



Planning, Development & Inspections

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To: Wake County Board of Commissioners
From: Akul Nishawala, Planner III
Subject: Unified Development Ordinance Amendment 03-20
Date: January 19, 2021

Request

Amend the Wake County Unified Development Ordinance (UDO) Article 4 - *Use Regulations* to allow Hardware Stores and Veterinary Services as uses allowed by a Special Use Permit in the R-40W zoning district within a designated Activity Center as defined by the Land Use Plan.

Applicant

Ashley Terrazas, Fox Rothschild LLP

Background

Article 4 of the UDO lays out the various uses which are allowed in each zoning district within the County. The applicant is looking to increase the allowable uses within the use table by proposing to allow Hardware Stores and Veterinary Services as a use that is allowed within the R-40W zoning district through the Special Use Permit process only within a designated Activity Center.

The R-40W zoning districts as defined in Article 3, allow a limited number of nonresidential uses through the approval of a Special Use Permit by the Board of Adjustment. These nonresidential uses are restricted to property within a designated Activity Center as defined in the Wake County Land Use Plan.

Article 4-50-2(C) specifically denotes the use of a hardware store as not being allowed within R-40W zoning district as Neighborhood/Convenience-Oriented Retail. The applicant is now requesting to amend the UDO, specifically Article 4, to allow these two proposed uses within designated Activity Centers in the R-40W zoning districts. The applicant has stated in their application that these additional uses are encouraged and are consistent with the language of the Wake County Land Use Plan based Goals 3, 7, 8, and 9 which do encourage a range of different commercial uses.

Update – November 4

At their October 7, 2019 meeting, the Planning Board tabled this item in order to allow staff to research performance standards of the proposed uses in other jurisdictions. Utilizing this research, staff was able to develop a set of standards that it felt was reasonable given their relative intensities in a residential watershed district.

For veterinary clinics, staff proposed these additional standards (4-45-2):

1. The prohibition of outside activity related to the use.
2. Medical treatment must be confined to an enclosed building.

3. The building must be adequately soundproofed.

For hardware stores (4-50-2) staff proposed to prohibit outdoor storage and/or display.

The rationale for these standards was based largely on maintaining the community character of these residential areas and the environmental concerns of any potential runoff. Particularly, for hardware stores, staff concluded that any outdoor storage or display is not consistent with the residential character of the existing neighborhood. Additionally, some materials that are typically stored outdoors are exposed to the elements and could cause harm to the watershed. Staff was also concerned that any allowance here would inevitably transition into more items being stored in the parking lot.

As a reminder, this text change, if approved, would apply to eleven activity centers spread across three different water supply watersheds. Because of this, staff reached out to partners of the Swift Creek and Little River Interlocal Agreements (ILAs) and shared the proposed amendment under consideration. The initial response thus far has been supportive of staff's recommendations.

UPDATE – December 2,

At their November 4 meeting, the Planning Board once again tabled this item in order for staff and the applicant to further discuss standards for outdoor storage and display for hardware stores. Staff drafted a set of standards that it felt heeded the direction of Planning Board's guidance and satisfied the applicant's concerns while maintaining the community character and environmental concerns of the residential watershed districts.

For hardware stores, staff proposes to amend 4-50-3 to remove the requirement to have outside storage for neighborhood/convenience retail uses only allowed when the Board of Adjustment deems it necessary to the use permitted. Further, staff added the following additional standards that are applicable only to watershed and watershed overlay districts:

- (a) Outdoor display shall be limited to seasonal products, including, but not limited to live plants, pumpkins, and holiday trees, and shall be located under the main building canopy. The outdoor display area may include propane tanks.
- (b) The storage of landscaping and building products including, but not limited to fertilizers, lime, grass seed, mulch, stone, and lumber shall be:
 - (i) Inside the main building; AND/OR
 - (ii) Under the main building canopy and located on an impervious surface to prevent runoff and enclosed with an opaque wall or fence in such a way that the stored materials are screened from any right-of-way, building, and adjacent lot.
- (c) The combined floor area of the main building and outdoor display/storage shall not exceed 15,000 S.F.

The new language makes clear the differences between outdoor storage and display, the allowable locations for storage of landscaping and building products, and the allowable floor area of such uses. Staff felt that rather than impose a percentage of the total floor area that would be allowed for storage/display, allowing the property owner to make whatever determination they saw fit within the total allowable square footage would be a more understandable, flexible, and enforceable policy.

Findings

- 1. Staff's intention is to ensure that, with any amendment to the allowed uses in residential watershed districts, the community character is maintained and that the risk of environmental harm is minimized.**
- 2. The language proposed by staff creates reasonable standards for hardware stores and veterinary clinics located in Wake County's watershed and watershed overlay districts.**
- 3. The language proposed by staff is in the best interest of the health, safety, and welfare of the public.**

Recommendation

Staff recommends approval of the proposed changes presented by staff.

ARTICLE 4. - USE STANDARDS, PART 1- USE TABLE

4-11 - Use Table

USE GROUP	Zoning Districts																	Use Standards
Use Category Specific Use Type	Residential					Highway	RHC			Commercial			Indust		Sp. Purpose			
	R-80W	R-40W	R-80-R-10	R-5	RMH	HD	Activity Center	Res Support Area	Outside RSA	O&I	GB	HC	I-1	I-2	AD-1	AD-2	RA	
P = Permitted use (as-of-right) S* = Special use approval req'd (in AC & 19-23)										S = Special use approval req'd (19-23) - = Prohibited								
COMMERCIAL USE GROUP																		
Animal Service																		
Veterinary	-	<u>S*</u>	S*	S*	-	S	P	S	S	P	P	P	P	P	-	-	-	§4-45
Kennel	S	S	S	S	-	S	S	S	S	S	S	P	P	P	-	-	-	§4-46
Shelter	S	S	S	S	-	S	S	S	S	S	S	P	P	P	-	-	-	§4-46

ARTICLE 4 – USE STANDARDS, PART 4 – USE STANDARDS (CONT'D)

4-45 - Hospitals and Other Medical Institutions.

4-45-1 Hospitals or sanatoria, philanthropic or eleemosynary institutions, ~~and animal hospitals~~ are subject to the following standards:

- (A) All buildings must be set back at least 100 feet from any lot line or street line, ~~and~~
- (B) The exterior appearance of all buildings must be in harmony with the character of the area.

4-45-2 Veterinary clinics are subject to the following standards:

- (A) All buildings must be set back at least 100 feet from any lot line or street line.
- (B) The exterior appearance of all buildings must be in harmony with the character of the area.
- (C) No outside activity associated with the use shall be permitted.
- (D) Medical treatment or care shall be practiced only within an enclosed building or structure.
- (E) The building space shall be adequately soundproofed to assure that no noise will carry beyond the confines of the building or space that the use would occupy.

ARTICLE 4 – USE STANDARDS, PART 5 – USE STANDARDS (CONT'D)

4-50 - Neighborhood/Convenience-Oriented Retail.

4-50-1 **Intent.** It is the intent of this subsection to permit within certain residential districts, other than R-80W districts, certain low-intensity retail trade, finance, and service establishments that are

accessible by pedestrians from the surrounding neighborhoods, serve the daily convenience and personal service needs of the surrounding neighborhoods, and are of such a nature as to minimize conflicts with existing or potential residential uses.

4-50-2 Uses Allowed.

- (A) Retail convenience stores selling beverages, groceries, patent drugs, and gasoline, including automatic bank teller machines, and hardware stores, - provided, however, that stores that sell gasoline are not allowed in R-40W districts.
- (B) Auto service and vehicular repair stations, except that they are not allowed in R-40W districts.
- (C) Neighborhood indoor retail and service trade establishments including: banks, cafes, book stores, antique shops, dry goods, ~~hardware~~, and other similar indoor retail and service trade establishments, except that they are not allowed in R-40W districts.
- (D) Personal service establishments.

4-50-3 Standards. All neighborhood/convenience-oriented retail uses, except personal service establishments, must comply with the following standards:

- (G) **Outside Storage.** In addition to the primary facility, outside storage may be permitted ~~on a lot when it is determined by the Board of Adjustment to be necessary to the use permitted, provided that subject to the following:~~
 - (1) Type A screening/bufferyard (See 16-10-2) is established and maintained along the perimeter of the outside storage facility; and
 - (2) Landscaping and bufferyards are provided in accordance with Sec. 16-10.
 - (3) Refuse containers may be stored outside of the building, but they must be screened from view from any adjacent lot and maintained in a sanitary and litter-free condition.
 - (4) Watershed and Watershed Overlay Districts are subject to the additional following standards:
 - (a) Outdoor display shall be limited to seasonal products, including, but not limited to live plants, pumpkins, and holiday trees, and shall be located under the main building canopy. The outdoor display area may include propane tanks.
 - (b) The storage of landscaping and building products including, but not limited to fertilizers, lime, grass seed, mulch, stone, and lumber shall be:
 - (i) Inside the main building; AND/OR
 - (ii) Under the main building canopy and located on an impervious surface to prevent runoff and enclosed with an opaque wall or fence in such a way that the stored materials are screened from any right-of-way, building, and adjacent lot.
 - (c) The combined floor area of the main building and outdoor display/storage shall not exceed 15,000 S.F.

ARTICLE 21. - DEFINITIONS AND MEASUREMENT,

21-11 - Definitions

Veterinary Clinic or Animal Hospital means an establishment where animals are brought for the medical, surgical and preventative treatment and may be held during the time of treatment and recuperation

Building Canopy means a permanent roof-like structure that projects out from the face of the main building and whose structural support is an integral part of the main building.