

ACTION REQUEST FORM

DATE: September 25, 2013
TO: The Honorable Mayor and City Council
FROM: A. Paul Norby, FAICP, Director of Planning and Development Services

COUNCIL ACTION REQUEST:

Request for Public Hearing on zoning petition of Wesley Livengood, Trustee & Thomas Livengood, Trustee

SUMMARY OF INFORMATION:

Zoning petition of Wesley Livengood, Trustee & Thomas Livengood, Trustee from RS9 to NB-L (Retail Store; Services A; Food or Drug Store; Arts and Crafts Studio; and Government Office, Neighborhood Organization, or Post Office): property is located on the north side of Hawthorne Road, east of Bodford Street (Zoning Docket W-3195).

PLANNING BOARD ACTION:

MOTION ON PETITION: APPROVAL
FOR: UNANIMOUS
AGAINST: NONE
SITE PLAN ACTION: NOT REQUIRED

CITY ORDINANCE - SPECIAL USE LIMITED DISTRICT

Zoning Petition of Wesley Livengood, Trustee & Thomas Livengood, Trustee, Docket W-3195

AN ORDINANCE AMENDING THE
WINSTON-SALEM CITY
ZONING ORDINANCE AND THE
OFFICIAL ZONING MAP OF
THE CITY OF WINSTON-SALEM, N.C.

BE IT ORDAINED by the City Council of the City of Winston-Salem as follows:

Section 1. The Winston-Salem City Zoning Ordinance and the Official Zoning Map of the City of Winston-Salem, N.C. are hereby amended by changing from RS9 to NB-L (Retail Store; Services A; Food or Drug Store; Arts and Crafts Studio; and Government Office, Neighborhood Organization, or Post Office) the zoning classification of the following described property:

PIN# 6814-89-6950

Section 2. This Ordinance is adopted after approval of the Special Use Limited District Permit issued by the City Council the _____ day of _____, 20__ to Wesley Livengood, Trustee & Thomas Livengood, Trustee.

Section 3. The City Council hereby directs the issuance of a Special Use Limited District Permit pursuant to the Zoning Ordinance of the *Unified Development Ordinances* for a development to be known as Wesley Livengood, Trustee & Thomas Livengood, Trustee. Said Special Use Limited District Permit with conditions is attached hereto and incorporated herein.

Section 4. This Ordinance shall be effective from and after its adoption.

CITY - SPECIAL USE LIMITED DISTRICT PERMIT

SPECIAL USE LIMITED DISTRICT PERMIT

Issued by the City Council

of the City of Winston-Salem

The City Council of the City of Winston-Salem issues a Special Use Limited District Permit for the zoning petition of Wesley Livengood, Trustee & Thomas Livengood, Trustee, (Zoning Docket W-3195). The site shall be developed in accordance with the conditions approved by the Board and the following uses: Retail Store; Services A; Food or Drug Store; Arts and Crafts Studio; and Government Office, Neighborhood Organization, or Post Office, approved by the Winston-Salem City Council the _____ day of _____, 20____" and signed, provided the property is developed in accordance with requirements of the NB-L zoning district of the Zoning Ordinance of the *Unified Development Ordinances*, the Erosion Control Ordinance, and other applicable laws, and the following additional condition be met:

- **OTHER REQUIREMENTS:**

- a. As volunteered by the petitioner, any use involving electronic sweepstakes operations, as defined in Section 34-12 (including future amendments) of the Code of Ordinances, shall be prohibited.

**CITY-COUNTY PLANNING BOARD
STAFF REPORT**

PETITION INFORMATION	
Docket #	W-3195
Staff	David E. Reed, AICP
Petitioner(s)	Wesley Livengood, Trustee & Thomas Livengood, Trustee
Owner(s)	Same
Subject Property	PIN #6814-89-6950
Address	1622 South Hawthorne Road
Type of Request	Special use limited rezoning from RS9 to NB-L
Proposal	<p>The petitioner is requesting to amend the Official Zoning Maps for the subject property from RS9 (Residential, Single Family district; 9,000 sf minimum lot size) to NB-L (Neighborhood Business - special use limited district). The petitioner is requesting the following uses:</p> <ul style="list-style-type: none"> • Retail Store; Services A; Food or Drug Store; Arts and Crafts Studio; Government Office, Neighborhood Organization, or Post Office <p>NOTE: General, special use limited, and special use district zoning were discussed with the petitioner(s) who decided to pursue the rezoning as presented.</p>
Neighborhood Contact/Meeting	The petitioner's attorney contacted the Ardmore Neighborhood Association through emails with Association President Tiffany White. He has not received any comments as of this writing.
Zoning District Purpose Statement	The NB District is primarily intended to accommodate very low intensity office, retail, and personal service uses close to or within residential areas. The district is established to provide convenient locations for businesses which serve the everyday household needs of nearby residents without disrupting the character of the neighborhood. The district is not intended to accommodate retail uses which attract customers from outside the neighborhood or which primarily cater to motorists. This district is intended for application in GMAs 2, 3, 4, and 5.
Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(R)	<p>(R)(1) - Is the proposal consistent with the purpose statement(s) of the requested zoning district(s)?</p> <p>Yes, the site is developed with an existing, modest sized, commercial building which provides convenient services to the adjacent neighborhood.</p>
GENERAL SITE INFORMATION	
Location	North side of Hawthorne Road, west of Bolton Street
Jurisdiction	City of Winston-Salem
Ward(s)	Southwest
Site Acreage	± .44 acre

Current Land Use	The site is developed with a 5,232 square foot commercial building.			
Surrounding Property Zoning and Use	Direction	Zoning District	Use	
	North	LO	Single family homes	
	East	NB-L	Commercial building	
	South	LO	Offices	
	West	LO	Offices	
Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(R)	(R)(2) - Is/are the use(s) permitted under the proposed classification/request compatible with uses permitted on other properties in the vicinity?			
	Yes, the proposed service, retail, and offices are compatible with the adjacent office, church, and pharmacy uses.			
Physical Characteristics	The developed site has a gentle slope downward to the east.			
Proximity to Water and Sewer	Public water and sewer are available to the site.			
Stormwater/ Drainage	No known issues.			
Watershed and Overlay Districts	The site is not located within a water supply watershed.			
Analysis of General Site Information	The site has no apparent constraints and appears to be suitable for development within the proposed NB-L District.			
SITE ACCESS AND TRANSPORTATION INFORMATION				
Street Name	Classification	Frontage	ADT Count	Capacity/LOS D
Hawthorne Road	Minor Thoroughfare	120'	10,000	17,700
Proposed Access Point(s)	Because this is a special use limited request with no site plan or access conditions, the exact location of access points (other than the existing driveway onto Hawthorne Road) is unknown.			
Planned Road Improvements	The <i>Comprehensive Transportation Plan</i> recommends sidewalks along Hawthorne Road.			
Trip Generation - Existing/Proposed	<u>Existing Zoning: RS-9</u> .44 acre x 43,560 / 9,000 = 2 units x 9.57 (SFR Trip Rate) = 19 Trips per Day			
	<u>Proposed Zoning: NB-L</u> No trip rate is available for the proposed zoning which has no site plan.			
Sidewalks	While there are sidewalks in the general area along both sides of Hawthorne Road, there is no sidewalk along the frontage of the subject property. No sidewalks are being recommended as there are no physical changes to the site being requested.			
Transit	Route 18 runs along Hawthorne Road.			

Analysis of Site Access and Transportation Information	Staff does not anticipate any negative transportation impacts from this request.
CONFORMITY TO PLANS AND PLANNING ISSUES	
Legacy GMA	Growth Management Area 2 - Urban Neighborhoods
Relevant Legacy Recommendations	<u>Infill and Redevelopment:</u> <ul style="list-style-type: none"> • Encourage redevelopment and reuse of existing sites and buildings which are visually compatible with the surrounding area. • Permit services near where people live including places of worship and other institutions in a manner that is compatible with surrounding uses, and provide retail and service uses within walking and bicycling distance of neighborhoods.
Relevant Area Plan(s)	<i>Southwest Area Plan (2009)</i>
Area Plan Recommendations	<p>The site is located in Area “m” (Maplewood Avenue and Lyndhurst Avenue Northeast of Forsyth Medical Center) on Map 6, Proposed Land Use Changes. Relevant recommendations are:</p> <ul style="list-style-type: none"> • No expansion of nonresidential uses is recommended east of Bolton Street between Maplewood Avenue and Hawthorne Road. • The two non-conforming commercial buildings fronting on Hawthorne Road west of Bolton Street are not recommended for rezoning to a commercial zoning district. Redevelopment of these properties is recommended for small-scale office or an extension of the church to the east. The existing businesses can continue to operate under their nonconforming status. • If the Forsyth Park Baptist Church property at the intersection of Hawthorne Road and Bolton Street is redeveloped in the future, the Plan recommends small-scale office use for this property using the LO-S (Limited Office - special use) zoning district.
Addressing	Address assignments for new tenant spaces in this building will be required.
Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(R)	(R)(3) - Have changing conditions substantially affected the area in the petition?
	The adjoining parcel has been zoned NB-L.
	(R)(4) - Is the requested action in conformance with Legacy?
	Yes
Analysis of Conformity to Plans and Planning Issues	<p>The request is to rezone a relatively small lot with an existing 5,232 sf commercial building, from RS9 to NB-L. The site has a long history of non residential use and the <i>Southwest Area Plan</i> notes that “the existing businesses can continue to operate under their nonconforming status.” The subject NB-L request would provide long term assurance of continued, small scale commercial and office use for the site.</p>

The proposed NB District has many built-in limitations which make it an appropriate district for the subject property. These limitations include: site size; spacing from other NB Districts; maximum building square footages for some uses; and signage restrictions.

RELEVANT ZONING HISTORIES

Case	Request	Decision & Date	Direction from Site	Acreage	Recommendation	
					Staff	CCPB
W-3091	RS9 to NB-L	Approved 4/4/11	Directly east	.44	Approval	Approval
W-2339	LO To GO-S	Approved 10/4/99	475 feet west	.38	Approval	Approval

CONCLUSIONS TO ASSIST WITH RECOMMENDATION

Positive Aspects of Proposal	Negative Aspects of Proposal
Request is consistent with the purpose statement of the NB District.	The request is not completely consistent with the area plan recommendations.
The request would allow business uses to legally continue to operate in this commercial structure.	
The modest scale of the existing building and limited uses are compatible with the surrounding development pattern.	

SITE-SPECIFIC RECOMMENDED CONDITIONS OF APPROVAL

The following proposed conditions are from interdepartmental review comments and are proposed in order to meet codes or established standards, or to reduce negative off-site impacts.

- **OTHER REQUIREMENTS:**
 - a. As volunteered by the petitioner, any use involving electronic sweepstakes operations, as defined in Section 34-12 (including future amendments) of the Code of Ordinances, shall be prohibited.

STAFF RECOMMENDATION: APPROVAL

NOTE: These are **staff comments** only; **final recommendations** on projects are made by the City-County Planning Board, with **final decisions** being made by the appropriate Elected Body, who may approve, deny, table or request modification for any project. **THE APPLICANT OR REPRESENTATIVE IS STRONGLY ENCOURAGED TO ATTEND THE PUBLIC HEARINGS WHERE THE CASE WILL BE CONSIDERED BY THE PLANNING BOARD AND THE ELECTED BODY.**

**CITY-COUNTY PLANNING BOARD
PUBLIC HEARING
MINUTES FOR W-3195
SEPTEMBER 12, 2013**

PUBLIC HEARING

FOR: None

AGAINST: None

WORK SESSION

MOTION: Paul Mullican moved approval of the zoning petition including staff recommended conditions.

SECOND: Lynne Mitchell

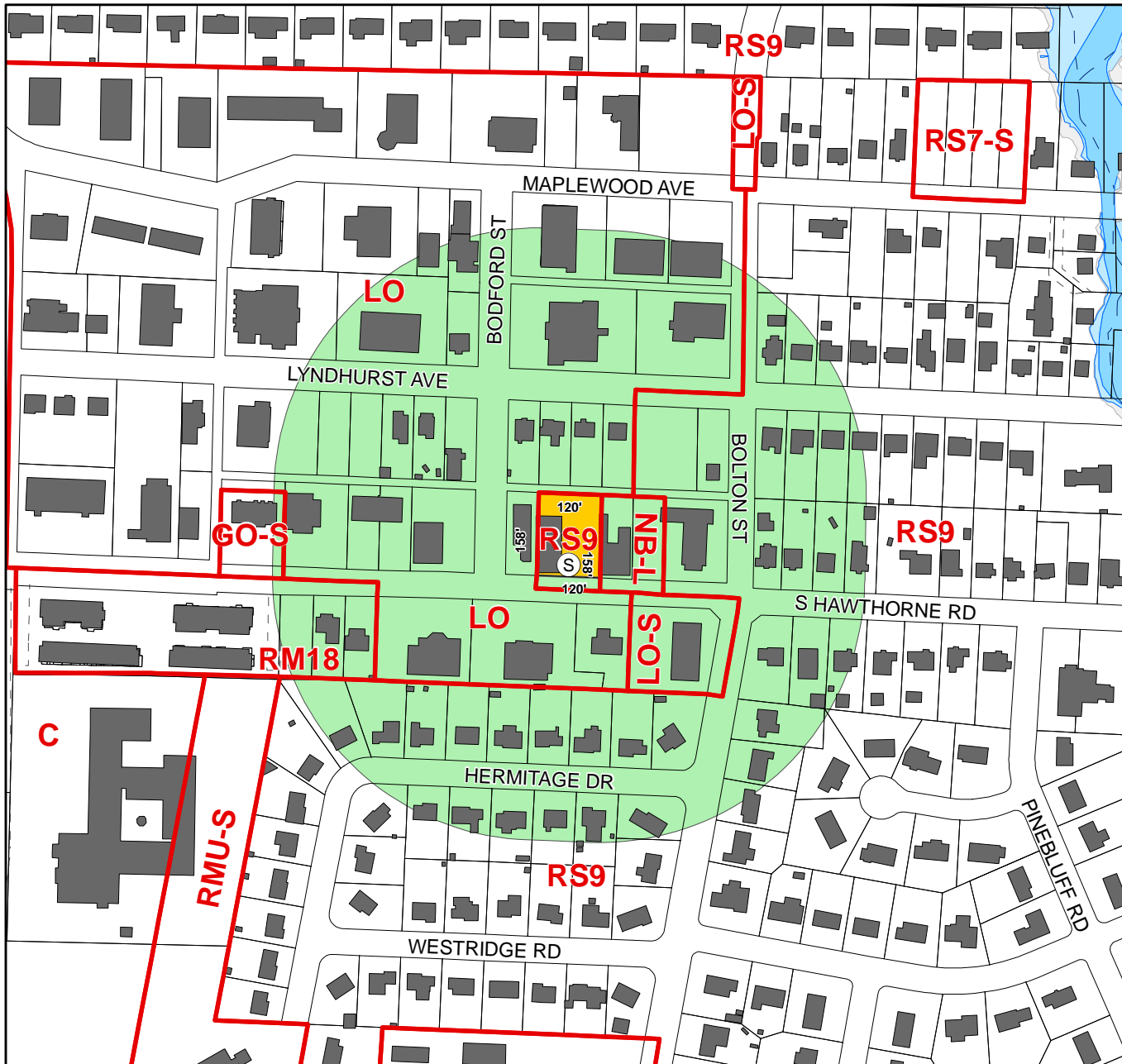
VOTE:

FOR: Tommy Hicks, Arnold King, Clarence Lambe, Darryl Little, Barry Lyons, Lynne Mitchell, Paul Mullican, Brenda Smith, Allan Younger

AGAINST: None

EXCUSED: None

A. Paul Norby, FAICP
Director of Planning and Development Services




DOCKET #: W3195

PROPOSED ZONING:
NB-L

EXISTING ZONING:
RS9

PETITIONER:
Westley Livengood, Trustee,
and Thomas Livengood, Trustee,
for property owned by Same

 Subject property

 500' notification radius

SCALE: 1" represents 300'

STAFF: Reed

GMA: 2

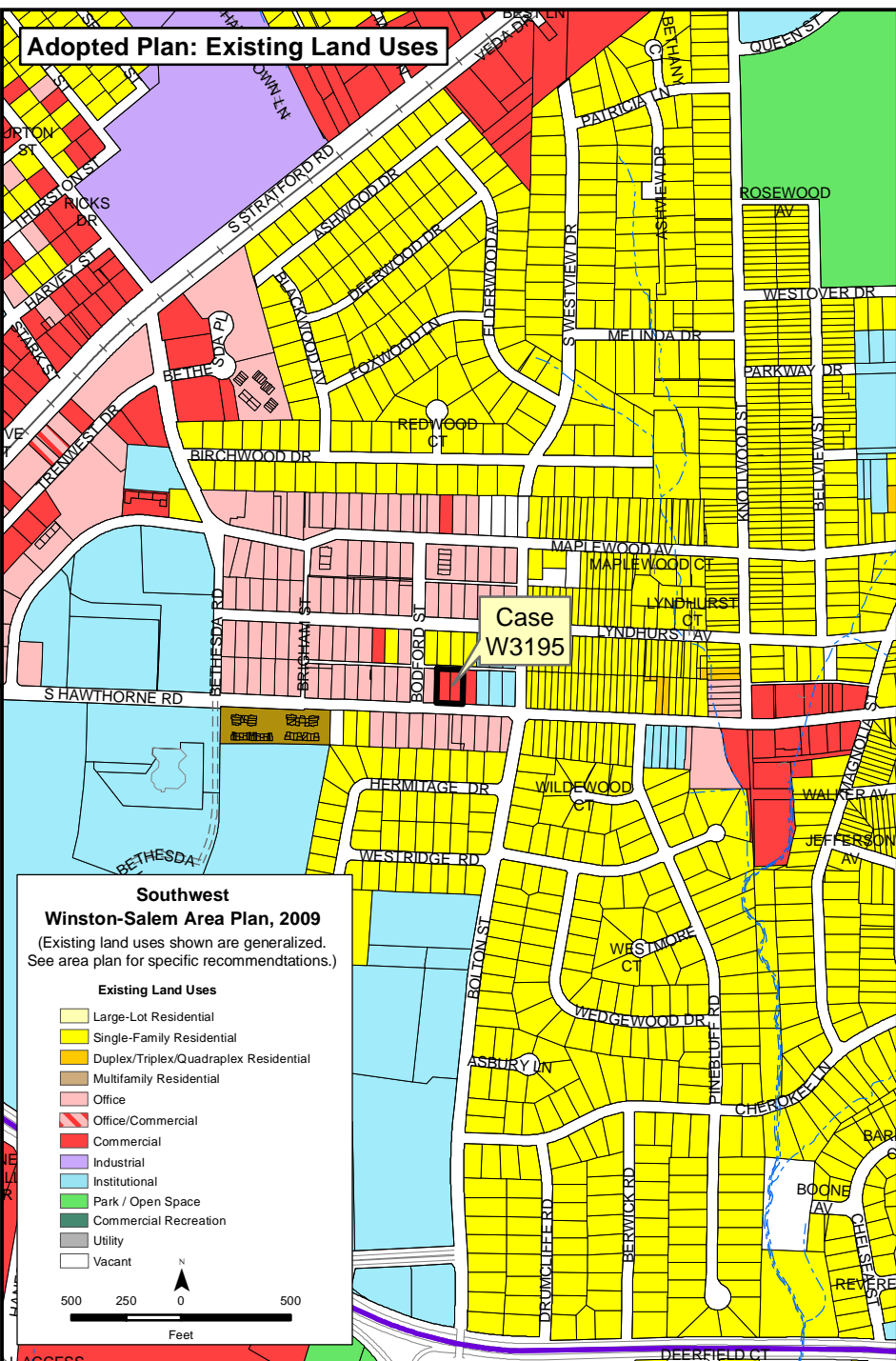
ACRES: 0.44

NEAREST BLDG: 0' west

MAP(S): 618846



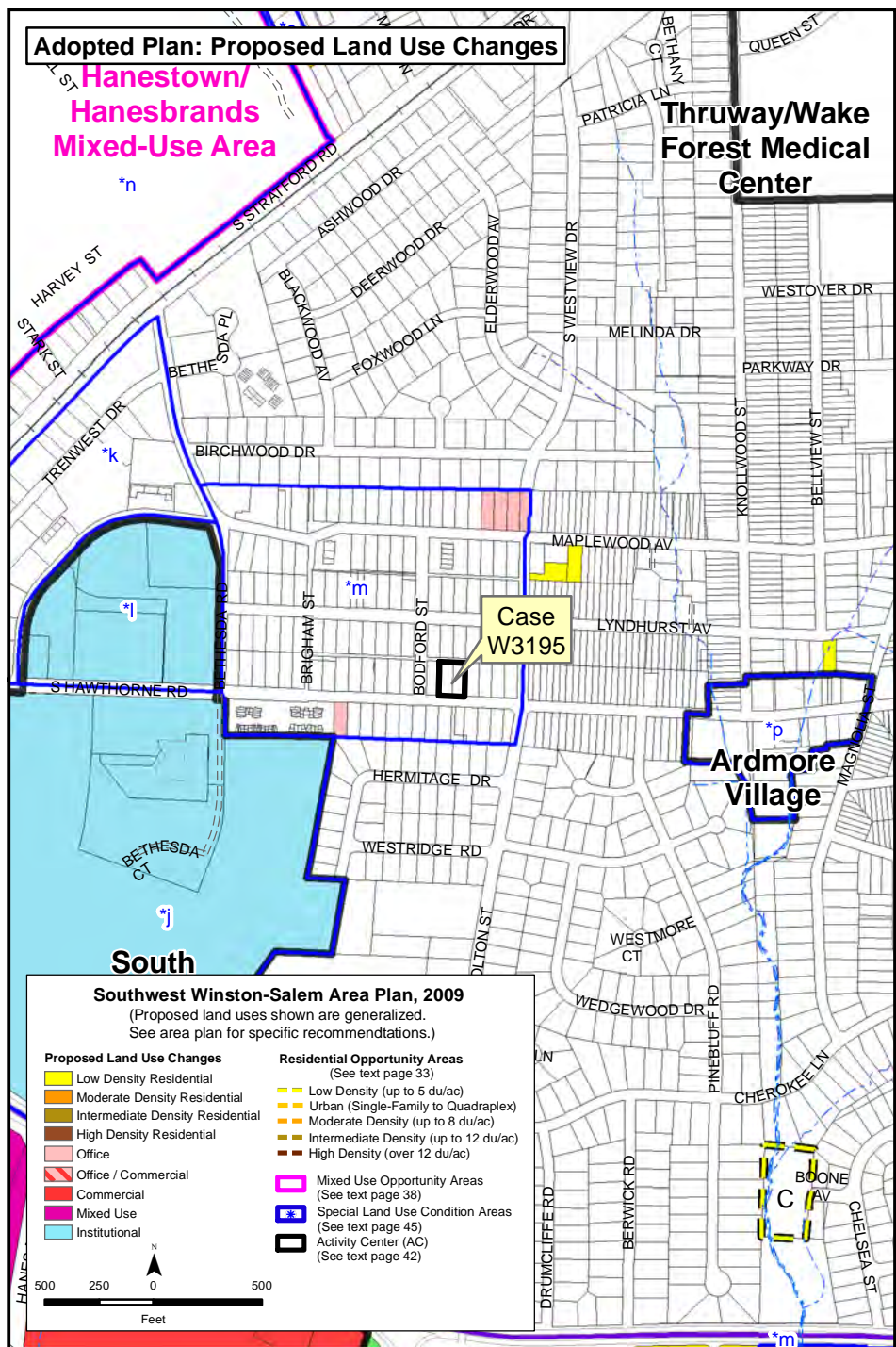
Adopted Plan: Existing Land Uses



Southwest Winston-Salem Area Plan, 2009
(Existing land uses shown are generalized. See area plan for specific recommendations.)

- Existing Land Uses**
- Large-Lot Residential
 - Single-Family Residential
 - Duplex/Triplex/Quadraplex Residential
 - Multifamily Residential
 - Office
 - Office/Commercial
 - Commercial
 - Industrial
 - Institutional
 - Park / Open Space
 - Commercial Recreation
 - Utility
 - Vacant

Adopted Plan: Proposed Land Use Changes



Southwest Winston-Salem Area Plan, 2009
(Proposed land uses shown are generalized. See area plan for specific recommendations.)

- Proposed Land Use Changes**
- Low Density Residential
 - Moderate Density Residential
 - Intermediate Density Residential
 - High Density Residential
 - Office
 - Office / Commercial
 - Commercial
 - Mixed Use
 - Institutional
- Residential Opportunity Areas**
(See text page 33)
- Low Density (up to 5 du/ac)
 - Urban (Single-Family to Quadraplex)
 - Moderate Density (up to 8 du/ac)
 - Intermediate Density (up to 12 du/ac)
 - High Density (over 12 du/ac)
- Mixed Use Opportunity Areas**
(See text page 38)
- Mixed Use Opportunity Areas
- Special Land Use Condition Areas**
(See text page 45)
- Activity Center (AC)

W-3195 ATTACHMENT A
EXISTING RS9 USES ALLOWED
City of Winston-Salem Jurisdiction Only

USES ALLOWED WITH A PERMIT FROM THE ZONING OFFICER (Z)

Adult Day Care Home
Child Day Care, Small Home
Church or Religious Institution, Neighborhood
Family Group Home A
Police or Fire Station
Recreation Facility, Public
Residential Building, Single Family
Swimming Pool, Private

USES ALLOWED WITH REVIEW BY THE PLANNING BOARD (P)

Church or Religious Institution, Community
Golf Course
Library, Public
Limited Campus Uses
Planned Residential Development
School, Private
School, Public
Utilities

USES ALLOWED WITH SPECIAL USE PERMIT FROM ZONING BOARD OF ADJUSTMENT (A)

Bed and Breakfast
Child Day Care, Large Home
Habilitation Facility A
Landfill, Land Clearing/Inert Debris (W)
Manufactured Home, Class A
Park and Shuttle Lot

USES ALLOWED WITH SPECIAL USE PERMIT FROM ELECTED BODY (E)

Access Easement, Private Off-Site
Parking, Off-Site, for Multifamily or Institutional Uses

W-3195 ATTACHMENT B
USES ALLOWED UNDER
PROPOSED “SERVICES, A”

SERVICES, A. An establishment primarily engaged in providing a service(s) to business and individuals. All merchandise and rental equipment is stored inside enclosed buildings. Services A includes the following list of uses (including SIC groups and all subcategories not elsewhere listed):

- 7212 Garment Pressing and Agents for Laundries and Drycleaners
- 7215 Coin-Operated Laundries and Cleaning
- 7216 Drycleaning Plants, Except Rug
- 7217 Carpet and Upholstery Cleaning
- 722 Photographic Studios, Portrait
- 723 Beauty Shops
- 724 Barber Shops
- 725 Shoe Repair and Shoeshine Parlors
- 729 Miscellaneous Personal Services
- 733 Mailing, Reproduction, Commercial Art and Photography
- 735 Equipment Rental and Leasing (only with inside storage of equipment)
- 737 Computer Programming, Data Processing and other Computer Related Services (Except Computer Programming, 7371; Prepackaged Software, 7372; and, Computer System Design, 7373)
- 738 Miscellaneous Business Services (**Sweepstakes operations excluded for this case**)
- 762 Electrical Repair Shops
- 763 Watch, Clock, and Jewelry Repair
- 764 Reupholstery and Furniture Repair
- 7699 Uses from SIC 7699 primarily engaged in providing repair and other services to business and individuals, that by the nature of their operation have little impact on adjoining property due to noise, odor, vibration, and/or air or water pollution. All repair items and supplies are stored in enclosed buildings. These uses include repair of small or precision equipment, such as medical, dental laboratory or drafting equipment, and the repair of personal use property such as cameras, musical instruments, and bicycles, and other services, including locksmiths and custom picture framing.

September 25, 2013

Bryce A. Stuart Municipal Building
100 E. First Street
P.O. Box 2511
Winston-Salem, NC 27102
CityLink 311 (336.727.8000)
Fax 336.748.3163
www.cityofws.org/planning

Thomas D. Livengood and
Wesley A. Livengood
216 Juniper Circle
Advance, NC 27006

Re: Zoning Petition W-3195

Dear Mr. Livengood:

The attached report of the Planning Board to the City Council is sent to you at the request of the Council Members. You will be notified by the City Secretary's Office of the date on which the Council will hear this petition.

Sincerely,

A. Paul Norby, FAICP
Director of Planning and Development Services

pc: City Secretary's Office, P.O. Box 2511, Winston-Salem, NC 27102
T. Dan Womble, P. O. Box 1698, Clemmons, NC 27012

APPROVAL
STATEMENT OF CONSISTENCY WITH COMPREHENSIVE PLAN
W-3195
(WESLEY LIVENGOOD, TRUSTEE & THOMAS LIVENGOOD, TRUSTEE)

The proposed zoning map amendment from RS-9 (Residential, Single Family; 9,000 sf minimum lot size) to NB-L (Neighborhood Business - special use limited) with its added conditions is generally consistent with the *Legacy Comprehensive Plan* and the *Southwest Area Plan* and is reasonable and in the public interest because:

1. The request is consistent with the purpose statement of the NB District;
2. The request would allow business uses to legally continue to operate in this commercial structure; and
3. The modest scale of the existing building and limited uses are compatible with the surrounding development pattern.

DENIAL
STATEMENT OF CONSISTENCY WITH COMPREHENSIVE PLAN
W-3195
(WESLEY LIVENGOOD, TRUSTEE & THOMAS LIVENGOOD, TRUSTEE)

Although the proposed zoning map amendment from RS-9 (Residential, Single Family; 9,000 sf minimum lot size) to NB-L (Neighborhood Business - special use limited) with its added conditions: (a) is generally consistent with the *Legacy Comprehensive Plan*; and (b) has some components that are consistent with the *Southwest Area Plan*, denial of the petition is reasonable and in the public interest because the request is not completely consistent with the area plan recommendations.