

## STAFF REPORT

**DOCKET #** UDO-283

**STAFF:** [Kelly Bennett](#)

### **REQUEST**

UDO-283 is a zoning text amendment proposed by Planning and Development Services staff to amend Chapter B of the *Unified Development Ordinances* (UDO) to allow Residential Building, Townhouse and Residential Building, Multifamily in the HB (Highway Business) and GO (General Office) zoning districts, and to remove the uses Residential Building, Duplex and Residential Building, Twin Home from the GB (General Business) district. This text amendment was proposed in a report staff presented to the Planning Board in April 2017 concerning strategies for promoting mixed-use development.

### **BACKGROUND**

*Legacy 2030* highlights the advantages of mixed-use development to advance the themes of fiscal responsibility, livable design, and sustainable growth. Benefits of mixed-use development include an urban environment that is active throughout the day and evening, makes optimum use of infrastructure, reduces automobile trips, and increases walkability and pedestrian activity. Several *Legacy 2030* policies and action agenda items specifically encourage mixed-use development in activity centers and along growth corridors.

To further these goals, a report that staff presented to the Board in April 2017 recommended amending the UDO to allow multifamily development (with review by the Planning Board) as one of the other uses allowed in HB (Highway Business), GO (General Office), and Corporate Park Office (CPO) districts to help provide more opportunities for creating mixed-use development. Removing the lower density uses Residential Building, Duplex and Residential Building, Twin Home from the GB district would ensure that only more intense land uses are reserved for this district, which is also largely located in activity centers and along growth corridors. The Board asked staff to prepare this text amendment as part of its 2017-18 work program.

### **ANALYSIS**

In Winston-Salem and Forsyth County, a mix of multifamily residential and commercial/office uses are already allowed with review by the Planning Board in several business and office zoning districts: MU-S (Mixed-Use - Special), GB (General Business), PB (Pedestrian Business), NO (Neighborhood Office), and LO (Limited Office). However, residential multifamily uses are not currently permitted in HB, GO, or CPO districts. Uses allowed with review by the Planning Board do not require rezoning, which takes two months on average and adds time and expense to a project, ultimately discouraging developers from taking such risks. Since the HB district in particular is already one of the most intense zoning districts and is mostly located in activity centers and along growth corridors rather than in neighborhoods, there appears to be little downside to adding multifamily uses here. GO, while not as common as HB, is similarly intense

and located mostly near growth corridors, also making it an appropriate location for multifamily development. After further review, staff believes that the CPO district is not as logical of an environment for multifamily development because existing CPO districts are not located in or near growth corridors or activity centers. And, removing the uses Residential Building, Duplex and Residential Building, Twin Home from the GB district would further the goals of encouraging more intense mixed-use development.

Both the HB and GO districts have reasonable setback requirements, which could benefit the walkability of new development. HB allows a building height of 60 feet (compared to a 40-foot maximum height for single-family residential districts) and a maximum impervious surface allowance of 85 percent. GO also allows a building height of 60 feet if adjacent to property zoned RS, RM (except RM-U), YR, AG, or H; it has no height limit otherwise. The GO district has a maximum impervious surface allowance of 80 percent.

The number of residential units possible on a tract of land is currently limited by dimensional requirements in the PB, GB, and MU-S districts, and by density in NO and LO. Given each district's dimensional requirements, Planning staff believes that multifamily development of up to 18 units per acre is appropriate in GO districts and multifamily development of unlimited density is appropriate in HB districts.

The original Planning Board public hearing on this text amendment was held on October 12, 2017. At the hearing, a number of neighborhood representatives spoke in opposition or requested a continuance for further discussion. The Planning Board continued the hearing until December 14 so that Planning staff could meet and discuss the proposed amendment with concerned citizens. That meeting was held on November 2 and the background of the proposal was discussed along with concerns that focused on where the HB and GO districts are located as well as a desire by neighborhoods for a full rezoning process to occur when a change of use from commercial to multifamily development occurs. There was also a concern that for some small lots with HB zoning, multifamily development might be incompatible.

To address these neighborhood concerns and to protect single-family neighborhoods from multifamily development on smaller HB-zoned lots, Planning staff believes that limiting multifamily development to parcels greater than one acre in size is appropriate in HB districts. Multifamily in GO and HB is further limited with 40-foot setbacks from single- or multifamily zoning districts. All multifamily uses in these districts would also require review by the Planning Board. The proposed text amendment has been revised to reflect these changes.

Although Planning staff's original memo recommended adding the use Residential Building, Multifamily to these zoning districts, staff also believes that adding the use Residential Building, Townhouse could make sites more flexible to develop and encourage developers to mix housing types and even offer more affordable housing products. Because HB and GO districts both allow land uses that generate more traffic than typical multifamily residential development, allowing multifamily uses is not likely to increase traffic in these areas.

Staff continues to believe, however, that the basic premise of allowing multifamily uses in HB and GO, similar to the other commercial and office districts, has a sound planning basis and has many possible benefits. Besides the possibility of creating more mixed-use development along growth corridors and in activity centers, such a change could encourage more incremental

mixed-use development in commercial outparcels or other infill locations. Additionally, the relocation of some large tenants to Downtown Winston-Salem has left several office properties vacant in suburban locations. Also, many previously developed commercial properties have become vacant or underused. Allowing multifamily in these areas could help redevelopment efforts here while promoting residential units near employment areas. Also, removing the uses Residential Building, Duplex and Residential Building, Twin Home from the GB district would further these goals.

## **RECOMMENDATION**

## **APPROVAL**

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**CITY-COUNTY PLANNING BOARD  
PUBLIC HEARING  
MINUTES FOR UDO-283  
OCTOBER 11, 2017**

Kelly Bennett presented the staff report.

**PUBLIC HEARING**

FOR: None

AGAINST:

Diane Fitzhugh, 830 W 14<sup>th</sup> Street, Apt E, Winston-Salem, NC 27103

- I'm here to request the opposition of UDO-283 because it does not support the interests of my community. From my understanding, this development ordinance seeks to implement a process by which developers would be able to avoid the cost of a rezoning case. Which takes on an average two months resulting for them an additional time and expense to their project.
- So in effect, to make it faster and more convenient for property seeking developers, this ordinance will eliminate the democratic check and balance system that allows for a public hearing to review and question the consequences of such development. It eliminates the resident and other stake-holders opportunity to voice their concerns about the projects impact when the lives of those living in the community, such as how will the development affect traffic, public safety, schools and/or the environment.
- I was told this ordinance will support walkability in new multifamily developments. My question is, walkability to what?
- Under the UDO-283, the investors will be given the authority to make their own decision about what they can do to increase their profits and not what's best for the Winston-Salem community.
- I'm not asking you to oppose this ordinance because I don't want growth or revitalization in my community. There is nothing wrong with quality, affordable housing or luxury lofts. But tonight, I am asking you for a continuance or denial because UDO-283 intentionally or unintentionally fails to respect my right as a tax paying registered voter to voice my concerns and support for future affordable multifamily housing developments in my community.

Bonnie Crouse, 2001 Boone Avenue, Winston-Salem, NC 27103

- Change is inevitable and change is also good. But it's best when residents have some say in how that change arrives. We don't want it to just drop down on us overnight and then have lost our chance to speak up about that.

- I like to say I'm not a NIMBY.
- The change under consideration is going to do great damage. It is a streamline for investors to select a piece of property and make significant changes to a neighborhood without an opportunity for input from them. We want to make certain that no one can come in and make changes without specific presentations of exact impact and some research.

Carolyn Highsmith, 3335 Anderson Drive, Winston-Salem, NC 27127

- I'm here today in opposition of UDO-283 on behalf of the New South Community Coalition representing the neighborhood areas of south Winston-Salem.
- Why should developers have the automatic right to bypass the entire zoning process for creating mixed use development without permitting any citizens or neighborhood input for the public hearing process? Without citizens input in any new mixed-use development proposal, there can be unforeseen and destructive consequences to nearby single family homes neighborhoods.
- In conclusion the New South Community Coalition asserts the following:
  1. UDO-283 is way too broad and sweeping basically giving any developer who is interested in horizontal mixed use development carte blanche to build or do whatever they desire while bypassing the entire zoning process.
  2. That all horizontal mixed use development should be required to go through the entire zoning process when requesting a change in a current zoning district or horizontal mixed used zoning.
  3. That any new planning department recommendation or facilitating horizontal mixed use development should be written as, and under and in particular to the existing mixed use zoning classification.
  4. That UDO-283 either be rewritten as a mixed used horizontal zoning classification taking out the by right language and keeping the zoning public process. And that this new version be presented community wide to all stake holders where the planning board will need to request a continuance. Otherwise, the New South Community Coalition is requesting that the planning board deny UDO-283 as currently written.

Nathyl Snipes, 940 Manly Street, Apt 54, Winston-Salem, NC 27105

- I'm the director of the housing summit and we agree with everyone who is in opposition.
- What are the equal housing opportunity that will be in place if the current residents are displaced?

## **WORK SESSION**

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

Paul Norby pointed out that hardly any of our zoning districts are single use zoning districts. Single family zoning districts allow a variety of uses including nonresidential uses. Right now by right, a piece of land zoned HB allows dozens of non-residential uses, many of which are much more intense than multi-family. You do not have to ask permission and you do not have to go to a public hearing; they are assigned by right. Changing a use for a property zoned HB, someone has the legal right under our zoning ordinance that has been around for decades, to make those changes, as long as they meet those requirements of the zoning. So what we are talking about

here is adding to that long list of uses the use of multi-family residential. The one thing multi-family requires in the ordinance that none of these other uses is that it requires a site plan to come to the Planning Board for review and approval. I think some of the opposition expressed here is built on an assumption that every change of use should also be a public hearing process and that is not the way zoning is structured or has been structured. I think what has been learned in communities that are becoming healthier is that it is good to allow for more mixture of uses and that it is probably better to think about intensity of uses than the strict separation of uses one from another. So that is why for the sake of avoiding sprawl and for the sake of building up walkability and transit, the Legacy plan that's adopted and the report that we put together for the Planning Board last year suggest that we should be moving towards this.

Arnold King: How many parcels in Boston Thurmond are already zoned HB or GB?

Paul Norby responded that in reviewing the map of that area between Coliseum and Northwest Boulevard, I do not see any HB zoning or GB zoning within the neighborhood. The vast majority of Boston Thurmond is zoned RS9, RSQ or RS7. The only HB zoning is on property on Coliseum Drive already developed for commercial, and at the Bojangles at University and Northwest Blvd.

MOTION: George Bryan moved continuance of the zoning petition to December 14, 2017.

SECOND: Allan Younger

VOTE:

FOR: George Bryan, Melynda Dunigan, Jason Grubbs, Arnold King, Chris Leak, Brenda Smith, Allan Younger

AGAINST: None

EXCUSED: None

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# **CITY-COUNTY PLANNING BOARD PUBLIC HEARING MINUTES FOR UDO-283 DECEMBER 14, 2017**

Kelly Bennett presented the staff report.

Paul Norby pointed out that even though there was a public hearing on this in October, because the Board continued it and we made a change in what was proposed from the October 12, 2017 version, I would recommend holding a full public hearing again. I would like to add a few comments to what Kelly Bennett was saying.

- The need to find some ways to encourage multifamily in areas other than in the middle of neighborhoods came up during the Legacy 2030 Comprehensive Plan process.
- Due to our small geographic size, if we're going to be ready for growth that could happen over the next 20/30 years we've got to make the wisest use of land that makes the most sense for different types of intensities of uses.
- Our population is diversifying. Not only by age and race but the household as well. We're having more single person households, single parent households, baby boomers and millennials who have different housing preferences now than 20 years ago. All of those trend toward a stronger market for multifamily. So where do you put those?
- Legacy suggested focusing on activity centers, the downtown area and growth corridors.
- Those areas make the most sense to have the most land use intensity and to start mixing uses more including residential.
- We have 35 different zoning districts in our ordinance and if you take the idea that you want every change of use to be a rezoning, theoretically you would have to have 157 different zoning districts so every time there is a change of use you would change from one zone to another.
- Among our peer cities in North Carolina, we have the second highest number of zoning districts that there are with Charlotte having slightly more than us. All of our other peer cities have less zoning districts than we do and all of those except for Cary allow for a multifamily residential in their commercial zoning districts. Greensboro, Raleigh, Charlotte, Durham and Chapel Hill allow multifamily in commercial districts.

## **PUBLIC HEARING**

FOR:

Gary Merritt, 750 Bethesda Road, Winston-Salem, NC 27104

- I am a board member of the North Carolina Housing Foundation. The North Carolina Housing Foundation has been around since 1968. We own about 17 or 18 properties in the City and County and we provide housing for the elderly and families. What is being

recommended to you today is something that used to not work. If you go around the country and look at the development trends, you would see retail stores with multifamily above it. This is putting us in the 21<sup>st</sup> century and I and the Foundation support this.

John Lowder, 2001 Williamsburg Manor Ct, Winston-Salem, NC 27103

- I am the Executive Director of the Piedmont Triad Apartment Association. I am here to speak in favor of the staff's suggestions. Our Association represents the entire Piedmont Triad and that is about 65,000 apartment units throughout the Triad, of which 20,000 units are here in Forsyth County. My main point today is that affordable housing has to be addressed by all types of housing. If you don't have enough market rate housing then all rents will go up. I think the staff has done an admirable job in research and outreach. I think you would be hard-pressed to find a better zoning addition than this one. On behalf of our members, we strongly support this.

Jack Steelman, 2150 Country Club Road, Winston-Salem, NC 27104

- I'm with Miller Hatcher real estate. In the City of Arts and Innovation, innovation begins and ends with progressive public policy. I live in the Pfafftown area and right down the street from me is a new shopping center with office spaces and apartments. On the way home at night, stopping by the shopping center is delightful to see the young people walking out of their apartments into the stores and the restaurants. I fully support the proposed amendment and I also respect the concerns of neighborhood residents and would encourage them to trust in the skills and expertise that are on this Planning Board and this Planning staff as they are required to review every site plan for multifamily development in this area.

Paul McGill, 1204 Reynolda Road, Winston-Salem, NC 27104

- I am the chairman of the RCA (Realty Commercial Alliance). I'm also on the Board of Directors of the Winston-Salem Realtors Association. We do support this and think it is needed because it gives us more flexibility in the use of these pieces that are still there being redeveloped. Everyone should have a letter from us in support of this.

AGAINST:

Sally Hirsh, 1831 Brantley Street, Winston-Salem, NC 27103

- I'm against UDO-283. This UDO will take the freedom of speech away from me and people that live in neighborhoods. Some of the low income people who live in the Peters Creek area are going to be displaced and lose connection to their community.

Eric Bushnell, 2113 Walker Road, Winston-Salem, NC 27106

- I represent the Neighborhood Alliance. The Neighborhood Alliance cannot support this as a standalone policy. In order for this to work for everyone, we believe this has to be tied in to other city policies about housing.

Carolyn Highsmith, 3335 Anderson Drive, Winston-Salem, NC 27127

- I'm here on behalf of the New South Community Coalition representing the neighborhood areas of south Winston-Salem. UDO-283 is proposing a massive rezoning of Highway Business and General Office properties throughout the city with only a



Planning Board Review, effectively silencing citizen voices blocking any citizen's participation in this massive rezoning of citywide properties. Without citizen input in any new mixed use development proposal, there can be unforeseen and destructive consequences to nearby single family home neighborhoods. The New South Community Coalition urges the Planning Board to reject UDO-283 as currently written.

JoAnne Allen, PO Box 284, Winston-Salem, NC 27102

- I'm the president of Action4Now, Inc. I'm here to say that the proponent's bottom line is money. There has been no community outreach. I'm all about progress but let's not do it at the expense of gentrification. As Planning Board members, you were appointed by both the elected bodies to represent the people.

### **WORK SESSION**

The following points were made by the Planning Board members:

- Citizens should have an opportunity to express concerns on development. UDO 283 limits that conversation.
- What's really being proposed here? Other uses already allowed in HB are more impactful or just as impactful to adjacent neighborhoods. Developers don't operate just on "greed." Beyond just the negative is better accessibility, proximity to services, more mixed uses.
- Planning Board members are citizens appointed to represent the people. There needs to be trust of the Board members and staff to act in the public interest.
- Legacy attempts to increase infill, address poverty, and promote affordability. The idea is good to have development in these places but maybe this is not the way to do it. There are issues of affordable housing/gentrification, but we are reviewing development without information about that. Neighborhoods should have a say in their neighborhoods. Planning should listen, and not just say what should happen. Happy Hills and HOPE VI didn't do what planners said it would. "Affordable housing" may not be affordable to those displaced. One tool is zoning with conditions on affordability, or find another way if we can't do that. We should wait until we see the results of the affordable housing study being done for the City.
- In agreement with the goals of this text amendment but it is problematic this is being addressed with such a broad brush as allowing this by right in all HB or GO. These projects need conversation with neighborhoods. Pointed to an example with the apartments on Reynolda Rd. on the site of a previously proposed Wal-Mart. There were issues of being surrounded by single family residential, tree save areas, buffers, street connections—these issues need dialogue.
- For rezonings, we changed the rules to require neighborhood notification. This amendment will allow multi-family in HB without notification.
- Many uses can go into HB—why is there such a concern about multi-family residential? How is multi-family inherently worse than other allowed HB uses?
- Multi-family is actually a large category of land uses. Multi-family is allowed in other zones but on smaller tracts---HB sites are usually larger, but some are not even on growth corridors. We should encourage multi-family, but in the right way and in the right places.

- The impacts are not as great as we are imagining. Adding multi-family gives the ability to make good and better use of HB properties that may be undeveloped, marginally developed, or run down and in need to redevelopment. How is there gentrification when there is no displacement?
- In Denver, residential is becoming so hot that it is talking over retail and creating access and parking issues. Neighborhoods want balance.
- Not against multi-family or development but we can't keep overlooking neighborhoods.

MOTION: Jason Grubbs moved approval of the amendment.

SECOND: Clarence Lambe

VOTE:

FOR: Jason Grubbs, Arnold King, Clarence Lambe, Brenda Smith

AGAINST: George Bryan, Melynda Dunigan, Chris Leak, Allan Younger

EXCUSED: None

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A. Paul Norby, FAICP  
Director of Planning and Development Services