

**ACTION REQUEST FORM**

**DATE:** April 22, 2009  
**TO:** The Honorable Mayor and City Council  
**FROM:** A. Paul Norby, FAICP, Director of Planning

**COUNCIL ACTION REQUEST:**

Request for Public Hearing on Zoning Text Amendment proposed by City-County Planning Board staff

**SUMMARY OF INFORMATION:**

Zoning Text Amendment proposed by City-County Planning Board staff to amend various sections of the *Unified Development Ordinances* to provide non-substantive changes and to revise the requirements for Special Use Permits for private access easements (UDO-197).

**PLANNING BOARD ACTION:**

**MOTION ON PETITION:** APPROVAL  
**FOR:** UNANIMOUS  
**AGAINST:** NONE  
**SITE PLAN ACTION:** NOT REQUIRED

## STAFF REPORT

**DOCKET #** UDO-197

**STAFF:** [Kirk Ericson](#) / [Aaron King](#)

### REQUEST

This text amendment is proposed by City-County Planning staff to amend Chapters A and B of the UDO to amend definitions, permitted uses, requirements for access easements, and parking requirements and incentives. This is in follow-up to several issues that have arisen at either the Planning Board or City Council level.

### BACKGROUND

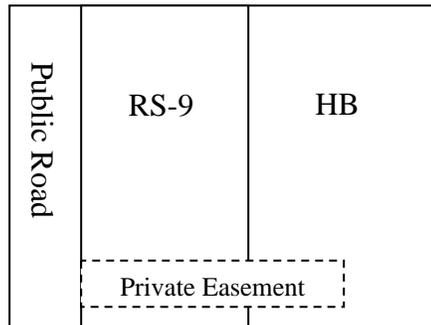
This text amendment consists of four separate sections. Sections 1 and 2 remove the “ABC Store” use from the UDO. Section 3 simplifies the approval process for access easements and private streets in certain zoning districts. Section 4 amends the parking standards of the UDO to define parking requirements for four bedroom multifamily units, and increases existing parking reductions for development adjacent to transit lines.

#### ABC Stores

Removing the ABC Store use from the UDO is also proposed as part of this text amendment. The Planning Board recently heard a presentation by the City Police Chief and the City Attorney on land use issues and land use law related to ABC stores. The Board learned that although the UDO currently has a separate use classification for ABC stores, state statutes allow ABC stores to supersede local zoning regulations and the ABC Board has its own policies for locating stores. Removing ABC stores as a distinct use would reduce confusion about the approval process for this use.

#### Certain types of access easements

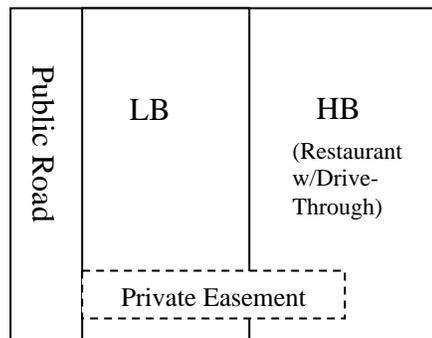
Currently, the UDO requires that a Special Use Permit (SUP) be approved by the Elected Body for any private access easement that crosses a zoning district which does not allow the use being accessed (See illustration below).



(Figure 1)

Staff views the primary intent of this ordinance provision as serving to protect residential areas from inappropriate non-residential traffic. The premise of protecting residentially zoned properties from commercial traffic through Elected Body SUPs has merit and should remain unchanged. This ordinance does not propose any change to the regulation of private access easements that cross residentially zoned land.

While the fundamental idea of this ordinance provision works well, staff has noticed some unintentional consequences of the current language. These negative consequences typically occur in areas of non-residential zoning(s) where private access easements are utilized.



(Figure 2)

As an example, the illustration above depicts a restaurant with drive-through service located in a Highway Business (HB) zoning district being accessed by a private access easement through the Limited Business (LB) zoning district. Restaurant with drive-through service is a permitted use in the HB district but not in the LB district. Under current UDO regulations, an Elected Body SUP for the private access easement would be required to legally serve the restaurant use.

Staff has noticed an increase in the amount of SUP requests for access easements in non-residential areas over the past couple of years. Staff is proposing this ordinance change to alleviate unintended consequences. There is little to be gained by asking a petitioner to obtain a SUP in a non-residential scenario similar to the one described above because the uses are similar in nature. Staff believes that the process created by the current UDO requirements as it relates to non-residential sites can be eliminated without compromising the intent of the regulations governing private access easements.

### Parking

The Planning Board recommended approval of UDO-194, a text amendment which reduced parking requirements for various land uses and increased parking reductions for bicycle parking, in December 2008. This text amendment was approved by City Council in January 2009, and during discussion of this text amendment, Council asked staff to address two issues related to this text amendment. Council asked staff to develop a parking standard for four bedroom multifamily units, and to consider increasing current parking reductions for development adjacent to public transit routes.

## ANALYSIS

Staff believes the items proposed in this text amendment will make the UDO more user-friendly and encourage positive development of the community. Removing the ABC store use from the UDO will clarify the approval process for this land use. The current UDO approach of limiting this use to certain zoning districts does not recognize the exemption from local development regulations provided by the North Carolina General Statutes for ABC stores. Currently, if the ABC Board wished to locate a new ABC store in a non-residential zoning district that does not allow this use, the state regulations would supersede local requirements. The City Attorney's office advises that there has even been case law in NC striking down local communities using zoning restrictions to supersede ABC Board authority in locating stores. Removing the ABC store use from the UDO would better acknowledge the actual process for approving these stores and would remove some of the confusion surrounding this use.

Staff believes that the proposed change to regulations governing access easements will improve the process for obtaining these easements. In non-residential areas composed of different zoning districts, private access easements are being utilized more frequently. Staff believes that the proposed ordinance language will: (1) protect the primary objective of regulating private access easements; and (2) eliminate an extra step in the current review process that provides little benefit.

A benefit associated with this request would be a cost savings to petitioners. In the example shown in Figure 2 above, both properties are already commercially zoned, so a rezoning would not be needed. In a case where a rezoning is not necessary, a petitioner would typically begin working with the Inspections Division to secure the proper permits. However, in this case the petitioner would need to obtain SUP approval for use of the private access easement. This additional approval would involve: (1) preparation of site plans for review during the monthly review cycle [estimated cost: \$1,000-\$1,500]; (2) the fee for processing the SUP request [\$1,000]; and (3) an additional two-three months for the actual review process. The most important item to note in this scenario is that little has been gained from this unnecessary review. Staff believes that approval of this request would eliminate the unnecessary burden described above.

Currently, the most stringent parking requirement for multifamily units is the requirement for two parking spaces per unit for units with three bedrooms or more. While the majority of multifamily units which fall into this category are three bedroom units, some four bedroom units do exist in the community. A parking requirement of 2 parking spaces per 4 bedroom unit would not be appropriate, as most four bedroom multifamily units are in the form of housing for students at local colleges. The majority of students who live in these units (but not all students) own cars. With that in mind, staff recommends a parking standard of 3 parking spaces per four bedroom unit to ensure that appropriate parking will be available for these units. This requirement is fifty percent greater than the existing parking requirement for three bedroom multifamily units, and is derived from information on parking standards from the American Planning Association and other sources.

By increasing the current three percent parking reduction for sites adjacent to transit lines to five percent, a greater incentive may be provided for redeveloping land adjacent to transit lines. Staff also recommends increasing the maximum distance sites may be from transit lines to be eligible for this reduction from 500 feet to 750 feet, and expanding the current provision to apply to Piedmont Authority for Regional Transportation (PART) regional transit stops as well as Winston-Salem Transit Authority (WSTA) lines. These changes will encourage the future development of transit supportive development in anticipation of possible regional transit opportunities, and staff recommends approval of this text amendment

**RECOMMENDATION**

**APPROVAL**

Kirk Ericson and Aaron King presented the staff report.

**PUBLIC HEARING**

FOR: None

AGAINST: None

**WORK SESSION**

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

SECOND: Arthur King

VOTE:

FOR: Wesley Curtis, Arnold King, Arthur King, Darryl Little, Lynne Mitchell, Paul Mullican, Brenda Smith

AGAINST: None

EXCUSED: None

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A. Paul Norby, FAICP  
Director of Planning

**UDO-197**  
**AN ORDINANCE AMENDING**  
**CHAPTERS A AND B OF THE**  
***UNIFIED DEVELOPMENT ORDINANCES***  
**TO AMEND DEFINITIONS, PERMITTED USES,**  
**REQUIREMENTS FOR ACCESS EASEMENTS,**  
**AND PARKING REQUIREMENTS AND INCENTIVES**

Be it ordained by the City Council of the City of Winston-Salem, North Carolina, that the *Unified Development Ordinances* is hereby amended as follows:

**Section 1.** Chapter A, Article II of the UDO is amended as follows:

**Chapter A - Definitions Ordinance**  
**Article II – Definitions**

~~**ABC STORE (LIQUOR).**~~ An establishment run by the Alcoholic Beverage Control Board selling alcoholic beverages.

**Section 2.** Chapter B, Article II of the UDO is amended as follows:

**Chapter B - Zoning Ordinance**  
**Article II - Zoning Districts, *Official Zoning Maps*, and**  
**Uses**

**2-4 PERMITTED USES**

**2-4.1 TABLE B.2.6**

Table B.2.6 displays the principal uses allowed in each zoning district and references use conditions. Table B.2.6 should be read in conjunction with the definitions of principal uses and other terms in Section A.2. Land, buildings, and structures shall only be used in accordance with the districts shown on the *Official Zoning Maps*, and subject to all requirements and conditions specified in this Ordinance.

Table B.2.6 is amended by deleting the entire row “~~ABC Store (liquor)~~”.

Section 3. Chapter B, Article II – Use Conditions is hereby amended as follows:

## Chapter B - Zoning Ordinance

### Article II – Use Conditions

#### 2-5.2 ACCESS EASEMENT, PRIVATE OFF-SITE

##### (A) Applicability

~~No access easement or private street shall be established except within a zoning district permitting the use to be served, or as part of and within the general boundaries of an approved subdivision, planned residential development or multifamily development, without a special use permit issued in accordance with Section B.6-1.5.~~

Access easements and private streets shall meet the following requirements:

- 1 Access easements or private streets that cross any of the following zoning districts: CPO, GO, PB, LB, NSB, HB, GB, LI, GI, CI, and MRB-S [or the respective companion Special Use/Special Use Limited (W)/Special Use-No Site Plan (F) districts] to access a use in the CPO, GO, PB, LB, NSB, HB, GB, LI, GI, CI, and MRB-S [or the respective companion Special Use/Special Use Limited (W)/Special Use-No Site Plan (F) districts] districts shall be permitted without a special use permit.
- 2 All other access easements and private streets that cross a zoning district that does not allow the use being served shall require a special use permit in accordance with Section B.6-1.5.

##### (B) Special Use District Zoning

Notwithstanding the requirements of Section B.2-5.2(A), a private access easement established pursuant to Section B.6-1.5 may serve more than one zoning lot or special use district zones.

##### (C) Standards

Private access easements requiring the issuance of a special use permit in Section B.2-5.2(A) must be designed in conformity with the accepted criteria established for public streets of equivalent width, grade, curvature, intersection locations, and other safety features.

Table B.2.6 is hereby amended as shown below:

Table B.2.6 Permitted Uses																																		
Use Type	YR	AG	RS40	RS30	RS20	RS15	RS12	RS9	RS7	RSQ	RM5	RM8	RM12	RM18	RMU	MH	NO	LO	CPO	GO	NB	PB	LB	NSB	HB	GB	MRS	LJ	GI	CI	IP	C	MUS	CONDS
<b>TRANSPORTATION AND UTILITIES</b>																																		
Access Easement, Private Off-Site	<u>m<sup>5</sup></u>																																	
<sup>5</sup> SUP not required if requirements of B.2-5.2(A) are met.																																		

Section 4. Chapter B, Article III of the UDO is amended as follows:

## Chapter B - Zoning Ordinance

### Article III - Other Development Standards

#### 3-3 PARKING, STACKING, AND LOADING AREAS

Table B.3.8  
PARKING REQUIREMENTS

PRINCIPAL USES	MINIMUM REQUIREMENTS	NOTES
<b>RESIDENTIAL USES</b>		
Multifamily, Efficiency	1 space per dwelling unit	All visitor spaces shall be designated "visitor only". Single room occupancy (SRO) facilities are considered efficiencies.
1 Bedroom	1.5 spaces per dwelling unit	
2 Bedroom	1.75 spaces per dwelling unit	
3 Bedroom	2 spaces per dwelling unit	
<u>4 Bedroom</u>	<u>3 spaces per dwelling unit</u>	
Elderly Housing	0.75 spaces per dwelling unit	

#### 3-3.5 ALTERNATIVES AND INCENTIVES

(I) **Parking Reduction on Winston-Salem Transit Authority Regular-Route Transit Line or Adjacent to Piedmont Authority for Regional Transportation (PART) Transit Stop**

For all uses located within ~~five hundred (500)~~ seven-hundred and fifty (750) feet of a Winston-Salem Transit Authority regular-route transit line, ~~or within seven-hundred~~

and fifty (750) feet of a PART transit stop, the property owner may reduce the amount of required parking up to a maximum of ~~three~~ five percent (53%). This reduction shall not affect the required disabled parking or loading spaces for that use.

**Section 5.** This ordinance shall be effective upon adoption.