

DOCKET #: W3117

PROPOSED ZONING:
PB

EXISTING ZONING:
LI

PETITIONER:
Jonathan Waterbury
for property owned by Same

SCALE: 1" represents 200'

STAFF: Roberts

GMA: 1

ACRES: 0.07

NEAREST BLDG: 125' south

MAP(S): 630858





November 23, 2011

Jonathan Waterbury
801 N. Liberty Street
Winston-Salem, NC 27101

Re: Zoning Map Amendment W-3117

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

Dear Mr. Waterbury:

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

pc: City Secretary's Office, P.O. Box 2511, Winston-Salem, NC 27102
Brice Shearburn, 3010 N. Main Street, Winston-Salem, NC 27101
Don Nielsen, 100 N. Cherry Street, Winston-Salem, NC 27101



City Council: Mayor Allen Joines; Vivian H. Burke, Mayor Pro Tempore, Northeast Ward; Denise D. Adams, North Ward; Dan Besse, Southwest Ward; Robert C. Clark, West Ward; Molly Leight, South Ward; Wanda Merschel, Northwest Ward; Derwin L. Montgomery, East Ward; James Taylor, Jr., Southeast Ward; City Manager: Lee D. Garrity

Forsyth County Commissioners: Richard V. Linville, Chairman; Debra Conrad, Vice Chair; Walter Marshall; David R. Plyler; Gloria D. Whisenhunt; Bill Whiteheart; Everette Witherspoon; County Manager: Dudley Watts, Jr.

City-County Planning Board: Arnold G. King, Chair; L. Wesley Curtis, Jr., AIA, Vice-Chair; Clarence R. Lambe, Jr.; Darryl Little; Barry A. Lyons; Lynne Mitchell; Paul W. Mullican; Brenda J. Smith; Allan Younger

ACTION REQUEST FORM

DATE: November 23, 2011
TO: The Honorable Mayor and City Council
FROM: A. Paul Norby, FAICP, Director of Planning

COUNCIL ACTION REQUEST:

Request for Public Hearing on zoning map amendment of Jonathan Waterbury

SUMMARY OF INFORMATION:

Zoning map amendment of Jonathan Waterbury from LI to PB: property is located on the east side of Main Street, south of Martin Luther King Jr. Drive (Zoning Docket W-3117).

PLANNING BOARD ACTION:

MOTION ON PETITION: APPROVAL
FOR: WESLEY CURTIS, CLARENCE LAMBE, BARRY LYONS,
LYNNE MITCHELL, PAUL MULLICAN, BRENDA SMITH,
ALLAN YOUNGER
AGAINST: ARNOLD KING
SITE PLAN ACTION: NOT REQUIRED

CITY ORDINANCE - GENERAL USE

Zoning Petition of Jonathan Waterbury, Docket W-3117

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 LI to PB the zoning classification of the following described property:

PIN #6835-29-2080

Section 2. This ordinance shall become effective upon adoption.

**CITY-COUNTY PLANNING BOARD
STAFF REPORT**

PETITION INFORMATION	
Docket #	W-3117
Staff	Gary Roberts, Jr. AICP
Petitioner(s)	Jonathan Waterbury
Owner(s)	Same
Subject Property	PIN #6835-29-2080
Address	801 North Liberty Street
Type of Request	General Use rezoning from LI to PB
Proposal	<p>The petitioner is requesting to amend the Official Zoning Maps for the subject property from LI (Limited Industrial District) to PB (Pedestrian Business District).</p> <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. With a General use, all uses in the District must be considered.</p>
Neighborhood Contact/Meeting	Petitioner indicated on the application that no neighborhood/community meeting had been held as of that date.
Zoning District Purpose Statement	The PB District is primarily intended to accommodate office, retail, service, institutional, and high density residential uses which customarily serve community and convenience business needs of smaller communities and urban nodes in the city and county. The district is intended to encourage the development of attractive, identifiable small towns, and to accommodate the pattern of building in the business concentrations surrounding the central core of Winston-Salem, and the central core of other municipalities in the County. The district should demonstrate pedestrian oriented design through elements such as buildings pulled up to the street, on-street parking, street trees, covered arcades, awnings, storefront display windows, public/private outdoor spaces, wide sidewalks, and building entrances facing the street. This district is intended for application in GMAs (Growth Management Areas) 1 (City/Town Centers), 2 (Urban Neighborhoods), and 3 (Suburban Neighborhoods).
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>The site is located within GMA 1 within the downtown area of Winston-Salem. The site is also adjacent to other PB and PB-S zoning.</p>
GENERAL SITE INFORMATION	
Location	East side of Main Street, south of Martin Luther King Jr. Drive
Jurisdiction	City of Winston-Salem
Ward(s)	East
Site Acreage	± .07 acre
Current Land Use	The existing 8,790 sf commercial building is currently used as an artist studio and single family residence.

Surrounding Property Zoning and Use	Direction	Zoning District		Use
	North	PB		Commercial buildings
	East	GB		Railroad and Arts Based Elementary School
	South	PB-S		Parking lot and commercial building
	West	LI		Parking lot
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?			
	The uses permitted in the proposed PB District are compatible with the uses permitted in the adjacent PB, CB and GB Districts.			
Physical Characteristics	The site is completely developed with the building footprint.			
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.			
Historic, Natural Heritage and/or Farmland Inventories	The subject property is a contributing building in the Downtown North Historic District, which is listed on the National Register of Historic Places. Constructed in 1947, the two-story brick building was the local State Employment Security Building.			
Analysis of General Site Information	The site has no apparent constraints and is suitable for development within the proposed PB District.			
SITE ACCESS AND TRANSPORTATION INFORMATION				
Street Name	Classification	Frontage	ADT Count	Capacity/LOS D
North Liberty Street	Major Thoroughfare	38'	1,600	12,700
Proposed Access Point(s)	Because this is a General Use request with no site plan, the exact location of access points is unknown. The site is currently accessed from North Liberty Street.			
Trip Generation - Existing/Proposed	No trip generation is available for the existing or proposed general use zonings which have no site plan.			
Sidewalks	Sidewalks are located along both sides of all the surrounding streets.			
Transit	Route 10 runs along North Liberty Street.			
Analysis of Site Access and Transportation Information	The site has good access and staff does not anticipate any negative transportation impacts from this request.			

CONFORMITY TO PLANS AND PLANNING ISSUES	
Legacy GMA	Growth Management Area 1 – City/Town Centers
Relevant Legacy Recommendations	<ul style="list-style-type: none"> • Develop a larger and broader residential base in and near downtown. • Make Downtown Winston-Salem a “vibrant downtown” by providing a safe, clean environment with high-quality public spaces, restaurants and specialty shops, and entertainment, sports and cultural events that will attract people back Downtown to work, shop and live. Retail and office buildings should be near the street and sidewalk. Ensuring buildings have display windows at the sidewalk edge provides an interesting walking environment where pedestrians feel a sense of activity, enclosure and safety. Parking should be located to the rear and sides or under retail and office buildings
Relevant Area Plan(s)	<i>The Downtown Plan (2007)</i>
Area Plan Recommendations	<ul style="list-style-type: none"> • The site is located on the northeast fringe of the North Anchor of the Core District of the Downtown. It is immediately west of the Goler Heights mixed-use district. <i>The Downtown Plan</i>’s long term vision is for a pedestrian-oriented retail corridor in the downtown core. • Make downtown a destination by creating a core area of vibrant, intense mixed uses in a very pedestrian-friendly environment. Emphasize major employment center, restaurants, supportive and festive retail, entertainment, arts and downtown residential uses.
Addressing	The address for the building will be changed from North Liberty Street to North Main Street due to the realignment of the street network.
Other Applicable Plans and Planning Issues	Comments from the Inspections Division: If there is a change of use (or if no use has been established in the structure), permits will be required to establish the use.
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?
	Yes, the general area has seen significant amounts of new residential, commercial and institutional development since 2007.
	(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 small parcel from LI to PB. Currently located on the site is an 8,790 sf commercial building used as an artist studio and single family residence. Residential uses are not permitted within the LI District.</p> <p>Streets with sidewalks on both sides are prevalent in the general area. The site is also adjacent to other PB and PB-S zoned properties and is within an area that has seen significant commercial and residential investment over the last several years. The <i>Downtown Plan</i>’s long term vision is for a pedestrian-oriented retail corridor in the downtown core.</p>

	Given the surrounding development and zoning pattern, along with the site's location in downtown Winston-Salem, the proposed PB District is a more appropriate district and is more consistent with the pedestrian oriented recommendations of <i>Legacy</i> and <i>The Downtown Plan</i> than the existing LI District.
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RELEVANT ZONING HISTORIES

Case	Request	Decision & Date	Direction from Site	Acreage	Recommendation	
					Staff	CCPB
W-3064	Multiple districts to WO (Winston-Overlay)	Approved 7-19-10	350' south	107.63	Approval	Approval
W-2879	LI to PB-S	Approved 9-5-06	Directly south	.38	Approval	Approval
W-2654	LI to PB	Approved 11-3-03	150' west	1.25	Approval	Approval

CONCLUSIONS TO ASSIST WITH RECOMMENDATION

Positive Aspects of Proposal	Negative Aspects of Proposal
The PB District allows the property to be developed in a manner which is consistent with the recommendations of <i>The Downtown Plan</i> , and <i>Legacy</i> .	An adjoining parcel zoned LI could have been brought in with this tract as one petition which would have allowed them to share in the submittal fee.
The rezoning request is consistent with the surrounding development pattern and the proposed PB purpose statement.	
PB is a more appropriate district for this area than LI.	
This request is consistent with other rezoning requests that have been submitted in this area.	
At 0.07 acre in size, this site is not practical for use under the existing LI zoning and does not meet the minimum lot size for the LI District.	

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-3117 NOVEMBER 10, 2011

Gary Roberts presented the staff report.

PUBLIC HEARING

FOR:

Brice Shearburn, 3010 N. Main Street, Winston-Salem, NC 27101

- Mr. Roberts has appropriately identified the request, the proposed uses, the adjoining properties, uses in the downtown area. This is an area we are trying to promote as a pedestrian friendly area. There are numerous properties zoned PB, Pedestrian Business District.
- This use is appropriate based on surrounding uses.
- We've seen numerous structures where industrial facilities have been adapted over the years to accommodate the entertainment and living vision for this area of downtown.

AGAINST:

Don Nielsen, 100 N. Cherry Street, Winston-Salem, NC 27101

- Submitted handouts.
- I'm here on behalf of the neighboring property owners and businesses including Ziggy's.
- The neighbors' concerns are that certain PB uses are not in harmony with the neighborhood as it is today. Including those uses in the proposal before you today would result in conflict and tension.
- In particular residential uses are not compatible with high intensity uses such as large nightclubs and in many cases may not be compatible with a vibrant entertainment district that will cater to 18-34 year olds.
- There is a place for both high and low intensity uses downtown, but at least in Winston-Salem today they don't work well in close proximity.
- Ziggy's opened here in August. They have done very well. Before they chose to relocate to this site, they searched extensively for a site which would not be close to residential properties. They are an extremely popular facility and as a result had problems with neighbors in a previous location. They did not want that to happen again.
- The City supported this location and provided a loan to assist them.
- We've needed a large music venue downtown and this can only help the community.
- *Legacy* encourages this type of use in this type of location.

- The Downtown Entertainment District should be primarily entertainment facilities with food rather than restaurants with a little bit of entertainment.
- It's easy to predict what's going to happen if there are residents near a large nightclub.
- If this property is rezoned to PB general use and residences are placed here, the same problems which Ziggy's has worked so hard to avoid will be happening again.
- The Planning Board takes great care not to place low and high intensity uses next to each other.
- Many of the controversial cases which come before this board are just about keeping low and high intensity uses separated.
- What makes this request different is that a high intensity use is requesting protection so it can operate in accordance with downtown plans.
- The PB zoned property in this area is controlled by Ziggy's or related companies.
- More importantly, this is the first rezoning since Ziggy's opened up.
- Ziggy's has established a large scale entertainment facility which is something downtown has wanted and needed.
- It shouldn't be put at risk.
- PB allows an odd mix of uses - both high and low intensity. It's designed for small towns where you probably wouldn't even have entertainment facilities like Ziggy's.
- A single family home may be allowed near a night club in PB, but in most cases it shouldn't be.
- The Downtown Plan calls for residential and commercial uses. That doesn't mean they have to be together.
- If residential is allowed everywhere there won't be a place for a large music venue like Ziggy's.
- The Winston-Salem noise ordinance is focused on protecting homes.
- Ziggy's is just getting started by 10 or 11 at night.
- Zoning is intended to reduce the friction between high and low intensity uses.
- The UDO specifically asks this board and the City Council to consider what is compatible with other uses in the vicinity.
- Ziggy's is here. People are glad it's here. It was here first. It's in line with *Legacy* and the downtown plans and it helps define the neighborhood.
- Zoning classifications help protect nearby property owners and substantial weight should be given to the impact on them.
- Businesses and property owners have made significant investments into this area based on the knowledge that residential uses could not be placed here.
- If this petition is approved today it will create a problem where none exists today.
- Mr. Waterbury did not, to our knowledge, seek out his neighbors' opinions.
- Ziggy's and other property owners in the area would support PB-S zoning without residential uses and other uses which might not be compatible.
- This is becoming a truly urban entertainment area.
- Residential does not make sense right here and is a threat to Ziggy's and other entertainment facilities in the area.

- We respectfully request that this PB request be denied unless residential is removed.
- PB zoning without residential would preserve the investment and commitment that the property owners and the City have made in relocating Ziggy's to North Trade Street.

WORK SESSION

During discussion by the Planning Board, the following points were made:

1. Clarence Lambe clarified that the triangular tract on the southwest side of this site next to the LI was zoned CB. All the surrounding properties except the LI currently allow residential. CB and GB zoned land borders half the property line.
2. Lynne Mitchell: The Winston-Salem Rescue Mission which has just made a major expansion is located nearby and they shelter families. There is also a condo which is controlled by people connected with Ziggy's.
3. Clarence Lambe: I'm very sensitive to us approving residential so close to industrial because there are so many problems. But it looks like this property is half surrounded by LI and half by property that currently allows residential.
4. Brenda Smith: What stands out to me is that even though the property may be controlled by those with vested interests in Ziggy's, people still live there. So the presumption is that anyone who's there won't complain about noise at all? Don Nielsen: I can guarantee that the people who live there now won't complain. That property was already zoned to allow residential before Ziggy's moved in so we can't do anything about that. We can only work from this point forward.
5. Lynne Mitchell: Does Ziggy's have outdoor music? Don Nielsen: There will be people lining up to get in and music can escape from Ziggy's. We can't totally prevent that.
6. Allan Younger: Let me clarify. The only reason you're opposed to residential is because you think residents might complain about Ziggy's making noise? Don Nielsen: We strongly believe that will happen. In fact it has happened already.
7. Chairman King asked the petitioner if they were aware of Ziggy's. Brice Shearburn stated that they were certainly aware of it and it is a wonderful enhancement to the entertainment district. I'm a bit confused about how the "controlled" properties zoned PB or CB with residential uses in place are somehow different from a third party that wants to live somewhere of his choosing. Under the circumstances it appears that the objection is one that would propose to limit the perception of Ziggy's. I don't have anything else to say and neither does Mr. Waterbury on that point. There is noise all along Fourth Street. That's one of the prices and privileges of living in an urban environment.

8. Brenda Smith: The railway there is still active.
9. Clarence Lambe: You'd think that residents thinking of moving into this building would be aware of noises.
10. Allan Younger: My thought is if it makes sense to approve it without speculation as to whether there will be noise complaints which we don't oversee anyway, then we should approve it.
11. Arnold King: I'm on the fence but will probably vote against it because I don't want to create another problem for the City.

MOTION: Allan Younger moved approval of the zoning map amendment.

SECOND: Clarence Lambe

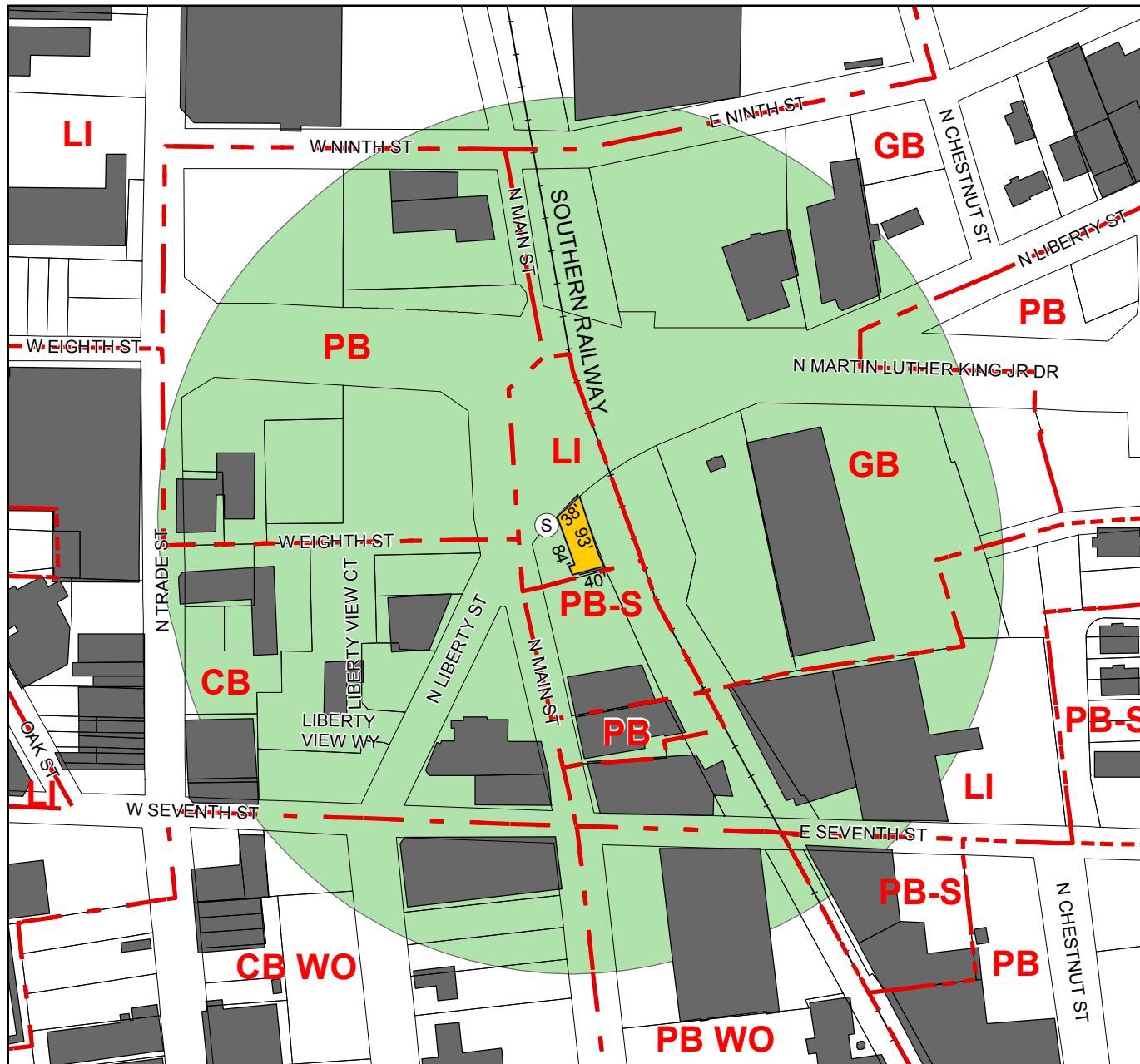
VOTE:

FOR: Wesley Curtis, Clarence Lambe, Barry Lyons, Lynne Mitchell, Paul Mullican,
Brenda Smith, Allan Younger

AGAINST: Arnold King

EXCUSED: None

A. Paul Norby, FAICP
Director of Planning



DOCKET #: W3117

PROPOSED ZONING:
PB

EXISTING ZONING:
LI

PETITIONER:
Jonathan Waterbury
for property owned by Same

 500' notification radius

SCALE: 1" represents 200'

STAFF: Roberts

GMA: 1

ACRES: 0.07

NEAREST BLDG: 125' south

MAP(S): 630858



W-3117 Appendix A
EXISTING LI USES ALLOWED
City of Winston-Salem Jurisdiction Only

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

Academic Biomedical Research Facility
Academic Medical Center
Animal Shelter, Public
Arts and Crafts Studio
Banking and Financial Services
Building Contractors, General
Building Contractors, Heavy
Building Materials Supply
Child Care, Drop-In
Church or Religious Institution, Community
Church or Religious Institution, Neighborhood
College or University
Fish Hatchery
Fuel Dealer
Government Offices, Neighborhood Organization, or Post Office
Hospital or Health Center
Kennel, Indoor
Manufacturing A
Manufacturing B
Motor Vehicle, Body or Paint Shop
Motor Vehicle, Rental and Leasing
Motor Vehicle, Repair and Maintenance
Motor Vehicle, Storage Yard
Offices
Park and Shuttle Lot
Parking, Commercial
Police or Fire Station
Postal Processing Facility
Recreation Facility, Public
Recreation Services, Indoor
Recycling Center
School, Vocational or Professional
Services A
Services B
Signs, Off-Premises
Storage Services, Retail
Terminal, Bus or Taxi
Testing and Research Lab
Utilities

W-3117 Appendix A
EXISTING LI USES ALLOWED
City of Winston-Salem Jurisdiction Only

Warehousing
Wholesale Trade A
Wholesale Trade B

USES ALLOWED WITH REVIEW BY THE PLANNING BOARD (P)

Adult Day Care Center
Child Care, Sick Children
Child Day Care Center
Landfill, Construction and Demolition
Landfill, Land Clearing/Inert Debris
Transmission Tower

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

Borrow Site
Dirt Storage
Helistop
Solid Waste Transfer Station

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

Access Easement, Private Off-Site
Shelter for Homeless

W-3117 Appendix B
PROPOSED PB USES ALLOWED
City of Winston-Salem Jurisdiction Only

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

Academic Biomedical Research Facility
Academic Medical Center
Adult Day Care Home
Arts and Crafts Studio
Banking and Financial Services
Bed and Breakfast
Boarding or Rooming House
Building Contractors, General
Car Wash
Child Care, Drop-In
Child Day Care, Small Home
Church or Religious Institution, Community
Church or Religious Institution, Neighborhood
Club or Lodge
College or University
Combined Use
Convenience Store
Food or Drug Store
Fraternity or Sorority
Funeral Home
Furniture and Home Furnishings Store
Government Offices, Neighborhood Organization, or Post Office
Hospital or Health Center
Hotel or Motel
Institutional Vocational Training Facility
Library, Public
Motor Vehicle, Rental and Leasing
Motor Vehicle, Repair and Maintenance
Motorcycle Dealer
Museum or Art Gallery
Nursery, Lawn and Garden Supply Store, Retail
Nursing Care Institution
Offices
Park and Shuttle Lot
Parking, Commercial
Police or Fire Station
Postal Processing Facility
Recreation Facility, Public
Recreation Services, Indoor
Recreation Services, Outdoor

Residential Building, Duplex
Residential Building, Single Family
Residential Building, Twin Home
Restaurant (without drive-through service)
Retail Store
School, Vocational or Professional
Services A
Services B
Shopping Center
Stadium, Coliseum, or Exhibition Building
Swimming Pool, Private
Terminal, Bus or Taxi
Testing and Research Lab
Theater, Indoor
Utilities
Warehousing

USES ALLOWED WITH REVIEW BY THE PLANNING BOARD (P)

Adult Day Care Center
Child Care Institution
Child Care, Sick Children
Child Day Care Center
Correctional Institution
Family Group Home B
Family Group Home C
Group Care Facility A
Group Care Facility B
Habilitation Facility C
Landfill, Land Clearing/Inert Debris
Life Care Community
Residential Building, Multifamily
Residential Building, Townhouse
School, Private
School, Public
Transmission Tower

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

Borrow Site
Dirt Storage
Helistop

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

Access Easement, Private Off-Site
Shelter for Homeless
Storage Services, Retail

APPROVAL
STATEMENT OF CONSISTENCY WITH COMPREHENSIVE PLAN
W-3117
(JONATHAN WATERBURY)

The proposed general use rezoning from LI (Limited Industrial District) to PB (Pedestrian Business District) is consistent with the *Legacy Comprehensive Plan*, and the *Downtown Area Plan* and is reasonable and in the public interest because:

1. The site is located within the GMA-1 within the downtown area of Winston-Salem and is adjacent to other PB and PB-S zoning;
2. The uses permitted in the proposed PB District are compatible with the uses permitted in the adjacent PB, CB and GB Districts;
3. PB is a more appropriate district for this area than LI;
4. The site has no apparent constraints and appears to be suitable for the development within the proposed PB District.

DENIAL
STATEMENT REGARDING CONSISTENCY WITH COMPREHENSIVE PLAN
W-3117
(JONATHAN WATERBURY)

While the proposed general use rezoning from LI (Limited Industrial District) to PB (Pedestrian Business District) is consistent with the *Legacy Comprehensive Plan*, and the *Downtown Area Plan*, it is not reasonable and in the public interest because the proposed rezoning is inconsistent and incompatible with the LI zoned property adjacent to the subject site.