



Proposed Text Amendment

Case No. T-2009-07

Date of Report: December 29, 2009
Staff Contact: William Meyer, AICP, Planning & Development Director

INFORMATION

Applicable Sections: Section 2-300(F) Administrative Adjustments.
Application Date: October 12, 2009
Applicant: Rock Hill City Council
Attachments: Proposed Amendment Language

EXPLANATION FOR AMENDMENT

The 2006 Zoning Ordinance created land use separation requirements between certain commercial and industrial uses and residential, church, school and park uses. A list of the uses affected by these spacing requirements is attached, but they generally fall into three main categories – 1) high impact commercial uses such as convenience stores, bars, tattoo parlors, etc., 2) vehicle sales and service uses, and 3) heavy or specialized industrial uses.

While it may be desirable for such uses to be separated in newly developing areas of the City, there are many examples in the older developed areas where these uses have coexisted for years. The Code allows for a ZBA Special Exception application to reduce a land use separation that can be requested for both existing buildings and proposed development. This public hearing process adds about 4-6 weeks onto the approval process for a use, allowing neighboring property owners to be heard and any necessary mitigation or special situations to be addressed.

This delay is seen by some property owners as unnecessary, especially in the case of existing buildings and neighborhoods where mixed uses have historically coexisted. Property owners are also concerned that the additional time needed for the public hearing and the uncertainty of approval puts them at a disadvantage in attracting tenants who need to relocate more quickly. After hearing over a dozen of these requests, we have yet to encounter a contentious situation. In many cases it appears that neighbors have been comfortable with the historic uses in their area, even though the land use pattern may be considered less than perfect by some.

This amendment contains two proposed mechanisms to address some of these situations. Based on the cases heard to date, these two provisions for Administrative Adjustment would only apply to about 25-30% of the situations requiring a special exception for the reduced land use spacing.

The first is a general administrative adjustment to allow for minimal deviations from the spacing requirements of up to 20% in Old Town (where mixed uses have been historically more prevalent) and up to 10% in other parts of the City. This is very similar to the administrative adjustments available for other dimensional standards such as setbacks or parking standards.

The second provision allows for elimination of the spacing requirement in the case of existing buildings which historically housed the subject use and back up to existing neighborhoods. A Code conforming buffer or one of similar effectiveness must be created. In most cases, this will

at least require some increase in buffering for the existing conditions, creating a better situation regardless of use. This provision may not be utilized that frequently, but where it can apply, it will likely avoid the need for a public hearing on what would be seen as an improved and acceptable situation.

PUBLIC MEETINGS

Planning Commission Discussion

Mr. Roper clarified that the adjustments will not be available for certain uses, including adult entertainment, bars/nightclubs, tattoo parlors, body piercing establishments, and check cashing/payday lending/title loan establishments.

Mr. Roper stated concern about convenience stores that become a hangout rather than a convenience store. He asked if under the second provision, something could be added to say that there were no complaints registered against the property owner for noise or a number of police calls or something that would trigger a review if it had been a problem area. Mr. Meyer stated that would be difficult because such records are not foolproof and the criteria need to be objective. Many types of businesses can be run poorly to create other legal types of impacts on the neighborhood. The proposed amendments were developed from the standpoint of businesses that are operating within the laws and not creating disturbances and things that would result in specific legal actions.

Mr. Roper asked staff and City Council to consider adding a provision for retail establishments that sell alcohol for off-site consumption because those can become problem areas.

Mr. Meyer stated that liquor stores were inadvertently left off of the list of uses that are not eligible for the modifications.

Mr. Graham stated concern over the inclusion of auto sales establishments in the same category as auto paint/body and repair facilities in regards to separation requirements. He noted that auto sales are a less problematic use most of the time and the issue regarding noise level is not the same as for repair facilities.

Public Hearing

A public hearing was held on the application on December 1, 2009 before the Rock Hill Planning Commission. There were no comments received from the public on the proposal.

STAFF RECOMMENDATION

Staff recommends approval of the proposed amendments. The attached text amendment language includes the changes that were part of the Planning Commission recommendation.

PLANNING COMMISSION RECOMMENDATION

Following the public hearing the Planning Commission voted 4-0 (Easley, Christopher and Peeples absent) to recommend approval of the amendments subject to the inclusion of liquor stores and retail establishments that sell alcohol for off-site consumption on the list of uses that are ineligible for modifications to the separation requirements.

PUBLIC NOTIFICATION

The following public notification actions have been taken:

- November 1 & 15, 2009 - Planning Commission public hearing advertisements published in *The Herald*.

ATTACHMENTS:

- List of uses requiring spacing for certain residential and institutional uses
- Proposed text amendment language with editorial notations

Uses Requiring Separation from Certain Residential or Institutional Uses

Use	Spacing Requirement
High Impact Commercial Uses	
Convention Center	500 feet from residential
Stable	300 feet from dwelling
Restaurant, outdoor seating	100 feet from dwelling
Restaurant, drive-thru	100 feet from residential district or use
Arena, Stadium	500 feet from residential or day care
Adult Entertainment	1000 feet from residential, institutional
Bar, Nightclub	300 feet from residential
Convenience Store w/Gas, Filling Station	250 feet from residential, institutional
Tattoo Parlor	1000 feet from residential, institutional
Body Piercing	500 feet from residential, institutional
Liquor Store	300 feet from residential
Check Cashing, Payday & Title Loan	300 feet from residential, institutional
Vehicle Sales and Service Uses	
Auto Paint & Body	250 feet from residential, institutional
Auto Parts & Installation	250 feet from residential, institutional
Auto, Truck, RV Rental & Sales	250 feet from residential, institutional
Auto Repair & Service	250 feet from residential, institutional
Auto Wrecker Service	250 feet from residential, institutional
Boat & Marine Sales	250 feet from residential, institutional
Car Wash & Detailing	250 feet from residential, institutional
Gasoline Filling Station	250 feet from residential, institutional
Truck Stop	250 feet from residential, institutional
Heavy or Specialized Industrial Uses	
Extractive Industry	1000 feet from residential, institutional
Machine Shop, Motor Repair	250 feet from residential, institutional
Heavy Equipment Sales	250 feet from residential, institutional
Laundry, Carpet Cleaning	250 feet from residential, institutional
Heavy Manufacturing	500 feet from residential, institutional
Parcel Services, Truck Terminal	250 feet from residential, institutional
Landfill	1000 feet from residential, institutional
Recycling Center	250 feet from residential, institutional
Salvage & Junkyard	250 feet from residential, institutional

ARTICLE 2: ADMINISTRATION

2-100 ADMINISTRATIVE AND DECISION-MAKING BODIES

2-200 COMMON PROCEDURES

2-300 SPECIFIC STANDARDS AND OTHER REQUIREMENTS FOR APPLICATIONS FOR DEVELOPMENT APPROVAL

2-300(A) Amendments to Text and Official Zone District Map

2-300(B) Planned Development District

2-300(C) Conditional Use Permit

2-300(D) Special Exception Permit

2-300(E) Variance Permit

2-300(F) Administrative Adjustments

(1) General

This section sets out the procedures and standards for Administrative Adjustments. Administrative Adjustments may be requested for the standards identified in Table 2-300(F), *Standards Subject to Administrative Adjustments*:

(2) Authority

The Development Services Director is authorized to review and approve, approve with conditions, or deny an application for an Administrative Adjustment in accordance with this section.

(3) Procedure

(a) *Initial Submission of Application and Staff Review*

The procedures and requirements for submission and review of an application are established in Section 2-200, *Common Procedures*.

(b) *Review and Action by Development Services Director*

The Development Services Director shall review and take action on the application in accordance with the procedures and requirements of Section 2-200(M), *Review by Development Services Director*.

TABLE 2-300(F): STANDARDS SUBJECT TO ADMINISTRATIVE ADJUSTMENTS		
STANDARD	ALLOWABLE MODIFICATION	
	OLD TOWN	OUTSIDE OLD TOWN
Any numerical dimensional standard from Table 5-100(A), <i>Dimensional Standards in the Residential Zone Districts</i> , or Table 5-100(B), <i>Dimensional Standards in the Business Zone Districts</i>	Modify by up to 20%	Modify by up to 10%
Any required setback from Tables 5-100(A) or (B) to protect root zones of existing healthy trees retained on a site during and after construction		Modify by up to 20%
<u>Required seperations of a use from certain zoning districts or other uses, as specified in Section 4-300.</u>	<u>Modify by up to 20%</u>	<u>Modify by up to 10%</u>
<u>Required seperations of a use in an existing building from certain zoning districts or other uses, as specified in Section 4-300.</u>	<u>Modify by up to 100%, based on 2-300(F)(4)(i) below</u>	
Perimeter buffer width standard from Table 6-300(F)(1), <i>Buffer Classifications</i>	Modify by up to 20%	No reduction allowed
Building, parapet or appurtenance height limits in Table 5-100(B), <i>Dimensional Standards in the Business Zone Districts</i> , and described in section 5-200(D).	Modify by up to 10%	Modify by up to 25%
Minimum required number of off-street parking spaces from Table 6-100(D)(1), <i>Minimum Off-street Parking Standards</i>	Modify by up to 20%	Modify by up to by 5% (only to protect root zones of existing trees with 10 inch dbh or greater)
Minimum Connectivity Index score of 1.65 (Section 6-800(A)(2)(b)(1)(c))	Modify by up to 25%	Modify by up to 15%
Limitation on the maximum number of off-street parking spaces located between a primary building façade and the street it faces for: <ul style="list-style-type: none"> • Commercial and public and institutional development in the OI, LC, CC, CG, PD-C, and PD-MEC districts (Section 6-800(C)(9)(a)(2)); or • Large Retail Establishments (Section 6-800(D)(7)) 	Modify by up to 20%	
Requirement that no parking be located between a single-family dwelling and the street it fronts (Section 6-800(E), <i>Infill Design and Development Standards</i>)	Modify by up to 100% (reductions allowed to protect heritage trees or where space or topographic considerations prevent access to the rear of a lot)	N/A
Front and side yard setbacks for corner lots developed with Commercial or Public and Institutional Uses (Section 6-800(E), <i>Infill Design and Development Standards</i>)	Reduce to minimum of up to 5 feet	N/A
Maximum building footprint for Commercial and Public and Institutional Uses (Section 6-800(E), <i>Infill Design and Development Standards</i>)	Modify by up to 25%	N/A
Glazing standards for: <ul style="list-style-type: none"> • Commercial and public and institutional uses (Section 6-800(C)(4)(b)(2)); or • Primary ground floor front facade glazing standards for Large Retail Establishments (Section 6-800(D)(2)(b)(1)) 	Modify by up to 25%	

(4) Administrative Adjustment Standards

Administrative Adjustments shall be approved upon a finding the applicant demonstrates the following standards are met:

(a) General

The requested Administrative Adjustment is not inconsistent with the character of development in the surrounding area, and will not result in incompatible uses.

(b) Mitigates Adverse Impacts

Any adverse impacts resulting from the Administrative Adjustment will be mitigated to the maximum extent practicable.

(c) Technical Nature

The Administrative Adjustment is of a technical nature (i.e., relief from a dimensional or design standard), and is either:

1. Required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general;
2. Supporting an objective or goal from the purpose and intent statements of the zone district where located; or
3. Proposed to save healthy existing trees.

(d) Not Substantially Interfere with Convenient and Enjoyable Use of Adjacent Land

The Administrative Adjustment will not substantially interfere with the convenient and enjoyable use of adjacent lands, and will not pose a danger to the public health or safety.

(e) Adjustment to Glazing Standards

With respect to the glazing standards for commercial and public and institutional uses or Large Retail establishments:

1. The reduction in glazing is needed to address a unique circumstance related to building location, or unique topographic or physical feature;
2. The development exceeds the minimum façade massing standards; and
3. Additional architectural details are included on the façade to account for a decrease in glazing.

(f) Adjustment to Location of Off-Street Parking

With respect to the standards in the OI, CC, CG, PD-C, and PD-MEC districts for the location of off-street parking for commercial and public and institutional uses, or the location of off-street parking for any Large Retail establishment:

1. The re-location of off-street parking is required to adjust for an unusual physical aspect or natural feature on the site that is not

shared by other landowners in general, or is required due to the unusual physical design of the development's buildings;

2. The re-location of the off-street parking is consistent with surrounding lands uses and development; and
3. For lots within Old Town only, the re-location of the off-street parking is consistent with the development patterns of surrounding lands uses and development.

(g) *Connectivity Index*

Adjustment to the minimum connectivity index score is allowable when it is demonstrated the landowner has attempted to develop a street design that complies with the connectivity index to the maximum extent practicable, but it reasonably impossible due to either:

1. Topographical or environmental conditions; or
2. The limited number of external connections to the site, and the physical features of the site.

(h) *Building Height*

An adjustment to building height in Business Zone Districts is allowable when:

1. The additional height is necessitated by a specific function of the building, or constraint of the site.
2. The building is setback from property lines at least one foot for every foot of height, and two feet for every foot of height when adjacent to a residential district.

(i) *Adjustments to Required Separations between Uses and Certain Districts or Other Uses*

For adjustments to these separations, the following additional criteria shall apply:

1. The adjustment should not result in any greater impact on the protected uses that would be experienced if the spacing standard were met. Any such impacts must be mitigated by conditions of approval. Mitigation measures may include, but are not limited to landscaping and buffering, fencing, operational limitations, and other measures.
2. Administrative adjustments of spacing distances that cross the boundary of Old Town shall be guided by the Old Town criteria.
3. This administrative adjustment shall not be applied to the spacing from: Adult Entertainment, Bars & Nightclubs, Convenience Stores w/Gas, Liquor Stores, Tattoo Parlors, Body Piercing Establishments and Check Cashing, Payday Lending & Title Loan Establishments.

(j) Adjustments to Required Separations between Uses in Existing Buildings and Certain Districts or Other Uses

Adjustment to the required separation for a use in an existing building may be made when:

1. The building has a back-to-back relationship with the use (or uses) from which it must be separated, meaning that this adjustment is not available when the two uses have a side-to-side or side-to-rear orientation.
2. The existing building must have a documented history of housing the same use or a use with similar impact characteristics to that proposed, within the previous five (5) years.
3. There must be the ability to create or maintain a buffer area between the two uses that meets the specific requirements of this Ordinance, or a buffer that is enhanced by other factors such as building location, building orientation or natural or man-made features that results in a buffer of similar effectiveness. Other mitigation measures may be required as conditions of approval depending on the nature of the proposed use and its location relative to the protected properties requiring the separation.
4. This administrative adjustment shall not be applied to the spacing from: Adult Entertainment, Bars & Nightclubs, Convenience Stores w/Gas, Liquor Stores, Tattoo Parlors, Body Piercing Establishments and Check Cashing, Payday Lending & Title Loan Establishments.

(5) Conditions of Approval

In approving an Administrative Adjustment, the Development Services Director may grant a lesser modification than the maximum allowed by this section or requested by an applicant, and may impose appropriate conditions on the permit approval in accordance with Section 2-200(O), *Conditions of Approval*.

(6) Recordation

The Development Services Director may require the applicant to record the Administrative Adjustment with the York County Clerk of Court. The Administrative Adjustment shall be binding upon the landowners, their successors, and assigns.

(7) Subsequent Development

Development authorized by the Administrative Adjustment shall not be carried out until the applicant has secured all other permits required by this Ordinance or any other applicable provisions of the City. An Administrative Adjustment shall not ensure that the development receiving an Administrative Adjustment receives subsequent approval for other applications for development unless the relevant and applicable portions of this Ordinance or any other applicable provisions are met.

(8) Effect

Issuance of an Administrative Adjustment shall authorize only the particular Administrative Adjustment that is approved in the permit. An Administrative Adjustment, including any conditions, shall run with the land and not be affected by a change in ownership.

(9) Expiration
The approval of an Administrative Adjustment shall be subject to the terms of Section 2-200, Expiration and Extension of Approval for Site Specific Development Plan

(10) Amendment
An Administrative Adjustment may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(11) Appeals
An aggrieved party may appeal the decision of the Development Services Director's to the ZBA in accordance with Section 2-300(R), *Appeals to ZBA from Decisions and Interpretations of Development Services Director*.

2-300(G) Historic Districts and Historic Properties

2-300(H) Site Plan

2-300(I) Subdivision

2-300(J) Stormwater Management and Sediment Control Plan

2-300(K) Grading Permit

2-300(L) Land Development Permit

2-300(M) Sign Permit

2-300(N) Temporary Use Permit

2-300(O) Zoning Permit

2-300(P) Certificate of Conformity

2-300(Q) Interpretations by Development Services Director

2-300(R) Appeals to ZBA from Decisions and Interpretations of Development Services Director

2-400 LAND DEVELOPMENT AGREEMENTS

2-500 APPENDIX 2-A CERTIFICATE OF ACCURACY

2-600 APPENDIX 2-B CERTIFICATE OF OWNERSHIP AND DEDICATION

2-700 APPENDIX 2-C CERTIFICATION OF APPROVAL OF THE INSTALLATION AND CONSTRUCTION OF STREET, UTILITIES AND OTHER REQUIRED IMPROVEMENTS

2-800 APPENDIX 2-D CERTIFICATION – CERTIFICATION OF APPROVAL OF COMPLIANCE WITH THE STORMWATER MANAGEMENT AND SEDIMENT CONTROL ACT OF 1991

2-900 APPENDIX 2-E CERTIFICATE OF APPROVAL OF RECORDING