

**STAFF RECOMMENDATION  
ZONING MAP AMENDMENT  
CASE NUMBER ZONE-2019-02-404  
141 E. BROAD STREET  
MARCH 7, 2019**

**GENERAL INFORMATION AND PROPOSED DEVELOPMENT**

**I. THE REQUEST**

APPLICANT:..... James C. Warnes  
OWNER: ..... WALCO Investments, LP  
REQUEST:..... Amendment to C-D\* (DHD) (Commercial-Downtown Zoning with Conditions, Downtown Historic District)  
TYPE OF REQUEST: ..... Type II  
LOCATION: ..... 141 E. Broad Street  
COUNTY COMMISSION DISTRICT: ..... 3  
SIZE OF SUBJECT PROPERTY:..... 0.15 acres  
PRESENT USE:..... Surface Parking  
PROPOSED USE:..... Commercial/Retail  
TAX MAP NUMBER:..... 171B5 B003  
ADJACENT USES AND ZONING: ..... (N) Retail / C-D (DHD)  
..... (E) Restaurants, copy shop/ C-D (DHD)  
..... (S) E. Broad Street  
..... (W) Mixed-Use / C-D (DHD) (PD)  
STAFF RECOMMENDATION: ..... **Approval w/ condition**  
PLANNING COMM. RECOMMENDATION: ..... **Pending**

**II. PURPOSE**

The purpose of this request is to amend the conditions of zoning for the 0.15-acre subject property while maintaining the C-D\* (DHD) (Commercial-Downtown Zoning with Conditions, Downtown Historic District) designation. The stated purpose of this request is to allow for a ground floor commercial use to have no required setback at the western side property line while requiring a 10-foot minimum setback for all floors above the ground floor on the western side.

**III. EXISTING CONDITIONS AND HISTORY OF SUBJECT PROPERTY AND VICINITY**

The 0.15-acre subject property is located on the north side of Broad Street, between Lumpkin Street and College Avenue. The subject property is bordered by a restaurant with C-D (DHD) zoning to the east, a mixed-use development with commercial at the ground and basement levels and residential condominiums above to the west zoned C-D (DHD) with a Planned Development, and retail and restaurant/bar use to the north zoned C-D (DHD). East Broad Street is to the south. The subject parcel is within the locally designated Downtown Historic District. The property is presently used for surface parking.

- In 1979 this property and the adjacent property to the west were rezoned from B-3 (Central Business District) to GD-400 (Group Housing Development). The purpose of the rezoning was to allow the

conversion of an existing parking deck on the adjacent property into an apartment building with commercial use space. At that time 41 dwelling units and 82 off-street parking spaces (2 spaces per unit) were planned, The subject property was to have 19 parking spaces with the remainder off-site. Reference PD-1979-01.

- In 1981 an amendment to the GD-400 plan was approved to allow 51 dwelling units on the adjacent property, including an increase in building height from 9 to 12 stories. Included in this approval was a reduction in the required parking reduced to 76 spaces. Reference PD-1980-01.
- In 1982 an amendment to the GD-400 plan was approved to allow 72 dwelling units, but a decrease of building height to the original 9 stories. Included in this proposal was a reduction in the parking requirement to only 52 off-site spaces. The request was approved with a stipulation that “the paved area to the east be used as parking.” However, the approval did not include a binding plan and there is no indication in the record that the on-site parking area was to be reserved for the adjacent dwelling units. Reference PD-1982-01.
- In 1984 an amendment to the GD-400 plan was approved to address the use of the first floor and basement levels for commercial uses. Reference PD-1984-07.
- In 2006 a request was made to remove the Planned Development designation from the parcel containing the 19-space surface parking lot, while retaining the C-D (Commercial-Downtown) zoning. At the Planning Commission meeting the University Tower Board of Directors expressed concerns regarding parking availability and the need for staging room for exterior maintenance. The applicant requested a table, which was granted by the Planning Commission. The file was closed for inactivity in May of 2007.
- In November 2008 another request to remove the Planned Development designation was submitted to the Planning Commission, which recommended approval. However, the request was withdrawn while under consideration by the Mayor and Commission. The applicant was encouraged to return with a more specific proposal.
- In August 2009 another request to remove the Planned Development designation was approved with the following conditions:
  1. Binding the submitted plans as limitations on building height and setbacks for the northern and eastern elevations with a minimum setback of 10 feet for the western side property line. [Note: The binding plans show a 5’ northern setback, a 0’ eastern setback, and a 50’ building height. These plans are attached to this report.]
  2. Amendment of the documents (plans) to reflect the required 10-foot minimum setback.

#### **IV. PROPOSAL**

The current application requests an amendment of the 2009 rezoning conditions of approval to eliminate the existing conditions and replace them with a single new condition requiring a 10-foot minimum western setback for the upper floors only. This would allow the ground floor to physically connect to the adjacent structure to the west as a single cohesive retail space. No specific modification to the north or east setbacks are proposed and no modification to the 50-foot height limitation is specifically proposed in the application report. However, the requested removal of the 2009 conditions would remove those binding requirements.

### **COMPATIBILITY WITH COMPREHENSIVE PLAN**

#### **I. COMPATIBILITY WITH FUTURE LAND USE MAP**

The Future Land Use Map indicates that the subject property is designated as *Downtown*, which is defined as follows:

Downtown

*Retail, office and entertainment uses are encouraged, as is high-density multifamily housing. Auto-oriented uses, such as vehicle repair and maintenance, drive-through restaurants, and vehicle sales, are not included in this designation. As parking is handled on a district level, off-street parking for individual commercial development is not intended. Parking structures with commercial uses on the street-level frontage are encouraged rather than surface parking lots. This area should have strict design requirements to protect historic integrity and to ensure that new buildings develop in a form and architectural style compatible with existing downtown character.*

According to Athens-Clarke County Code Table 9.4 (Compatibility Matrix), the existing C-D zoning classification is compatible with the *Downtown* Future Land Use designation. No change to the existing zoning classification is requested. Therefore, the application is being processed under the Type II procedure with final consideration by the Athens-Clarke County Mayor and Commission.

**II. COMPATIBILITY WITH COMPREHENSIVE PLAN**

The following are relevant 2018 Comprehensive Plan statements:

- Policy: Implement ordinances, policies, and infrastructure to address impediments to locating or expanding business and industry.
- Policy: Improve the accessibility of Downtown as everyone’s neighborhood.
- Policy: Develop incentives to reuse existing development before new developments in Greenfields.

**COMPATIBILITY WITH ZONING MAP AND ORDINANCE STANDARDS**

**I. COMPATIBILITY WITH ZONING MAP**

The purpose of this request is to modify conditions associated with the 2009 rezoning. The requested modification would not change the existing C-D (DHD) zoning designation aside from the modification to the conditions.

**II. COMPATIBILITY WITH ORDINANCE STANDARDS**

The request to modify conditions associated with the 2009 rezoning denotes an intended commercial retail use on the ground floor. However, the request does not include any proposed use for the upper floors, which would retain the existing minimum 10-foot setback requirement from the western property line. All allowed C-D land uses would be permitted subject to compliance with all applicable C-D zoning and design standards. A Certificate of Appropriateness would be required for any new structures or other exterior material changes on the property.

**EFFECT ON COMMUNITY**

**I. BALANCE OF LAND USES IN ATHENS-CLARKE COUNTY**

Developing the 0.15-acre property for commercial use under the present C-D\* (DHD) (Commercial-Downtown Zoning with Conditions, Downtown Historic District) classification would provide an appropriate use for the subject property and commercial area while eliminating a surface parking lot.

## **II. POPULATION**

The application report does not mention an intention for residential uses on the subject property; however, the maximum 200 bedrooms per acre, permitted under the C-D zoning, and the property size of 0.15 of an acre would potentially allow for 30 bedrooms.

## **III. ENVIRONMENT**

According to the Athens-Clarke County Environmental Areas Map, no identified protected environmental areas (streams, flood plain, wetlands) exist on the subject property. The submitted report details a planned roof top garden to address drainage, water quality, air quality, and aesthetics.

## **IV. TRAFFIC, TRANSPORTATION, & TRANSIT**

The ACC Transportation and Public Works Department did not have any traffic-related comments for this request.

## **V. GRADING AND DRAINAGE**

The Athens-Clarke County Transportation and Public Works Department did not provide any stormwater-related comments regarding this proposal.

## **VI. WATER AND SEWER AVAILABILITY**

The Athens-Clarke County Public Utilities Department has commented that public water and sanitary sewer are available to serve the subject property.

## **VII. FIRE PROTECTION**

The Athens-Clarke County Fire Marshal comments that fire protection can be provided without any services being affected or any additional cost for fire equipment or personnel. While no additional hydrants would be needed, the ACC Fire Department connection will need to be moved to the front side of the building. The building must be sprinkled. No turnaround is needed, but the access alley would need to be cleaned up and the direction of the emergency stairs reversed.

## **RECOMMENDATIONS**

### **I. STAFF RECOMMENDATION – Approval w/ condition**

The request does not alter the C-D\* (DHD) (Commercial-Downtown Zoning with Conditions, Downtown Historic District) classification of the subject property, but it removes the current height and setback conditions, except for a 10' setback requirement for upper levels on the western side of the property. The *Downtown* Future Land Use designation would remain.

As any development of the property would be required to comply with the C-D (Commercial-Downtown) zoning standards and the Downtown Historic District Design Guidelines, as well as the building and fire codes, Staff is comfortable with the proposed modification to the conditions.

Therefore, Staff recommends approval of the modification of the conditions of the C-D (Commercial-Downtown) zoning to eliminate the existing conditions and replace them with the following single condition:

1. A minimum 10' building setback from the western property line shall be required for all floors above the ground floor.

## **II. PLANNING COMMISSION RECOMMENDATION – Pending**

The Planning Commission is scheduled to consider the request at their regular meeting on March 7, 2019.

## **III. CURRENT STATUS**

The request and the Planning Commission recommendation are tentatively scheduled to be presented to the Mayor and Commission at their agenda setting on March 19, 2019. The Mayor and Commission are tentatively scheduled to take action on this request on April 2, 2019.

REPORT FOR 141 E. BROAD STREET

Reviewed	Not Applicable	<u>Zoning Criteria for Type II Applications</u>
X		1. The proposed rezoning conforms to the future development map, the general plans for the physical development of Athens-Clarke County, and any master plan or portion thereof adopted by the Mayor and Commission.
	X	2. The proposed special use meets all objective criteria set forth for that use provided in the zoning ordinance and conforms to the purpose and intent of the comprehensive plan and all its elements.
X		3. Public services, which include physical facilities and staff capacity, exist sufficient to service the proposed rezoning.
X		4. The proposed rezoning will not adversely affect the balance of land uses in Athens-Clarke County.
X		5. Existing land use pattern surrounding the property in issue
X		6. Possible creation of an isolated district unrelated to adjacent and nearby districts
X		7. Population density pattern and possible increase or over-taxing of the load on public facilities including, but not limited to, schools, utilities and streets
X		8. The cost of the Unified Government and other governmental entities in providing, improving, increasing or maintaining public utilities, schools, streets and other public safety measures
X		9. The possible impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quantity
X		10. Whether the proposed zoning amendment will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations
X		11. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning; provided, however, evidence that the economic value of the property, as currently zoned, is less than its economic value if rezoned as requested will not alone constitute a significant detriment
X		12. The aesthetic effect of existing and future use of the property as it relates to the surrounding area
X		13. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal

**Public Notice**

In accordance with Section 9-4-9(E), public notice of this zoning request was first posted on or near the subject property on February 20, 2019.