35) feet in height are proposed within the City of Winston-Salem limits, there is adequate access for aerial fire-fighting equipment; <i>Not applicable</i></li> <li>Streets and highways, both within and in the vicinity of the development, are of such design and traffic-carrying capacity that the development will not create a traffic hazard; <i>Yes</i></li> <li>General layout and design of the development meet all requirements of this Ordinance; <i>Yes</i></li> <li>Adequate, safe, and convenient provision is made for vehicular and pedestrian movement on the site with particular attention paid to the needs of public safety equipment and personnel (fire, police, etc.) and service vehicles and personnel (sanitation, postal delivery, etc.); <i>Yes</i></li> <li>The Planning Board may recommend to the Elected Body conditions as identified in Section B.6-1.3(A)(1) for the issuance of the special use permit to reduce impacts associated with the project. <i>No additional conditions recommended</i></li> </ol>



	<p><u>Elected Body Findings</u>  The Elected Body shall issue a special use permit only when the Elected Body makes an affirmative finding as follows:</p> <ol style="list-style-type: none"> <li>1. 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;  <i>Yes</i></li> <li>2. That the use meets all required conditions and specifications;  <i>Yes</i></li> <li>3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity;  <i>Yes; and</i></li> <li>4. 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 <i>Legacy</i>.  <i>Yes</i></li> </ol>					
<b>Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(R)</b>	<b>(R)(3) - Have changing conditions substantially affected the area in the petition?</b>					
	Yes. When it was used for another restaurant, the site had a long term parking lease on property currently owned by Old Salem Inc. That lease has expired. UDO-160 was adopted to provide greater flexibility for changes in use for older buildings; and the <i>South Central Area Plan</i> was adopted which encourages shared parking in the Neighborhood Activity Center.					
	<b>(R)(4) - Is the requested action in conformance with <i>Legacy</i>?</b>					
	Yes.					
<b>Analysis of Conformity to Plans and Planning Issues</b>	Yes, request is consistent with the purpose statement of the proposed PB District in that the site is located within the Urban Neighborhoods (GMA 2). Also the existing structure demonstrates pedestrian oriented design elements with the entrance facing the street.					
<b>RELEVANT ZONING HISTORIES</b>						
<b>Case</b>	<b>Request</b>	<b>Decision &amp; Date</b>	<b>Direction from Site</b>	<b>Acreage</b>	<b>Recommendation</b>	
					<b>Staff</b>	<b>CCPB</b>
W-3053	LI to PB	Approved 2-15-10	300' southwest	0.34	Approval	Approval
W-3029	MU-S TWO PHASE Site Plan Amendment	Withdrawn 5-4-09	800' west	17.82	Approval	Tie Vote

W-2736	IP, HB, LI & GI to MU-S TWO PHASE	Approved 12-6-04	350' south	49.04	Approval	Approval
CONCLUSIONS TO ASSIST WITH RECOMMENDATION						
Positive Aspects of Proposal			Negative Aspects of Proposal			
The request meets the findings of fact.			The request may indirectly create a "parking burden" on other businesses in the area.			
The site is located in a pedestrian friendly area.						
Approval would allow the existing building to continue to be used.						

**STAFF RECOMMENDATION FOR REZONING:** APPROVAL

**STAFF RECOMMENDATION FOR SPECIAL USE PERMIT:** APPROVAL

**NOTE:** These are **staff comments** only; final recommendations on projects are made by the City-County Planning Board, with final decisions being made by the appropriate Elected Body, who may approve, deny, table or request modification for any project. **THE APPLICANT OR REPRESENTATIVE IS STRONGLY ENCOURAGED TO ATTEND THE PUBLIC HEARINGS WHERE THE CASE WILL BE CONSIDERED BY THE PLANNING BOARD AND THE ELECTED BODY.**

David Reed presented the staff report.

**PUBLIC HEARING**

FOR:

Teresa O'Brien, 924 S. Marshall Street, Winston-Salem, NC 27101

- This restaurant has been in existence in excess of 20 years.
- Until 2008 there were formal parking arrangements for this restaurant. Since then we've been informally using the Hewitt parking lot, parking spaces of Poplar Street, and parking at the Enrichment Center.
- The prevailing zoning in the area is Pedestrian Business. Having us zoned as Highway business poses a hardship at this point.
- A lot of our customers ride their bicycles to our restaurant. A lot of people come from the new Y and come on foot.
- I think we are an ideal location for Pedestrian Business zoning.

AGAINST:

Margaret Snyder, 1001 S. Marshall Street, Winston-Salem, NC 27101

- I am the Property Manager at the Hewitt Center.
- I'm not in opposition to the amending of the zoning for Pedestrian Business. That will not impact us.

- I am in opposition for the petitioner to obtain a special use permit to waive the parking requirement for a restaurant in a non-residential structure.
- The Hewitt Business Center has grown tremendously since last year. The parking is needed for our tenants and customers.
- The restaurant did not have a long-term parking agreement from us which expired in 2008. I have been the property manager for Hewitt Center for about 9 years. From what I understand, many years back the restaurant got a business permit but never a parking permit.
- So previous owners had made parking deals.
- My biggest issue now is to make sure we're in code for having ample parking for my tenants and customers.
- That's the problem we're having right now.

### **WORK SESSION**

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

1. Arnold King noted that there is nothing in this request which would impact Hewitt Center's parking requirements. Paul Norby agreed that their parking requirements would not be impacted by whether or not other people were informally using it. Enforcement of parking lot use by their own patrons would be the responsibility of the Hewitt Center. Ms. Snyder noted that signs are posted.
2. David Reed clarified that the parking agreement wasn't with the Hewitt Center but with another property under different ownership.
3. Clarence Lambe asked for verification that approving this request would not negatively impact the Hewitt Center's situation. David Reed verified that the Hewitt Center's parking requirements would be met and the restaurant could rely more on on-street parking spaces.
4. Brenda Smith: Would this mean it doesn't officially count or just from a day-to-day situation there'll just be more people? You said the on-street parking wouldn't be available. David Reed explained that if the restaurant doesn't have any off-street parking then all it's parking will have to be on the street. If they are in those spaces on the street, then other people won't be in those spaces.
5. Clarence Lambe: If the Hewitt center were to come in next year with an enlargement where they had to come into compliance with the code or something which would trigger that, does the restaurant's use of the on-street parking impact how many on-street parking spaces Hewitt could use to meet current parking code requirements? David Reed responded that due to the age of the building it doesn't have any parking requirements. This building wouldn't have any either except that it's a restaurant. Hewitt will not have to worry about meeting parking requirements.

6. Lynne Mitchell: Parking is such an interesting issue. Is it illegal to park on the street there? Where there parking signs? David Reed responded that staff had spoken with Transportation . Right now there are no-parking signs further south which may not need to be there any longer because of the development of the Enrichment Center. WSDOT will look into that. Further north of the site there is a lot of on-street parking. On-street parking is generally prohibited when there are a lot of curb cuts close together because of the sight distance problems as you pull out of the driveways and there is a lot of that right in front of the building.
7. Paul Mullican: How many parking spaces are we talking about and how far is it going to go up the street. If these spaces are approved, what's going to prevent people going to the Hewitt Center from using these spaces? It seems like to me it's a first-come, first-serve basis. David Reed responded that there won't be spaces marked specifically for this business. It's just saying that on-street parking in the area can absorb it.
8. Arnold King: This has come to us because HB requires parking which is not available and PB doesn't require as much. This certainly appears to be a PB District and there is certainly no loss of parking spaces for anyone there.

MOTION: Wesley Curtis moved approval of the zoning map amendment and special use permit.

SECOND: Clarence Lambe

VOTE:

FOR: Wesley Curtis, Arnold King, Arthur King, Clarence Lambe, Lynne Mitchell, Paul Mullican, Brenda Smith

AGAINST: None

EXCUSED: None

MOTION: Arthur King moved to recommend that WSDOT look at establishing marked on-street parking in that vicinity.

SECOND: Paul Mullican

VOTE:

FOR: Wesley Curtis, Arnold King, Arthur King, Clarence Lambe, Lynne Mitchell, Paul Mullican, Brenda Smith

AGAINST: None

EXCUSED: None

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A. Paul Norby, FAICP  
Director of Planning