DOCKET #: W2918

PROPOSED ZONING:
SUP for Parking Variance for a Restaurant Use

EXISTING ZONING:
PB

PETITIONER:
Sam C. Ogburn Jr. for property owned by Same

SCALE: 1" represents 200'

STAFF: King

GMA: 1

ACRES: 0.46

NEAREST BLDG: 5' east

MAP(S): 624854
April 25, 2007

Sam C. Ogburn, Jr.
1056 Burke Street
Winston-Salem, NC 27101

RE: SPECIAL USE PERMIT W-2918

Dear Mr. Ogburn:

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
Sam Binkley, Lambert Architecture, 2400 Reynolda Road, Suite 202, Winston-Salem, NC 27106
W. D. Conrad, 661 W. 5th Street, Winston-Salem, NC 27101
**ACTION REQUEST FORM**

<table>
<thead>
<tr>
<th>DATE</th>
<th>April 25, 2007</th>
</tr>
</thead>
<tbody>
<tr>
<td>TO</td>
<td>The Honorable Mayor and City Council</td>
</tr>
<tr>
<td>FROM</td>
<td>A. Paul Norby, FAICP, Director of Planning</td>
</tr>
</tbody>
</table>

**BOARD ACTION REQUEST:**

Request for Public Hearing on Special Use Permit of Sam C. Ogburn, Jr.

**SUMMARY OF INFORMATION:**

Special Use Permit by Sam C. Ogburn, Jr. for permission to change the use of a Nonresidential Structure existing prior to September 16, 1968 to a Restaurant (without drive-through service) use in a PB zoning district without any requirement to increase existing off-street parking on the zoning lot: property is located on the east side of Spring Street, between Pilot View Street and Fifth Street (Zoning Docket W-2918).

**PLANNING BOARD ACTION:**

<table>
<thead>
<tr>
<th>MOTION ON PETITION:</th>
<th>APPROVAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>FOR:</td>
<td>UNANIMOUS</td>
</tr>
<tr>
<td>AGAINST:</td>
<td>NONE</td>
</tr>
<tr>
<td>SITE PLAN ACTION:</td>
<td>CONFORMS TO THE REQUIREMENTS OF THE UDO</td>
</tr>
</tbody>
</table>
CITY ORDINANCE - SPECIAL USE PERMIT
Special Use Permit of Sam C. Ogburn, Jr.,
Docket W-2918

AN ORDINANCE ISSUING A SPECIAL USE PERMIT FOR Parking Variance for a Restaurant (without drive-through service) use

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 and plan 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 Parking Variance for a Restaurant (without drive-through service) use in accordance with Section 6-1.5 of the Zoning Ordinance of the Unified Development Ordinances to Sam C. Ogburn, Jr. to be established on the following described property:

Tax Block 0086, Tax Lots 113, 114, 115, and 116

Section 3. This Ordinance is adopted after approval of the site plan entitled Doo-Wop Shops/Sam C. Ogburn, Jr. and identified as Attachment "A" of the Special Use Permit issued by the City Council the ______ day of __________________, 20___ to Sam C. Ogburn, Jr.

Section 4. 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 Doo-Wop Shops/Sam C. Ogburn, Jr. Said Special Use Permit and site plan with associated documents are attached hereto and incorporated herein.

Section 5. This Ordinance shall be effective from and after its adoption.
CITY - SPECIAL USE PERMIT

SPECIAL USE PERMIT

Issued by the City Council
of the City of Winston-Salem

The City Council of the City of Winston-Salem issues a Special Use Permit for the site shown on the site plan map included in this zoning petition of Sam C. Ogburn, Jr., (Zoning Docket W-2918). The site shall be developed in accordance with the plan approved by the Council and bearing the inscription: "Attachment A, Special Use Permit for Parking Variance for a Restaurant (without drive-through service) use, approved by the Winston-Salem City Council the _____ day of _____________________, 20____" and signed, provided the property is developed in accordance with requirements of Section B.6-1.5 of the Zoning Ordinance of the Unified Development Ordinances, and other applicable laws, and the following additional conditions be met:

• **PRIOR TO THE ISSUANCE OF GRADING PERMITS:**
  a. Developer shall obtain a driveway permit from City of Winston-Salem Public Works Department.

• **PRIOR TO THE ISSUANCE OF BUILDING PERMITS:**
  a. Renovations to the existing building shall be in substantial conformance with the volunteered building elevations, labeled as “Exhibit A.”

• **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS:**
  a. Developer shall close any unused driveway cuts and repair any damage from construction to City streets.

• **OTHER REQUIREMENTS:**
  a. Any freestanding signage shall be limited to one monument sign with a maximum height of six feet.
## CITY-COUNTY PLANNING BOARD
### STAFF REPORT

### PETITION INFORMATION

<table>
<thead>
<tr>
<th>Docket #</th>
<th>W-2918</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff</td>
<td>Aaron King</td>
</tr>
<tr>
<td>Petitioner(s)</td>
<td>Sam C. Ogburn, Jr.</td>
</tr>
<tr>
<td>Owner(s)</td>
<td>Same</td>
</tr>
<tr>
<td>Subject Property</td>
<td>Tax Lots 113-116, Tax Block 86</td>
</tr>
<tr>
<td>Proposal</td>
<td>Special Use Permit for permission to change the use of a Nonresidential Structure existing prior to September 16, 1968 to a Restaurant (without drive-through) use in a PB zoning district without meeting the off-street parking requirements.</td>
</tr>
</tbody>
</table>

### Zoning District Purpose Statement

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.

### GENERAL SITE INFORMATION

<table>
<thead>
<tr>
<th>Location</th>
<th>East side of Spring Street, between Pilot View Street and Fifth Street</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jurisdiction</td>
<td>City of Winston-Salem</td>
</tr>
<tr>
<td>Ward(s)</td>
<td>Northwest</td>
</tr>
<tr>
<td>Site Acreage</td>
<td>Approximately ± 0.46 acres</td>
</tr>
<tr>
<td>Current Land Use</td>
<td>Existing commercial building</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Surrounding Property Zoning and Use</th>
<th>Direction</th>
<th>Zoning District</th>
<th>Use</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>North</td>
<td>PB</td>
<td>Graphics business</td>
</tr>
<tr>
<td></td>
<td>East</td>
<td>PB</td>
<td>Church buildings and parking lot</td>
</tr>
<tr>
<td></td>
<td>South</td>
<td>IP</td>
<td>Church</td>
</tr>
<tr>
<td></td>
<td>West</td>
<td>HB</td>
<td>Convenience store and parking lot</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Physical Characteristics</th>
<th>The subject property is flat and contains no streams or wetlands.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proximity to Water and Sewer</td>
<td>The subject property has access to public water and public sanitary sewer.</td>
</tr>
<tr>
<td>Stormwater/Drainage</td>
<td>No known issues</td>
</tr>
</tbody>
</table>
Watershed and Overlay Districts
The subject property is not located within a water supply watershed.

Analysis of General Site Information
The subject property contains an existing building that was constructed in 1960 and used for automotive repair. This request would convert the existing structure into a retail building that would contain restaurant and commercial space. The site poses no development issues.

<table>
<thead>
<tr>
<th>Street Name</th>
<th>Classification</th>
<th>Frontage</th>
<th>ADT Count</th>
<th>Capacity/LOS D</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fifth Street</td>
<td>Major Thoroughfare</td>
<td>+/- 101 feet</td>
<td>6,621</td>
<td>32,200</td>
</tr>
<tr>
<td>Spring Street</td>
<td>Local Road</td>
<td>+/- 200 feet</td>
<td>922</td>
<td>NA</td>
</tr>
<tr>
<td>Pilot View Street</td>
<td>Local Road</td>
<td>+/- 102 feet</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>

Proposed Access Point(s)
The site will have access onto Fifth Street and Pilot View Street.

Planned Road Improvements
The Thoroughfare Plan recognizes Fifth Street as adequate.

Trip Generation - Existing/Proposed
Restaurant: \[5,000 / 1,000 \times 89.95 \text{(Quality Restaurant)} = 450 \text{ Trips per Day}\]
The remaining +/- 5,200 sf is designated for retail uses. Since the site is zoned PB general, staff cannot determine the trip generation for the retail portion of the building.

Sidewalks
The site has sidewalks along all road frontages.

Transit
Various transit routes run in close proximity to the site.

Traffic Impact Study (TIS)
Not required.

Analysis of Site Access and Transportation Information
The site is located within GMA 1 (City/Town Center Growth Management Area) in downtown Winston-Salem and has frontage along three public streets. Per UDO 160, commercial buildings constructed prior to 1968 are exempt from providing parking spaces for changes in use to most commercial uses. One use that must provide parking or receive a special use permit from City Council is restaurant. A restaurant of this size would be required to provide 34 spaces. The existing parking lot will be reconfigured to provide twenty five parking spaces. Approval of this special use permit would be for nine spaces that cannot be provided on-site. Staff believes that given the site’s location in downtown and the amount of additional parking in the area, that this request is valid. More people will also be able to walk to this site as the number of residents living in downtown continues to increase. The surrounding public streets are adequate to accommodate additional traffic generated from this request.

Generalized Recommended Conditions
**BRIEF DESCRIPTION OF CONDITION(S):**
- Condition to obtain WSDOT driveway permit
- Condition to close any unused driveway cuts and to repair any damage
## Conformity to Plans and Planning Issues

<table>
<thead>
<tr>
<th>Legacy GMA</th>
<th>GMA 1 (City Center)</th>
</tr>
</thead>
</table>

### Relevant Legacy Recommendations

**Infill and Redevelopment:** Make Downtown Winston-Salem a “vibrant downtown” by providing a safe, clean environment with high-quality public spaces, restaurants and specialty shops, and entertainment, sports and cultural events that will attract people back Downtown to work, shop and live. The “creative use of vacant land and abandoned buildings” will require redevelopment rather than greenfield development and public funds and incentives to the private market to rehabilitate centrally located urban lands.

<table>
<thead>
<tr>
<th>Relevant Area Plan(s)</th>
<th>2005 Downtown Plan Update—Downtown Winston-Salem Partnership</th>
</tr>
</thead>
</table>

### Area Plan Recommendations

Make downtown a DESTINATION by creating a core area of vibrant, intense mixed uses in a very pedestrian-friendly environment. Emphasize major employment center, restaurants, supportive and festive retail, entertainment, arts and downtown residential uses.

### Special Use Permit Findings

Findings of the Planning Board accompanying a favorable recommendation shall include:

1. The development is in conformity with Legacy;  
   *Yes*

2. Water and sewer service are available in adequate capacity;  
   *Yes*

3. 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;  
   *Not applicable*

4. 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;  
   *Yes*

5. General layout and design of the development meet all requirements of this Ordinance;  
   *Yes*

6. 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.);  
   *Yes*
7. 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.

**Elected Body Findings**
The Elected Body shall issue a special use permit only when the Elected Body makes an affirmative finding as follows:

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;
   *Yes*

2. That the use meets all required conditions and specifications;
   *Yes*

3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity;
   *Yes; and*

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 *Legacy*.
   *Yes*

| (S)(3) - Have changing conditions substantially affected the area in the petition? | No |
| (S)(4) - Is the requested action in conformance with *Legacy*? | Yes |

**Analysis of Conformity to Plans and Planning Issues**
Staff is supportive of this request to adaptively reuse the existing automotive repair business. The petitioner has volunteered elevations of what the structure will look like once converted. Staff would like to commend the petitioner for this adaptive reuse. In 2006, the City Council approved a UDO text amendment (UDO 160) which provides greater parking flexibility for changes in use for buildings with parking nonconformities. The text amendment allows the change of use to occur without having to increase existing off-street parking on the zoning lot. The exception called out in this text amendment is for restaurants. The City Council added language to the text amendment that in situations where the use is changing to a restaurant, a special use permit issued by the elected body is required. Staff believes that this request meets all of the applicable findings of fact as mentioned in the UDO and that this project positively contributes to the downtown area.
### Relevant Zoning Histories

<table>
<thead>
<tr>
<th>Case</th>
<th>Request</th>
<th>Decision &amp; Date</th>
<th>Direction from Site</th>
<th>Acreage</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>W-2761</td>
<td>RM-18 (HO) to LO-S</td>
<td>Approved 5/2/05</td>
<td>West</td>
<td>0.26</td>
<td>Approval</td>
</tr>
<tr>
<td>W-2704</td>
<td>L1 to PB</td>
<td>Approved 7/5/04</td>
<td>North</td>
<td>0.25</td>
<td>Approval</td>
</tr>
</tbody>
</table>

### Site Plan Compliance with UDO Requirements

<table>
<thead>
<tr>
<th>Item</th>
<th>Square Footage</th>
<th>Placement on Site</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Square Footage</td>
<td>10,256 sf</td>
<td>Eastern ½ of the site</td>
</tr>
<tr>
<td>Parking Required</td>
<td>34 spaces</td>
<td>Proposed 25 spaces</td>
</tr>
<tr>
<td>Building Height Maximum/Proposed</td>
<td>60 feet/21 feet</td>
<td></td>
</tr>
<tr>
<td>Impervious Coverage Maximum/Proposed</td>
<td>NA/96%</td>
<td></td>
</tr>
</tbody>
</table>

- **UDO Sections Relevant to Subject Request**
  - Chapter B, Article V, section B.5-4.3(E)

- **Complies with Chapter B, Article VII, Section 7-5.3**
  - (A) Legacy policies: Yes
  - (B) Environmental Ord.: Yes
  - (C) Subdivision Regulations: NA

- **Analysis of Site Plan Compliance with UDO Requirements**
The site plan submitted with this request generally provides an as-built layout of the site with the exception of the proposed angled parking. Staff is awaiting minor revisions to the site plan in order to demonstrate compliance with UDO requirements.

### Generalized Recommended Conditions

- Building improvements shall be in conformance with volunteered elevations
- Signage condition

### Conclusions to Assist with Recommendation

<table>
<thead>
<tr>
<th>Positive Aspects of Proposal</th>
<th>Negative Aspects of Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>The request demonstrates an adaptive reuse of an existing building.</td>
<td>The request may burden other surrounding areas with potential parking issues.</td>
</tr>
<tr>
<td>The location of the site would lend itself to more pedestrian traffic.</td>
<td></td>
</tr>
<tr>
<td>Additional off-street parking is available in the general area.</td>
<td></td>
</tr>
<tr>
<td>The request would allow another investment in the downtown area.</td>
<td></td>
</tr>
<tr>
<td>The request meets the findings of fact required for issuance of a special use permit.</td>
<td></td>
</tr>
</tbody>
</table>
The request is consistent with the recommendations of *Legacy* and the *Downtown Plan*.

### SITE-SPECIFIC RECOMMENDED CONDITIONS OF APPROVAL

The following proposed conditions are from interdepartmental review comments and are proposed in order to meet codes or established standards, or to reduce negative off-site impacts.

#### PRIOR TO THE ISSUANCE OF GRADING PERMITS:

a. Developer shall obtain a driveway permit from City of Winston-Salem Public Works Department.

#### PRIOR TO THE ISSUANCE OF BUILDING PERMITS:

a. Renovations to the existing building shall be in substantial conformance with the volunteered building elevations, labeled as “Exhibit A.”

#### PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS:

a. Developer shall close any unused driveway cuts and repair any damage from construction to City streets.

#### OTHER REQUIREMENTS:

a. Any freestanding signage shall be limited to one monument sign with a maximum height of six feet.

### STAFF RECOMMENDATION: 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.**

Aaron King presented the staff report.

### PUBLIC HEARING

**FOR:**

Sam Binkley, Lambert Architecture, 2400 Reynolda Road, Suite 202, Winston-Salem, NC 27106

- We intend to provide downtown Winston-Salem with another nice restaurant along with retail and business uses for the other 5,000 square feet of this building.
- We have not signed any agreements or leases at this time, but we would like to keep the restaurant option open for this building.
- That use would require 9 additional spaces.
- Our intention is to do something nice with the building, being an adaptive reuse.
• Almost every square inch of the site is utilized in a way to provide parking, sidewalks, and things that are attractive for the building.
• We submitted a photograph of the elevations because it is our intent to provide something attractive.

Sam Ogburn, Jr., 1056 Burke Street, Winston-Salem, NC 27101
• This is an exciting project to work on.
• Lambert has won several awards for their design work on our former projects and we expect this to be in the same category.
• We started marketing the project some time ago and were immediately approached by two restaurants. These are more moderate priced restaurants, everyday restaurants, which will be helpful with all the people moving downtown.
• We've had great interest on the remaining space we have left.
• We're on the edge of downtown which is why we're here today.
• I have notified the neighbors of our intentions by letter and have heard no response.

AGAINST:

W. D. Conrad, 661 W. 5th Street, Winston-Salem, NC 27101
• This has been my home for the last 60-70 years right next door to where they plan to build this hamburger/hot dog joint. I don't want anything like that.
• Both my sons are against this. They don't feel it's the appropriate place to put restaurants like this, being right across from the library and Centenary Methodist Church.
• We shouldn't have any restaurants of this type in this part of downtown.
• They shouldn't make any changes.
• There will be a large number of cars coming and people walking the streets to get there.

WORK SESSION

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

1. Mr. King explained that they are just looking at some relief from the parking requirements today. That is what is under consideration today.

2. It has been possible to put a restaurant here for a number of years. All the Planning Board is considering today is whether to exempt them from the parking requirements.

3. When you look at the overall goals of the City, this is exactly the type of development we need. However, the Board expressed their understanding of Mr. Conrad's statements, his feelings, and the difficulty of being here so long and seeing the area around him change.

MOTION: Clarence Lambe moved approval of the zoning map amendment, certified that the site plan meets all code requirements and recommends staff conditions.
SECOND: Paul Mullican
VOTE:
   FOR:  Jerry Clark, Wesley Curtis, Carol Eickmeyer, Arnold King, Arthur King, Clarence Lambe, Lynne Mitchell, Paul Mullican, Brenda Smith
   AGAINST:  None
   EXCUSED:  None

A. Paul Norby, FAICP
Director of Planning