

DATE: June 21, 2022

CASE: TA-07-22 and TA-08-22 Text Amendment – Multi-Family and Convention Center, Mixed Use

PREPARED BY: Scott Sherrill, AICP, Development Review Manager

BACKGROUND: TA-07-22, CITIZEN INITIATED

On April 14, 2005, City of Concord City Council adopted a text amendment that established a list of permitted uses within 1,000 feet of the Concord Convention Center, effectively establishing an overlay on surrounding properties that limited approved uses. Among the uses that were not permitted within the 1,000 ft. buffer were multi-family residential and mixed-use buildings. The bounds of the overlay were further limited from applying to properties across rights of way greater than 120', which effectively means that properties across Bruton Smith Blvd. were exempted from the use limitations. Several adjoining property owners spoke in opposition to the text amendment at the hearing in 2005.

A map reflecting the convention center buffer is attached to this staff report. It includes portions of the Rocky River Golf Course and other city-owned property to the north along the Hector Henry Greenway. There is one vacant outparcel on Gateway Ln, which is proposed for a drive thru restaurant, per their sewer allocation request. There are four undeveloped parcels bounded by Bruton Smith Blvd, Scott Padgett Pkwy NW, and John Q Hammon Dr. NW that total 8.2+/- acres, and the property at 5350 John Q Hammon Dr NW., consisting of approximately 5.6 acres. All of the relevant property is currently zoned General Commercial (C-2).

The City of Concord received an application for a text amendment from David B. Kossove requesting that multi-family residential uses be permitted within 1,000 feet of the convention center. Staff has recommended extending this request to explicitly permit mixed use buildings also.

Mr. Kossove is associated with a group that is seeking to develop a mixed-use building and a standalone multi-family building at 5350 John Q Hammon Dr. NW that is currently in for a sewer allocation request.

The C-2 zoning district permits vertically integrated mixed-use buildings by right, and multi-family buildings with a special use permit. Residential units above non-residential do not count towards the density limit, whereas standalone multi-family units are limited to 30% of the parcel area for both density and use, and are limited in density to the Residential Compact (RC) standard of 15 dwelling units per acre.

The aerial map reflecting the 1,000 ft. convention center buffer, the application for text amendment, and a selection of the minutes from the April 14, 2005 City Council meeting are attached to this staff report.

Pending guidance from the Planning and Zoning Commission, City staff would return to the Planning and Zoning Commission with a drafted text amendment at the July 19th, 2022 meeting.

BACKGROUND: TA-08-22, ADMINISTRATIVE

City Staff is proposing an amendment to the definition of Building, Mixed Use. The current definition limits the definition to buildings that resemble large single-family detached housing units, which is not the likely form of a mixed-use building, which can resemble larger, more dense apartment buildings in urban settings. This more urban form is more likely what would be expected in the City of Concord, and this definitional change reflects that reality.

The Article 14 amendment would read thus:

BUILDING, MIXED USE - A vertically integrated mixed use building, ~~similar in appearance to a large single-family detached house that is regulated in form but flexible in use~~. The building is able to accommodate a wide variety of uses, including apartments for sale or rent, bed and breakfast inn, small professional offices, ground floor retail or restaurant.



I, David B Kossove, on behalf of Crestbrook Investors LLC, do hereby request that the Planning and Zoning Commission consider a Concord Development Text amendment to amend Section 8.3.4.G 5 for the following reasons:

to allow the inclusion of multi family residential as a permitted use within 1000' of the City Convention Center. (see attached)

Four horizontal lines for additional reasons.

(attach additional sheets if necessary)

Date: 5/23/2022
Signature of Applicant: David B Kossove
Address: for Crestbrook Investors, LLC
843 DeBordieu Bv
Georgetown, SC 29440
Telephone: () 704-650-3883
dkossove@phienterprises.com

Note: Acceptance and processing of this application provides the applicant with an opportunity to present his/her request to the Planning and Zoning Commission, but in no way guarantees that an amendment will either be requested or considered by the Commission, or that an amendment will be voted upon and recommended by the City Council for approval. Payment of the application fee shall be due upon the direction of the Planning and Zoning Commission that an amendment be drafted for consideration.

Staff Use Only: Application Received by: Date: Fee: \$400.00 Received by: Date: The application fee is nonrefundable.

Staff Use Only:

Planning and Zoning Commission Meeting:

Date: _____, 20____ Time: _____

___ Approved/Accepted ___ Denied/Rejected

Comments:

Recommendation on the drafted amendment:

Record of Decision: Motion to: ___ Approve ___ Deny

Yea Nay

_____	___	___
_____	___	___
_____	___	___
_____	___	___
_____	___	___
_____	___	___
_____	___	___

Date: _____, 20____ ___ Accepted ___ Rejected

Findings:

UDO TEXT AMENDMENT – SECTION 8.3.4.G 5

Add the following to list of allowed uses: RESIDENTIAL – MULTI FAMILY

5. LOCATION

Only the following permitted uses from Table 8.1.8 shall be allowed to locate within one thousand (1000) feet from any convention center property unless the use is separated by an existing public right-of-way of 120 ft. or greater. This does not include property whose use(s) would become non-conforming at the date of adoption. For purposes of this section, a property for which a site plan has been approved shall be considered to be a convention center property.

ABC Store

Accessory uses (customarily incidental to the permitted primary use as approved by the Administrator)

Accounting & Tax Service

Advertising & Related Services

Amusement Arcade, indoors only

Amusement Park

Animal Grooming Establishment (no overnight boarding)

Antique Store

Architectural, Engineering & Related Services

Art Dealer

Art Supply Shop

Auditorium/Assembly Hall, up to 350 seats

Auditorium/Assembly Hall, more than 350 seats

Bakery/Snack Shop, no drive-thru

Bank Teller Machines, outdoor (principal or accessory uses)

Barber/ Beauty Shop

Baseball Hitting Range

Beauty Supply and Cosmetic Store

Bed and Breakfast Inn

Bicycle Sales and Service

Blueprinting and Drafting Service

Botanical Gardens/Nature Preserves

Book Store

Bowling Center

Bus Charter Service Company (including passenger terminals)

Camera and Photography Store

Candle Shop

Candy and Nut Store

Card Shop

Child Care Center
China and Tableware Shop
Clock and Watch Sales and Repair
Cloth/Piece Goods store
Clothing and Clothing Accessories
Clothing Alterations and Repairs
Coin and Stamp Shop
Computer System Design & Related Services
Convention Center
Costume Rental Shop
Counseling Office
Consulting Office
Country Club
Craft Studio and Store
Credit Bureau
Dance School Studio
Data Processing and News Services
Delivery/Courier Service, local, (no commercial vehicles)
Detective Agency
Drapery and Linen Shop
Electronics Sales and Repair
Electronic Shopping and Mail-Order Houses
Employment Agency
Engineering, Architect or Surveying Office
Environmental Consulting Service
Extended Stay Lodging Facilities
Financial Institution (no drive up windows)
Floral and Christmas Shop
Florist
Food Catering Facility
Food Store, (excluding convenience stores)
Formal Wear
Funeral Home
Furniture & Home Furnishings store
General Merchandise Store (less than 25,000 sq. ft.)
Gift, Novelty and Souvenir Store
Glass and Mirror Shop
Golf Course, public or private
Golf Driving Range
Governmental Buildings (excl. correctional institutions)
Graphic Design Services
Gun and Ammunition Sales
Gunsmith
Hardware Store

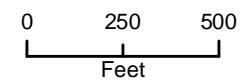
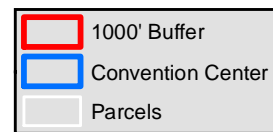
Health Club & Fitness Center
Hobby, Toy, and Games Stores
Home Electronics Sales and Repair
Home Occupations
Hospital
Hotel
Industrial Design Services (general office)
Insurance Agency
Interior Design Services
Jewelry Sales and Repair Store
Legal services
Library, public
Limousine/Chauffeur Service
Martial Arts School
Massage Therapist
Medical clinic
Medical Supply Shop
Micro-Brewery (less than 5,000 sq. ft.)
Miniature Golf Course
Motel
Motion Picture and Sound Recording Studio
Motion Picture Theater, indoor
Museum
Music Store
Nail Store
Newsstand (principal use)
Nursery, plants
Office, general
Office supplies, Equipment and Stationary Store
Park, community
Park, district
Park, neighborhood
Park, linear
Park, regional
Parking Lot & Decks, principal use
Performing Arts Company & Artist
Pet Shop
Photocopy Service
Photofinishing Laboratory
Photography Studio
Picture Frame Shop
Post Office
Postal store and Contract Station
Printing and related Support Activities

Public Transportation System
Real Estate agency
Recreational Instruction and Camps
Religious Institution / House of Worship (up to 450 seats)
Religious Institution / House of Worship (more than 450 seats)

Residential – Multi Family

Restaurant
School, boarding
School, business or trade
School, private & parochial
School, public, elementary & secondary
School, university or college
School, fine arts
Scientific Research & Development Services
Sewing, Needlework & Piece Goods Store
Shoe Sales and Repair Shop
Shopping Center, less than 25,000 sq. ft.
Shopping Center, 25-100,000 sq. ft.
Shopping Center, over 100,000 sq. ft.
Skating Rink, indoor
Social Assistance (excl. child care centers)
Sporting Goods Store
Stationery Shop
Stock or Security Brokerage Firm
Tanning Salon
Television, Radio & Film Studio
Tobacco Shop
Travel Agency
Trophy & Plaque Shop
Video Rental & Sales
Visitor Bureaus
Wedding Chapel

Convention Center
1,000' Buffer



Mayor Padgett.

Mr. Joe Shambo appeared in support of the annexation. He said the area has two waterways, which gives them an opportunity to protect and enhance the surrounding greenways. He said it would be nice to develop this premiere residential community in conjunction with the City.

No further comments were received. Therefore, the public hearing was closed.

The City Manager said there is no doubt this would be a high quality development. However, there is a concern about the City overextending its services. He further stated that this area is included in the five-year annexation plan that was previously adopted.

Council Member Ramseur stated that the Utilities Service Agreement would ensure that the development is built according to the City's development standards so it could easily be annexed later.

A motion was made by Council Member Henry, seconded by Council Member Ramseur, and duly carried, to deny the current annexation petition and authorize the City Manager and staff to finalize the Utilities Service Agreement with the owner/developer—the vote: all aye.

* * * * *

This date and time was established in order to conduct a public hearing and to consider adopting an ordinance annexing the Ambassador project area located east of Poplar Tent Road and south of NC Highway 73. However, the City Manager stated that Mr. Chip Thompson, a representative of Ambassador Properties, had submitted a letter requesting that this annexation request be withdrawn.

Mr. Bob Taylor, with Lat Purser and Associates, appeared on behalf of Mr. Porter Byrum, one of the property owners. He told the Council that they were just notified of Mr. Thompson's letter and asked if Ambassador Properties could withdraw the request without the consent of the property owner. He stated that the property owner signed the petition, but did not know he was giving up all his rights.

The City Attorney suggested that the Council could table this item until next month in order to determine if Ambassador Properties has the right to withdraw.

The City Manager reminded the Council that staff's recommendation was to offer a Utilities Service Agreement and deny the annexation request due to the issues involving adequate school facilities, before the letter was received from Mr. Thompson.

Council Member Grimes felt the Council should table the item to determine the correct applicant. Council Member Ramseur said the petition showed Ambassador Properties as the applicant.

A motion was made by Council Member Barrier, seconded by Council Member Grimes, and duly carried, to table this item until the next regular meeting on May 12, 2005 for clarification—the vote: aye: Phillips, Small, Brown, Barrier, Henry, Grimes; no: Ramseur.

* * * * *

This date and time was established in order to conduct a public hearing and to consider adopting an ordinance to amend the Unified Development Ordinance (UDO) pertaining to Article 5, Supplemental Use Regulations. Staff was directed to draft an amendment to the current language in the UDO regarding compatible and complimentary

uses in close proximity to a convention center. The proposed language lists uses that will be allowed within one thousand (1000) feet from any convention center property unless the use is separated by an existing public right-of-way of 120 feet or greater. The public hearing, having been duly advertised, was opened by Mayor Padgett.

Mr. Deane Brunson, representing Crestbrook Investors, the owner of the property adjoining the convention center, appeared in opposition to the text amendment. Ms. Anne Morrison, representing Modern Nissan, stated that they entered into a contract on March 15, 2005 to purchase 5.75 acres adjoining the convention center site from Crestbrook Investors. Mr. Brunson informed the Council that Crestbrook acquired 13.3 acres in front of the convention center site in 1999. At that time, the City had an access easement through the middle of the property, which takes up about 1.468 acres, leaving 5.362 acres to the left of the road and 6.28 acres to the right. He stated that Crestbrook has met on many occasions with the Mayor and City Manager to discuss the plans for the convention center and the plans for their property. However, on Sunday, April 10, Crestbrook was informed of this text amendment by a phone call from the Mayor. Mr. Brunson stated that the text amendment will take away 81 of the 288 uses currently allowed.

Mr. Brunson then spoke about the notices that were given for the public hearings held by the Planning and Zoning Commission and City Council. He stated that a special meeting of the Planning and Zoning Commission was held this past Tuesday evening. Mr. Brunson quoted from the General Statutes regarding the requirements for holding public hearings. He stated that a notice shall be published once a week for two successive calendar weeks in the newspaper, with the first notice published not less than 10 days nor more than 25 days before the hearing. He also read what information the notice should include. Mr. Brunson said they felt the notice had failed to adequately alert the owners of property of their rights that might be affected. He also felt the notice failed to describe the area in question.

Ms. Morrison informed the Council that she had spoken with a representative at the Institute of Government earlier about the matter, who had directed her to a similar case in another town. She spoke about the vague notice that was advertised for the public hearings.

A motion was made by Council Member Phillips, seconded by Council Member Ramseur, and duly carried, to allow Ms. Morrison an additional two minutes to speak.

Ms. Morrison stated that the purpose of the notice is to alert the general public and the people who are affected and give them notice so that they can speak and have an adequate public hearing. In that particular case, as in this one, they believe the notice was so cryptic and vague that it amounted to no notice at all.

Mr. Brunson also stated that the General Statutes require the City to give written notice to any property that abuts the property being affected. He stated that the City did not provide a written notice to anyone. Mr. Brunson requested that the Council deny the text amendment. However, if the Council is inclined to adopt the text amendment they requested that the usages they faxed to the City be included. He felt that the Council should not take action on the text amendment as recommended by staff because they feel proper notice was not given to the public.

Mr. Robert Fowler, President of Modern Automotive Network, requested that the Council include automotive sales if the text amendment is adopted. He stated that they are prepared to invest \$5 to \$6 million to this site to construct a building that would be very appropriate for the area. Mr. Fowler stated that this type of business would not be detrimental to the convention center and would not generate a significant amount of traffic.

Mr. Brunson stated that 90% of Speedway Boulevard has already been developed and includes four or five fast food restaurants, a car dealership and gas stations. All of

these uses would be denied for their property in the proposed text amendment. Mr. Brunson stated that they have been told that the main entrance to the convention center is next to the existing car dealership and their property is at the exit of the convention center.

A motion was made by Council Member Henry, seconded by Council Member Ramseur, and duly carried, to recess for ten minutes for the City Attorney to confer with staff.

Following the ten-minute recess, the Council reconvened.

No further comments were received. Therefore, the public hearing was closed.

A motion was made by Council Member Grimes, seconded by Council Member Ramseur, and duly carried, to adopt the amendment to the Unified Development Ordinance pertaining to Article 5, Supplemental Use Regulations, as recommended, and to instruct the City Manager to assign staff to start immediately to work with impacted property owners that have suggestions for changes in the listed uses to determine if other uses should be listed with or without conditions and to come back to Council with a recommendation—the vote: all aye.

ORD. # 05-27

AN ORDINANCE AMENDING THE ZONING ORDINANCE
OF THE CITY OF CONCORD, NORTH CAROLINA

WHEREAS, the City of Concord, North Carolina pursuant to the authority conferred by the North Carolina General Statute 160A-394 enacted an Official zoning Ordinance for the City of Concord, North Carolina and the Area of Extraterritorial Jurisdiction on July 28, 1977; and

WHEREAS, the City of Concord, North Carolina pursuant to the authority conferred by North Carolina General Statute 160A-381 through 160A-394 may from time to time as necessary amend, supplement, change, modify or repeal certain of its zoning regulations and restrictions and zone boundaries; and

WHEREAS, the City of Concord, North Carolina pursuant to the authority conferred by North Carolina General Statute 160A-381 through 160A-394 does hereby recognize a need to amend the text of certain articles of the City of Concord zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Concord, North Carolina:

SECTION 1: That Article 5, Supplemental Use Regulations, Table of Contents, of the City of Concord Unified Development Ordinance be amended to read as follows:

**ARTICLE 5
SUPPLEMENTAL USE REGULATIONS**

Summary: *This Section establishes uniform criteria for particular uses which are permitted within one or more of the zoning districts established in Article 4. If the use is listed as a permitted use in Article 4, Table 4.6-1 or 4.6-2, the additional criteria set forth in this Article must be satisfied before an application for development approval will be approved or issued. If the use is listed as a conditional use in Article 4, Table 4.6-1 or 4.6-2, the additional criteria set forth in this Article must be satisfied before an application for Conditional Use Permit will be approved. These criteria are designed to ensure that the listed uses are compatible with the other permitted uses in the zoning district and to*

implement the policies of the Comprehensive Plan.

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SECTION 2: That Article 5, Supplemental Use Regulations, of the City of Concord Unified Development Ordinance, be amended to include the following:

5.27 SUPPLEMENTAL LOCATION STANDARDS

5.27.1 PURPOSE.

The purpose and intent of this section is to ensure that future development within close proximity of the convention center will contain uses that are compatible and complimentary, and promote pedestrian as well as tourist activities.

5.27.2 LOCATION.

Only the following permitted uses from Table 4.6-1 shall be allowed to locate within one thousand (1000) feet from any convention center property unless the use is separated by an existing public right-of-way of 120 ft. or greater. This does not include property whose use(s) would become non-conforming at the date of adoption. For purposes of this section, a property for which a site plan has been approved shall be considered to be a convention center property.

ABC Store
Accounting & Tax Service
Advertising & Related Services
Amusement Arcade, indoors only
Amusement Park
Animal Grooming Establishment, no overnight boarding
Antique Store
Architectural, Engineering & Related Services
Art Dealer
Art Supply Shop
Auditorium/Assembly Hall, up to 350 seats
Auditorium/Assembly Hall, more than 350 seats
Bakery/Snack Shop, no drive-thru
Bank Teller Machines, outdoor (principal or accessory uses)
Barber/ Beauty Shop
Baseball Hitting Range
Beauty Supply and Cosmetic Store
Bed and Breakfast Inn
Bicycle Sales and Service
Blueprinting and Drafting Service
Botanical Gardens/Nature Preserves
Book Store
Bowling Center
Bus Charter Service Company, including passenger terminals
Camera and Photography Store
Candle Shop
Candy and Nut Store
Card Shop
Child Care Center

China and Tableware Shop
Clock and Watch Sales and Repair
Cloth/Piece Goods store
Clothing and Clothing Accessories
Clothing Alterations and Repairs
Coin and Stamp Shop
Computer System Design & Related Services
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Costume Rental Shop
Counseling Office
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Country Club
Craft Studio and Store
Credit Bureau
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Data Processing and News Services
Delivery/Courier Service, local, (no commercial vehicles)
Detective Agency
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Electronics Sales and Repair
Electronic Shopping and Mail-Order Houses
Employment Agency
Engineering, Architect or Surveying Office
Environmental Consulting Service
Extended Stay Lodging Facilities
Financial Institution
Floral and Christmas Shop
Florist
Food Catering Facility
Food Store, (excl. conv. stores)
Formal Wear
Funeral Home
Furniture & Home Furnishings store
General Merchandise Store (less than 25,000 sq. ft.)
Gift, Novelty and Souvenir Store
Glass and Mirror Shop
Golf Course, public or private
Golf Driving Range
Governmental Buildings (excl. correctional institutions)
Graphic Design Services
Gun and Ammunition Sales
Gunsmith
Hardware Store
Health Club & Fitness Center
Hobby, Toy, and Games Stores
Home Electronics Sales and Repair
Home Occupations
Hospital
Hotel
Industrial Design Services (general office)
Insurance Agency
Interior Design Services
Jewelry Sales and Repair Store
Legal services
Library, public
Limousine/Chauffeur Service

Martial Arts School
Massage Therapist
Medical clinic
Medical Supply Shop
Micro-Brewery (less than 5,000 sq. ft.)
Miniature Golf Course
Motel
Motion Picture and Sound Recording Studio
Motion Picture Theater, indoor
Museum
Music Store
Nail Store
Newsstand (principal use)
Nursery, plants
Office, general
Office supplies, Equipment and Stationary Store
Park, community
Park, district
Park, neighborhood
Park, linear
Park, regional
Parking Lot & Decks, principal use
Performing Arts Company & Artist
Pet Shop
Photocopy Service
Photofinishing Laboratory
Photography Studio
Picture Frame Shop
Post Office
Postal store and Contract Station
Printing and related Support Activities
Public Transportation System
Real Estate agency
Recreational Instruction and Camps
Religious Institution / House of Worship, up to 450 seats
Religious Institution / House of Worship, more than 450 seats
Restaurant
School, boarding
School, business or trade
School, private & parochial
School, public, elementary & secondary
School, university or college
School, fine arts
Scientific Research & Development Services
Sewing, Needlework & Piece Goods Store
Shoe Sales and Repair Shop
Shopping Center, less than 25,000 sq. ft.
Shopping Center, 25-100,000 sq. ft.
Shopping Center, over 100,000 sq. ft.
Skating Rink, indoor
Social Assistance (excl. child care centers)
Sporting Goods Store
Stationery Shop
Stock or Security Brokerage Firm
Tanning Salon
Television, Radio & Film Studio

Tobacco Shop
Travel Agency
Trophy & Plaque Shop
Video Rental & Sales
Visitor Bureaus
Wedding Chapel

SECTION 5: That this Ordinance be effective immediately upon adoption.
Adopted in open session this 14th day of April, 2005.

CITY COUNCIL
CITY OF CONCORD
NORTH CAROLINA

/s/ J. Scott Padgett, Mayor

ATTEST: /s/ Vickie C. Weant, City Clerk

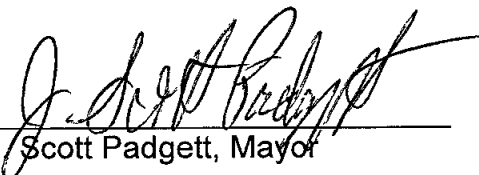
/s/ Albert M. Benshoff, City Attorney

This date and time was established in order to conduct a public hearing and to consider adopting the Annual Agency Plan for the Concord Housing Department. The public hearing, having been duly advertised, was opened by Mayor Padgett.

No comments were received. Therefore, the public hearing was closed.

A motion was made by Council Member Henry, seconded by Council Member Small, and duly carried, to adopt the Annual Agency Plan for the Concord Housing Department—the vote: all aye.

There being no further business to be discussed, a motion was made by Council Member Barrier, seconded by Council Member Ramseur, and duly carried, to adjourn—the vote: all aye.



J. Scott Padgett, Mayor



Vickie C. Weant, City Clerk