

CITY OF HIGH POINT

AGENDA ITEM



Title: Text Amendment 18-01
(Forward High Point)

From: Lee Burnette, Planning & Development
Director

Meeting Date: February 19, 2018

Public Hearing: Yes

Advertising Date: February 7, 2018, and
February 14, 2018

Advertised By: Planning & Development

Attachments: A. Planning and Zoning Commission Recommendation
B. Staff Report
C. Text Amendment Ordinance

PURPOSE:

A request by Forward High Point to amend the Central Business (CB), Mixed Use (MX), Mixed-Use Washington Street (MX-W) and Mixed-Use Downtown (MX-D) zoning district standards regarding drive-thru facilities.

BACKGROUND:

The staff report and the Planning & Zoning Commission's recommendation are enclosed.

BUDGET IMPACT:

There is no budget impact.

RECOMMENDATION / ACTION REQUESTED:

- A. Staff recommended *approval* of this request, as outlined in the attached staff report.
- B. On January 23, 2018, a public hearing was held before the Planning and Zoning Commission regarding Text Amendment 18-01. The Planning & Zoning Commission recommended *approval* of this request, as outlined in the staff report and recommended by staff, by a vote of 8-0.

PLANNING AND ZONING COMMISSION RECOMMENDATION

Forward High Point

Text Amendment 18-01

At its January 23, 2018 public hearing, the Planning and Zoning Commission reviewed a text amendment request pertaining to drive-thru standards in the Central Business (CB), Mixed Use (MX), Mixed-Use Washington Street (MX-W) and Mixed-Use Downtown (MX-D) zoning districts. All members of the Commission were present except for Mr. Mark Walsh. Mr. Bob Robbins, Development Services Administrator, presented the text amendment and recommended approval as outlined in the staff report

Speaking in favor of the request:

Speaking in favor of the request was the applicant's representative, Mr. Ray Gibbs, Executive Director, Forward High Point.

Speaking in opposition of the request:

No one spoke in opposition to this request.

Planning & Zoning Commission Action

Consistency Statement

The Commission stated that the request assists in establishing the CB and MX-D districts as centers of commerce, which is consistent with adopted area plans.

Reasonableness Statement

The Commission stated that the request is reasonable and in the public interest because it:

1. Adds to the flexibility of the Development Ordinance;
2. Broadens economic development possibilities;
3. Enhances consistency of regulation within the Development Ordinance; and
4. Corrects an unintended consequence of a prior regulation.

The Planning & Zoning Commission **adopted these statements** by a vote of 8-0.

Text Amendment

The Commission recommended ***approval*** of Text Amendment 18-01, as recommended by staff, by a vote of 8-0.

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

**STAFF REPORT
TEXT AMENDMENT CASE 18-01
January 23, 2018**

Request	
Applicant: Forward High Point, Inc. Raymond J. Gibbs, Executive Director	Affected Ordinance Sections: Sections: 3.4.8.G. District Standards for CB 3.5.7.C.2.(c) Drive-Throughs for MX 3.5.7.D. Specific Standards for the MX-W 3.5.7.E. Specific Standards for the MX-D
Proposal: To amend the Central Business (CB), Mixed-Use (MX), Mixed-Use – Washington St (MX-W), and Mixed-Use – Downtown (MX-D) zoning district standards regarding drive-through facilities	

Background

Presently, the Development Ordinance does not permit drive-through lanes or windows in the Central Business (CB) district. Such facilities are also prohibited in the Mixed-Use (MX) district standards, and therefore are prohibited in both the Mixed-Use - Washington Street (MX-W) and Mixed-Use – Downtown (MX-D) districts.

The applicant, Forward High Point, has pointed out that although the prohibition of drive-through facilities, particularly in the CB district, was intended to keep fast food drive-throughs out, it has unintended consequences in that it also affects the development and/or retention of banks, which are a traditional anchor in the CB district. On behalf of Forward High Point, Ray Gibbs, the Executive Director, has requested a text amendment to allow drive-throughs in the CB district. Staff, in taking a more comprehensive look at drive-throughs, suggests that along with CB they also be allowed in the MX-D district. That change will necessitate corresponding changes in the overall MX and the MX-W regulations, in order to retain the prohibition of drive-throughs in the MX-W district.

Details of Proposal

The text amendment consists of four changes: 1) the prohibition of drive-through facilities in the CB district (3.4.8.G.) is removed and replaced with permission so long as speakers are at least 50 feet from residentially zoned property and drive aisles, menu boards and speakers are not located between the principal building line and the front street right-of-way; 2) the prohibition of drive-through facilities in the General Standards for All MX Districts (3.5.7.C.2.(c)) is removed; 3) the Specific Standards for the MX-W District are amended to add the prohibition of drive-through facilities (3.5.7.D.); and 4) the Specific Standards for the MX-D District are amended to add permission for drive-through facilities with the same requirements as for the CB district.

Staff notes that the drive-through requirements for the CB and MX-D districts will be the same as are already in place in the Main Street (MS) district, General Business (GB), Retail Center (RC), and Limited Business (LB) zoning districts.

Analysis

Despite attempts to test all possible scenarios, unintended consequences may result from the enactment of an ordinance. In this case, the exclusion of drive-through facilities in the CB district has a detrimental effect on the ability of banks to provide drive-through conveniences for their customers. Allowing drive-throughs while addressing elements that can cause negative impacts on nearby properties makes good sense. Adding drive-throughs, in the same manner, to the MX-D makes good sense as well, since that district is designed to promote mixed-use downtown development where such facilities would also be expected to occur.

The proposed additional requirements for the placement of menu boards, speakers and drive aisles are the same as exist now in other commercial districts in the City. These requirements are meant to keep the more impactful and less aesthetically pleasing features of drive-throughs from being placed out front where they are most visible.

Consistency with Adopted Policy Guidance:

Whether and the extent to which the proposed text amendment is appropriate and is consistent with the City's adopted policy guidance.

This text amendment assists in establishing the CB and MX-D districts as centers of commerce, which is consistent with adopted area plans.

Reasonableness/Public Interest:

An approval of the proposed text amendment is considered reasonable and in the public interest.

The proposed text amendment: 1) adds to the flexibility of the Development Ordinance; 2) broadens economic development possibilities; 3) enhances consistency of regulation within the Development Ordinance; and 4) corrects an unintended consequence of a prior regulation.

Recommendation

Staff recommends approval.

Drive-through facilities are an integral part of a large segment of retail business, including banks, restaurants, pharmacies, dry cleaners and many other retail establishments. Providing adequately for their use helps to encourage retail and overall economic growth. This text amendment corrects an unintended consequence caused by the prohibition of drive-throughs in the CB and the MX-D districts, increasing economic opportunity and ordinance flexibility.

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 disagrees 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. 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. 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 disagrees with staff's findings, by adoption of its own statement.

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.

AN ORDINANCE AMENDING THE CITY OF HIGH POINT DEVELOPMENT ORDINANCE.

WHEREAS, the City Council of the City of High Point adopted the “City of High Point Development Ordinance” on May 16, 2016, with an effective date of January 1, 2017, and subsequently amended; and

WHEREAS, public hearings were held before the Planning and Zoning Commission on January 23, 2018 and before the City Council on February 19, 2018 regarding **Text Amendment 18-01**; and

WHEREAS, notice of the public hearings was published in the High Point Enterprise on January 10, 2018 for the Planning and Zoning Commission public hearing and on February 7, 2018 and February 14, 2018 for the City Council public hearing pursuant to Chapter 160A-364 of the General Statutes of North Carolina.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HIGH POINT, NORTH CAROLINA:

SECTION 1.

Amend the Central Business (CB) District Section 3.4.8.G. District Standards as follows:

1. Drive-Throughs

~~Drive-through lanes and windows are prohibited.~~

(a) Outdoor speakers associated with the drive-through shall be at least 50 feet from a residential district.

(b) Drive-through windows, menu boards, drive aisles, and speakers shall not be located between the principal building line and the front street right-of-way. For corner lots, the drive aisles shall not be located between the principal building line and the front street right-of-way, to the maximum extent practicable.

SECTION 2.

Amend the Mixed-Use (MX) District Section 3.5.7.C.2. Site Standards as follows:

~~(c) Drive-Throughs~~

~~Drive-through lanes and windows are prohibited.~~

SECTION 3.

Amend Section 3.5.7.D Specific Standards for the MX-W District to add the following:

3. Drive-Throughs

Drive-through lanes and windows are prohibited.

SECTION 4.

Amend Section 3.5.7.E Specific Standards for the MX-D District to add the following:

2. Drive-Throughs

- (a) Outdoor speakers associated with the drive-through shall be at least 50 feet from a residential district.**
- (b) Drive-through windows, menu boards, drive aisles, and speakers shall not be located between the principal building line and the front street right-of-way. For corner lots, the drive aisles shall not be located between the principal building line and the front street right-of-way, to the maximum extent practicable.**

SECTION 5.

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 6.

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

SECTION 7.

This ordinance shall become effective upon adoption.

Adopted by the City Council
City of High Point, North Carolina
The 19th day of February 2018
Lisa B. Vierling, City Clerk