

PLANNING AND ZONING COMMISSION RECOMMENDATION

On November 15, 2011, a public hearing was held before the Planning and Zoning Commission regarding the requests described below. All members of the Commission were present except Mr. Keith McInnis.

Habitat for Humanity of High Point, Text Amendment Case 11-09 Archdale & Trinity

A request by Habitat for Humanity to amend Section 9-5-2, Development Standards for Individual Uses, of the Development Ordinance pertaining to the maximum size of Antique Stores and Used Merchandise Stores in the Main Street (MS) District.

Mr. Robbins presented the request and recommended denial as outlined in the staff report.

Speaking in favor of the text amendment, on behalf of the applicant, was Mr. Colin Merritt, who explained what the Habitat ReStore sells, what types of improvements are planned for the store, and the benefits the new location will provide. Also speaking for the amendment were Mr. Doyle Early and Mr. Tom Foster, representing the First Presbyterian Church, which owns the site Habitat wishes to occupy. They noted the difficulties encountered trying to find a tenant for the site and supported the text amendment, or any variation of it that would permit the ReStore, arguing that it would be a positive addition to the community.

Speaking in opposition to the text amendment were Dr. Don Scarborough of High Point University and Ms. Jeanette McNeil, a City Project, Inc. board member. Both noted concern over future uses of the property in question and potentially others within the MS district. They felt that the ReStore use was not compatible with what the Core City Plan and now the City Project have envisioned for the MS district area.

The Commission engaged in a lengthy discussion that focused on both the positive and negative aspects of the text amendment. Ultimately, the members wanted to find a solution that would allow the ReStore and address the concerns over the proliferation of similar uses in the MS district.

The Commission recommended that the wording of the text amendment be revised to read:

“Establishments in the MS District shall be less than 5,000 square feet gross floor area when the property is fronting on Main Street. If the establishment is not fronting on Main Street, then it is subject to a 25,000 square foot gross floor area limit as long as it is located in an existing building designed with a single store front and intended for a single occupant.”

The Commission then recommended **approval** of Text Amendment 11-09, as revised, by a vote of 8-0.

**TEXT AMENDMENT 11-09
PROPOSED AMENDMENT TO THE
CITY OF HIGH POINT DEVELOPMENT ORDINANCE**

An amendment affecting Section 9-5-2, Development Standards for Individual Uses, pertaining the maximum size of Antique Stores and Used Merchandise Stores in the Main Street (MS) District.

(To be heard by the Planning & Zoning Commission 15 Nov. 2011, and by City Council 05 Dec. 2011)

SECTION 1.

Section 9-5-2, Development Standards for Individual Uses, shall be amended as follows:

Section 9-5-2(n), Antique Stores and Used Merchandise Stores, shall be amended to read as follows:

(n) Antique Stores and Used Merchandise Stores

(1) Where Required: NB, LB, GB, HB, CB, MS, SC, and TN Districts.

(2) Outdoor Storage: No outdoor storage of any furniture or other items shall be permitted.

(3) Size:

a. Establishments in the NB, ~~MS~~ and TN Districts shall be less than 5,000 square feet gross floor area.

b. Establishments in the MS District shall be less than 5,000 square feet gross floor area if the property fronts on Main Street, and less than 25,000 square feet gross floor area for other sites as long as the establishment is located in an existing building designed with a single store front and intended for a single occupant.

SECTION 2.

Should any section or provision of this ordinance be declared invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 3.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4.

This ordinance shall become effective upon adoption.

**CITY OF HIGH POINT
PLANNING AND DEVELOPMENT DEPARTMENT**

**STAFF REPORT
TEXT AMENDMENT CASE 11-09
November 15, 2011**

| Request | |
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| Applicant: Habitat for Humanity of High Point, Archdale & Trinity | Affected Ordinance Sections: Section 9-5-2, <i>Development Standards for Individual Uses</i> , subsection (n) entitled Antique Stores and Used Merchandise Stores. |
| Proposal: An amendment affecting the maximum size of Antique Stores and Used Merchandise Stores in the Main Street (MS) District. | |

Background

The High Point City Council first approved the Main Street (MS) District in March of 2008. In August of 2010, Council approved various minor revisions to the district regulations. Land uses permitted in the MS District were originally proposed and recommended by a citizen committee, which was primarily focused on the portion of the district now known as Uptowne (Sub-area B). The used merchandise store use was grouped with pawn shops, and was not permitted in Sub-area B. At the request of a business owner, the City Council approved a text amendment (11-01) in February of this year that regroups Used Merchandise Stores with antique stores and allows them as a permitted use in Sub-area B and elsewhere in the Main Street (MS) District subject to development standards. One of those standards limits the gross floor area (GFA) of any used merchandise store to less than 5,000 square feet.

Habitat for Humanity would like to move its office and ReStore from its present location on W. English Road to 133 Montlieu Avenue, formerly the Cloverleaf grocery. The property at 133 Montlieu is owned by the First Presbyterian Church, is located in the MS District (sub-area B), and is approximately 22,000 square feet GFA. It is subject to the 5,000 square foot maximum GFA requirement and obviously does not meet it. Habitat has, therefore, submitted a text amendment remedy that would exempt its situation from the 5,000 square foot limit.

Details of Proposal

The proposed amendment affects the development standards in Section 9-5-2(n). It leaves the 5,000 square foot limit in place for a used merchandise establishment in the NB and TN Districts but permits an establishment in the MS District to exceed 5,000 square feet if it locates in an existing building that is designed with a single store front and intended for a single occupant.

Analysis

As Habitat indicates in its application, the ReStore actually sells a mixture of new and used items. It regularly receives donations of new building materials, Market furniture samples and accessories from local businesses and showrooms. However, because the store also has a variety of used items for sale, it is classified as a used merchandise store.

When the recently approved (February, 2011) text amendment was being reviewed staff noted that the omission of used merchandise stores from the MS District appeared to be an unintended consequence related to how certain uses were grouped for zoning purposes, and that it seemed reasonable, based on the goals and objectives of the district itself, to limit the size of such establishments. So staff suggested the 5,000 square foot maximum.

This text amendment suggests a fine tuning of an already permitted use within the MS District. As such, staff can find no inconsistency with the City's Land Use Plan or the intent of the MS District itself. The argument put forth by the applicant on its behalf, (*See attached application*) as well as the rise of other low budget retail establishments (like the various 'dollar' stores, Goodwill, and others) point both to the need and the popularity of this segment of the retail market. However, to further "tinker" with the used merchandise store use in the manner suggested by this amendment would, in staff's opinion, still permit the use to occupy most buildings within the district. The MS district contains many existing buildings that would meet the suggested criteria, so the proposed amendment would not effectively limit the used merchandise use, if that is what is desired. If this particular application of the used merchandise store use is deemed acceptable in the MS District, then staff suggests that a simple removal of the 5,000 square foot size limit is preferable to the suggested text amendment language. Otherwise, let the 5,000 square foot limitation stand and deny the proposed amendment.

Recommendation

Staff recommends denial of the text amendment as written. The primary difference between the applicant's proposed use and what is already permitted in the MS district is its size. Therefore, the appropriate action to take should be based on whether this store, and potentially other used merchandise stores over 5,000 square feet, should be allowed in the district. If so, then the size limitation should be removed, rather than create an unnecessary convolution of the Ordinance that would end up permitting the use on most existing properties anyway. If not, then size is deemed to matter, and the current Ordinance provision should be retained. Staff is not opposed to either scenario, however we note that re-advertisement and re-hearing of this issue will likely be necessary in order to approve an amendment that removes the current square footage limitation.

Required Action

Planning and Zoning Commission:

Upon making its recommendation, the Planning and Zoning Commission must place in the official record a statement of consistency with the City's Land Use Plan, and any other officially

adopted plan that may be applicable. This may be done by adopting the staff's findings as written in this report, by adopting the staff's findings with additions or changes as agreed upon by the Commission, or, if the Commission is in disagreement with staff's findings, by adoption of its own statement.

City Council:

Upon rendering its decision in this case, the High Point City Council also must place in the official record a statement of consistency with the City's Land Use Plan. This may be done by adopting the staff's findings as written in this report, by adopting the staff's findings with additions or changes as agreed upon by the Council, or, if the Council is in disagreement with staff's findings, by adoption of its own statement.

In addition, the City Council must, prior to adopting or rejecting any zoning amendment, explain why it considers the action taken to be reasonable and in the public interest. In this case, staff suggests that the Council formulate its own reasonableness / public interest statement that is based upon its decision.

Report Preparation

This report was prepared by Planning and Development Department staff member Robert L. Robbins, AICP, and reviewed by G. Lee Burnette, AICP, Director.

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 - (2) Outdoor Storage: No outdoor storage of any furniture or other items shall be permitted.
 - (3) Size:
 - a. Establishments in the NB, ~~MS~~ and TN Districts shall be less than 5,000 square feet gross floor area.
 - b. Establishments in the MS District shall be less than 5,000 square feet gross floor area unless located in an existing building designed with a single store front and intended for a single occupant.**

SECTION 2.

Should any section or provision of this ordinance be declared invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 3.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

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