



Winston-Salem/Forsyth County
PLANNING & DEVELOPMENT SERVICES

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Memorandum

TO: Mayor Allen Joines and Members of the City Council
FROM: Paul Norby, Director of Planning and Development Services
Angela Carmon, City Attorney
DATE: August 3, 2017
SUBJECT: Request from Council Member Denise Adams for information regarding zoning regulations governing the location and appearance of vehicle repair businesses

Council Member Adams recently inquired about ways to further regulate vehicle repair businesses, both in terms of location and condition. A particular concern was with the number and location of these uses in central city areas. This report summarizes: 1) a summary of the current regulations in the UDO, (2) how the current regulations changed from the language in the original UDO, (3) information concerning the location of these businesses, permitting and enforcement activity, and (4) some options for action that City Council could consider if it wishes to regulate these uses more strictly.

1. Summary of the Current Regulations in the UDO

Motor Vehicle Repair and Maintenance uses are currently allowed by right in the PB, NSB, HB, GB, MRB-S, E, LI, GI, and MU-S zoning districts. These uses are also allowed in the CB zoning district with a special use permit from the Board of Adjustment, but are prohibited in the “core area” of CB, defined as the area between Second, Chestnut, Fifth and Poplar Streets. Additionally, these uses are allowed in the NB and LB zoning districts, but only in the outlying Future Growth (GMA 4) and Rural Areas (GMA 5) as described in the *Legacy 2030* Growth Management Plan. A related use is Motor Vehicle Body or Paint Shops, which is allowed in HB, GB, LI, and GI zoning districts.

The regulations applicable to sites used for Motor Vehicle Repair and Maintenance involve:

- limitations on how many inoperable vehicles can be stored outside an enclosed building and
- screening and landscape buffers.

Concerning the limitations on the number of inoperable vehicles, Section 2-5.54 states that a legally established facility must store all inoperable vehicles on site in an enclosed building or in an approved Motor Vehicle Storage Yard (a separately defined and regulated use), **EXCEPT** that this enclosure and screening requirement does not apply for up to two inoperable vehicles per service bay at the establishment, up to a maximum total for the site of 10 inoperable vehicles. Concerning screening and landscaping buffers, Motor Vehicle Repair and Maintenance uses established since the effective date of the UDO must have a Type IV buffer against any adjoining single or multi-family zoning, and a Type I buffer against any low intensity commercial development. For Motor Vehicle Repair and Maintenance uses that also incorporate Motor Vehicle Storage Yards, those storage areas must be screened and buffered. Newer ones

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City Council: Mayor Allen Joines; Vivian H. Burke, Mayor Pro Tempore, Northeast Ward; Denise D. Adams, North Ward; Dan Besse, Southwest Ward; Robert C. Clark, West Ward; John C. Larson, South Ward; Jeff MacIntosh, Northwest Ward; Derwin L. Montgomery, East Ward; James Taylor, Jr., Southeast Ward; City Manager: Lee D. Garrity

County Commissioners: David R. Plyler, Chairman; Don Martin, Vice Chair, Fleming El-Amin; Ted Kaplan; Richard V. Linville; Gloria D. Whisenhunt; Everette Witherspoon; County Manager: Dudley Watts, Jr.

City-County Planning Board: Arnold G. King, Chair; Allan Younger, Vice-Chair; George M. Bryan, Jr.; Melynda Dunigan; Jason Grubbs; Tommy Hicks; Clarence R. Lambe, Jr.; Chris Leak; Brenda J. Smith

(established post-UDO) must be screened by an opaque masonry, stone or wood fence at least 6' high with a double row of evergreen plantings at least 6' high at planting. Older Motor Vehicle Repair and Maintenance uses originally had to retrofit their sites by the end of 2000 to have at least a chain link fence with slats installed around adjacent properties, with a streetyard or bufferyard planting area on the outside of it.

For Motor Vehicle Body or Paint Shop uses, any vehicles being worked on or awaiting repair must be kept in an enclosed building, or in a properly screened Motor Vehicle Storage Yard.

2. How the current regulations changed from the original UDO.

The current regulations are the result of a compromise from the original 1995 UDO language that prohibited any storage of inoperable vehicles except within an enclosed building or within an approved Motor Vehicle Storage Yard. Existing vehicle repair shops had until mid-1996 (18 months after the UDO effective date) to retrofit their facilities to meet the new requirements. However, the local Wreckers Association and the Independent Garage Owners Association expressed their strong concern about these requirements to the Planning Board and the Board of Aldermen, resulting in a delay in enforcement, and an over two year process of discussing, considering different versions, and ultimately adopting UDO 28 in March, 1999. This amendment specified acceptable and unacceptable screen fencing materials; gave Motor Vehicle Repair and Maintenance uses an exception of up to two inoperable cars per service bay of outside storage with a maximum of 10 per site; excluded from the definition of inoperative a vehicle with expired inspections of less than 4 months; allowed a streetyard planting area as an alternative to fencing; and extended the effective date for compliance to January 1, 2001.

A more minor amendment was approved by the Board of Aldermen in 2001 with UDO 76, which expanded the options for meeting the screen fencing requirements. The regulations have remained the same since.

3. Locations of uses and Inspections enforcement and permitting activities.

At the request of City Council members, the Planning and Development Services staff has inventoried over the last couple years, using a combination of field surveys and inspections records from the Fire Department, existing motor vehicle related uses in the urban portions (Growth Management Areas 1 and 2) of the City. These uses were compared with permitting data and mapped (attached). This information indicates that there appear to be 157 Motor Vehicle Repair and Maintenance and 21 Motor Vehicle Paint and Body uses scattered across permitted zoning districts in GMAs 1 and 2 of the City.

Concerning enforcement activities, the Inspections Division completed by the end of 2000 its inspections of existing Motor Vehicle Repair and Maintenance uses that had to retrofit their sites to assure compliance by that January 1, 2001 deadline. Consistent with normal practice, they have responded only to complaints since then, as well as inspections of newly permitted uses to assure their compliance at the time of occupancy. In response to complaints received, zoning enforcement staff have issued zoning violation notices for 25 locations Citywide, including 21 in in the urban portions of the City (Growth Management Areas 1 and 2) since 2014.

With regard to the amount of permitting activity in establishing new or expanded Motor Vehicle Repair and Maintenance uses, Inspections reports that since January 2014, there have been 54 permits issued County-wide for either Repair and Maintenance or Paint and Body uses, with 26 of those located within GMA 1 and 2. These permits include either new uses, or expansions or renovations of existing uses.

4. Potential actions for addressing the issues with these uses

If there are concerns with the appearance or location of some of these uses and their impact on surrounding areas, the City Council may consider the following options to address these concerns:

- a) Request Inspections to conduct field assessments of the compliance of existing uses with current regulations, and take appropriate enforcement action on those which do not comply.

Staff recommends that this step occur first before taking action on the other measures below to determine if proactive inspection and enforcement efforts will resolve some or all of the issues. If, after inspections are completed, it is apparent that compliance with existing regulations will not significantly reduce the negative visual impacts of these uses, other measures that might be considered include:

- b) Re-examining in which zoning districts new Motor Vehicle Repair and Maintenance uses should be allowed, given that 10 districts currently allow these uses in GMA 1, 2, and 3. This could include reducing the districts allowed to only the more “heavy” commercial and industrial districts; for example, eliminating districts such as PB, NSB, MU-S and possibly even HB for new uses (leaving GB, MRB-S, E, LI, and GI as districts allowing them). For Motor Vehicle Paint or Body Shops, consider eliminating the HB district from the list of districts permitting such uses, leaving GB, LI and GI as districts allowing them. Such an amendment would leave existing legally established uses in those districts as non-conforming uses, but would prohibit additional such uses in those districts. If Council desires to eliminate existing uses from the districts that were removed, legally non-conforming uses could be amortized and required to cease existing operations upon expiration of a reasonable time period. The challenge may be determining a reasonable period of time. Additionally, the City would need to examine the availability of sites within the new districts to make sure there are sufficient sites available for the relocation of the amortized establishments.
- c) As an alternative to b) above, Council could consider requiring an elected body Special Use Permit for new Motor Vehicle and Repair uses located in PB, NSB, HB and MU-S zoning; or alternatively, a requirement for an elected body Special Use Permit for any new use within 500 feet of a residentially zoned property. Similarly, for Motor Vehicle Paint and Body Shops, consider requiring a Special Use Permit for new such uses when in the HB District and within 500 feet of a residentially zoned property.
- d) Re-examine what vehicle storage, or landscaping and screening requirements should apply to new Vehicle Repair and Maintenance Uses and Repair uses. An example would be to reduce or eliminate the exception established in UDO 28 for 2 inoperable vehicles

per service bay or 10 maximum per site that do not have to be stored indoors or in a screened Motor Vehicle Storage Yard.

- e) Re-examine what if any new standards should apply for retrofitting existing Motor Vehicle Repair and Maintenance sites that are made non-conforming by the above changes.

If the City Council believes that new Vehicle Repair and Maintenance uses are being established under present regulations at a pace where there should be a temporary pause in issuing new permits while the above regulatory changes are being considered, a moratorium on new uses could be considered. Enacting a moratorium requires the adherence to a number of procedural requirements before the same is adopted. In order to enact a moratorium, Council must fully adhere to the provisions contained with G.S. 160A-381(e), which requires that any ordinance adopting a moratorium of greater than sixty (60) days expressly include each of the following:

- A clear statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the city and why those alternative courses of action were not deemed adequate.
- A clear statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.
- An express date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.
- A clear statement of the actions, and the schedule for those actions, proposed to be taken by the city during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

In considering any regulatory changes, Council members should expect a similar amount of concern and desire for input from the wrecker and independent garage owners community, as was the case in the late 1990s. A process to consider changes will likely take an extended time to allow for dialogue and interaction to take place.

If the Council wishes for zoning enforcement staff to undertake the proactive inspections or enforcement activities described in a) above, the staff can prepare to undertake that work during the fall and return with a report on the results. This could lead to consideration of the other menu of additional regulatory options and once Council identifies a preferred approach, staff can then prepare a proposed UDO amendment for more formal consideration.

We will be happy to answer further questions that Council members have about this subject.

pc: Lee Garrity, City Manager