

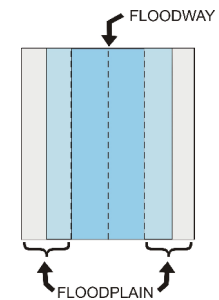
Printed: 5/13/2008

**DOCKET #:** W2980

**PROPOSED ZONING:**  
Special Use Permit

**EXISTING ZONING:**  
RS-9

**PETITIONER:**  
Deacon Properties for  
property owned by Same



**SCALE:** 1" represents 300'

**STAFF:** Roberts

**GMA:** 2

**ACRES:** 0.26

**NEAREST  
BLDG:** 50'

**MAP(S):** 642854

**F**

June 25, 2008

Deacon Properties  
P. O. Box 1708  
Dunn, NC 28335

RE: SPECIAL USE PERMIT W-2980

Dear Sirs:

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  
John E. Beeson, 503 High Street, Winston-Salem, NC 27101

**ACTION REQUEST FORM**

**DATE:** June 25, 2008  
**TO:** The Honorable Mayor and City Council  
**FROM:** A. Paul Norby, FAICP, Director of Planning

**BOARD ACTION REQUEST:**

Request for Public Hearing on Special Use Permit of Deacon Properties

**SUMMARY OF INFORMATION:**

Special Use Permit request of Deacon Properties for access to a GI zoned property through a residential zoning district: property is located on the east side of Hicks Street, north of Lowery Street (Zoning Docket W-2980).

**PLANNING BOARD ACTION:**

**MOTION ON PETITION:** DENIAL  
**FOR:** JERRY CLARK, WESLEY CURTIS, CAROL EICKMEYER,  
ARTHUR KING, LYNNE MITCHELL  
**AGAINST:** ARNOLD KING, CLARENCE LAMBE, BRENDA SMITH  
**EXCUSED:** PAUL MULLICAN  
**SITE PLAN ACTION:** CONFORMS TO THE REQUIREMENTS OF THE UDO

CITY ORDINANCE - SPECIAL USE PERMIT

Special Use Permit of Deacon Properties,  
Docket W-2980

AN ORDINANCE ISSUING A SPECIAL USE  
PERMIT FOR ACCESS TO A GI ZONED  
PROPERTY THROUGH A RESIDENTIAL  
ZONING DISTRICT

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

Section 1. The City Council hereby makes an affirmative finding as follows, based upon the material and competent evidence presented at the public hearing:

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved;
2. That the use meets all required conditions and specifications;
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and,
4. That the location and character of the use, if developed according to the application and plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with *Legacy*.

Section 2. The Winston-Salem City Council hereby issues a Special Use Permit for access to a GI zoned property through a residential zoning district in accordance with Section 6-1.5 of the Zoning Ordinance of the *Unified Development Ordinances* to Deacon Properties to be established on the following described property:

BEGINNING at the southwestern corner of Tax Lot 33, Block 3268, as recorded in Deed Book 2547, Page 1676; Thence North 65°02'03" East 148.81 feet to the southeastern corner of Tax Lot 33, Block 3268; Thence along a new line South 25°13'46" East 75.00 feet; Thence along a new line South 65°02'03" West 148.70; Thence along the eastern right-of-way of Hicks Street North 25°18'49" West 75.00 feet to the point and place of BEGINNING. Being Tax Block 3268 and a portion of Tax Lot 106 containing 0.26 acres more or less.

Section 3. This Ordinance is adopted after approval of the site plan entitled Machine and Welding Supply Company and identified as Attachment "A" of the Special Use Permit issued by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, to Deacon Properties

Section 4. The City Council hereby directs the issuance of a Special Use Permit pursuant to Section 6-1.5 of the Zoning Ordinance of the *Unified Development Ordinances* for a development to be known as Machine and Welding Supply Company. Said Special Use Permit and site plan with associated documents are attached hereto and incorporated herein.

Section 5. This Ordinance shall be effective from and after its adoption.

CITY - SPECIAL USE PERMIT

SPECIAL USE 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 Permit for the site shown on the site plan map included in this zoning petition of Deacon Properties, (Zoning Docket W-2980). The site shall be developed in accordance with the plan approved by the Council and bearing the inscription: "Attachment A, Special Use Permit for access to a GI zoned property through a residential zoning district, approved by the Winston-Salem City Council the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_" and signed, provided the property is developed in accordance with requirements of Section 6-1.5 of the Zoning Ordinance of the *Unified Development Ordinances*, and other applicable laws, and the following additional conditions be met:

- **PRIOR TO THE ISSUANCE OF GRADING PERMITS:**
  - a. Developer shall obtain WSDOT driveway permit.
  - b. Developer shall obtain Zoning Permit from the Inspections Division.
  
- **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS:**
  - a. Developer shall install all requirements of the WSDOT driveway permit.
  - b. Any damage to City maintained streets, sidewalks, or curb shall be replaced or repaired to the requirements of the Public Works Department.

**CITY-COUNTY PLANNING BOARD  
STAFF REPORT**

PETITION INFORMATION				
<b>Docket #</b>	W-2980			
<b>Staff</b>	<a href="#">Gary Roberts Jr., AICP</a>			
<b>Petitioner(s)</b>	Deacon Properties			
<b>Owner(s)</b>	Same			
<b>Subject Property</b>	Portion of PIN# 6845-26-7080			
<b>Type of Request</b>	Special Use Permit to access GI zoned property through a residential zoning district (RS-9).			
GENERAL SITE INFORMATION				
<b>Location</b>	East side of Hicks Street, north of Lowery Street			
<b>Jurisdiction</b>	City of Winston-Salem			
<b>Ward(s)</b>	East			
<b>Site Acreage</b>	± 0.26			
<b>Current Land Use</b>	Site is undeveloped.			
<b>Surrounding Property Zoning and Use</b>	<b>Direction</b>	<b>Zoning District</b>	<b>Use</b>	
	North	RS-9	Single family residential	
	East	GI	Industrial uses	
	South	GI	Industrial uses	
	West	RS-9	Single family residential	
<b>Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(S)</b>	<b>(S)(2) - Is/are the use(s) permitted under the proposed classification/request compatible with uses permitted on other properties in the vicinity?</b>			
	The proposed access drive to serve the adjacent GI zoned properties would not be compatible with the adjacent single family residential properties because it would extend industrial traffic to a point within the residential frontage on the street.			
<b>Physical Characteristics</b>	The site is primarily covered with mature vegetation and has a moderate slope downward to the east.			
<b>Proximity to Water and Sewer</b>	Public water and sewer are available to the site.			
<b>Storm water/ Drainage</b>	No known issues.			
<b>Watershed and Overlay Districts</b>	The site is not located within a water supply watershed.			
<b>Analysis of General Site Information</b>	The site appears to possess no development constraints which would hinder the installation of the proposed industrial access drive.			
SITE ACCESS AND TRANSPORTATION INFORMATION				
<b>Street Name</b>	<b>Classification</b>	<b>Frontage</b>	<b>ADT Count</b>	<b>Capacity/LOS D</b>
Hicks Street	Local Street	75'	NA	NA

<b>Proposed Access Point(s)</b>	See comments below in the Analysis of Site Access and Transportation Issues section.
<b>Trip Generation - Existing/Proposed</b>	The installation of a new driveway onto Hicks Street will not in itself generate more traffic; however, it should be anticipated that some of the existing traffic on Lowery Street will be redirected onto Hicks Street.
<b>Sidewalks</b>	No sidewalks are located within the general area.
<b>Transit</b>	Not available.
<b>Analysis of Site Access and Transportation Information</b>	The proposed industrial access drive on property zoned RS-9 necessitates a Special Use Permit. See comments under the Other Applicable Plans and Planning Issues section below.
<b>Generalized Recommended Conditions</b>	<b><u>BRIEF DESCRIPTION OF CONDITION(S):</u></b> <ul style="list-style-type: none"> <li>• Obtain WSDOT driveway permit.</li> </ul>
<b>CONFORMITY TO PLANS AND PLANNING ISSUES</b>	
<b>Legacy GMA</b>	Growth Management Area 2, Urban Neighborhoods
<b>Relevant Legacy Recommendations</b>	<i>Legacy</i> recommends the promotion of economic development which is compatible with existing residential neighborhoods and other business developments.
<b>Relevant Area Plan(s)</b>	<i>East/Northeast Area Plan (2008)</i>
<b>Relevant Area Plan(s) Recommendations</b>	<p><i>Industrial:</i> This Plan recommends the consolidation of industrial uses at existing locations . . . Reuse of existing buildings and redevelopment of vacant or underutilized sites is recommended instead of rezoning additional land for industrial use. New and redeveloped industrial uses should be designed in a manner which makes them compatible with nearby residential uses.</p> <p>One small residential area is recommended for possible industrial expansion, a small neighborhood inside the Lowery Business Park. This area is currently zoned for single-family residential use and is recognized as providing affordable housing opportunities in the Planning Area. However, because of the area’s location and surrounding conditions, it should be allowed to be rezoned for industrial use if developed comprehensively and developed in conformance with the Industrial Expansion Guidelines (see Appendix E within the plan). The view from Business 40 should be given special consideration for the redevelopment of the area. No piece-meal zoning should be approved.</p>
<b>Other Applicable Plans and Planning Issues</b>	<p>For Special Use Permits (SUP) requiring approval by the Elected Body, certain findings have to be met. Findings of the Planning Board accompanying a favorable recommendation shall include:</p> <p><b><u>Planning Board Findings:</u></b></p> <p><i>I. The development is in conformity with Legacy. (No )Legacy recommends the promotion of economic development which is compatible with existing residential neighborhoods and other business developments. In regard to specific properties, Legacy</i></p>



*defers to the applicable Area Plans. The East/Northeast Area Plan recommends the subject property and the surrounding residential properties be rezoned for industrial use if developed comprehensively and developed in conformance with the Industrial Expansion Guidelines. Although this is a Special Use Permit rather than a rezoning, staff believes the same principle applies in terms of avoiding a land use decision that could have a negative impact on the adjoining residential property.*

2. Water and sewer service are available in adequate capacity. *(Yes)*
3. Where buildings greater than thirty-five (35) feet in height are proposed within the City of Winston-Salem limits, there is adequate access for aerial fire-fighting equipment. *(No buildings are proposed)*
4. Streets and highways, both within and in the vicinity of the development, are of such design and traffic-carrying capacity that the development will not create a traffic hazard. *(Yes)*
5. General layout and design of the development meet all requirements of this Ordinance. *(Yes)*
6. Adequate, safe and convenient provision is made for vehicular and pedestrian movement on the site with particular attention paid to the needs of public safety equipment and personnel (fire, police, etc) and service vehicles and personnel (sanitation, postal delivery, etc). *(Yes)*
7. The Planning Board may recommend to the Elected Body conditions as identified in Section 6-1.3(A)(1) for the issuance of the special use permit to reduce impacts associated with the project. *(See "SITE-SPECIFIC RECOMMENDED CONDITIONS OF APPROVAL" section below)*

The Elected Body shall issue a special use permit only when the Elected Body makes an affirmative finding as follows:

**Elected Body Findings:**

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved. *(No) Extending truck traffic further into the adjacent residential street may pose a greater safety risk for children in the area, particularly due to the lack of sidewalks.*
2. That the use meets all required conditions and specifications. *(Yes)*
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and, *(Yes)*
4. That the location and character of the use, if developed according to the application and plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with Legacy. *(No) Legacy recommends the promotion of economic development which is compatible with existing residential neighborhoods and other business developments. In regard to*

	<p><i>specific properties, Legacy defers to the applicable Area Plans. The East/Northeast Area Plan recommends the subject property and the surrounding residential properties be rezoned for industrial use if developed comprehensively and developed in conformance with the Industrial Expansion Guidelines. Although this is a Special Use Permit rather than a rezoning, staff believes the same principle applies in terms of avoiding a land use decision that could have a negative impact on the adjoining residential property.</i></p>					
<b>Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(S)</b>	<b>(S)(3) - Have changing conditions substantially affected the area in the petition?</b>					
	No.					
	<b>(S)(4) - Is the requested action in conformance with Legacy?</b>					
See comments below.						
<b>Analysis of Conformity to Plans and Planning Issues</b>	<p>In regard to specific properties, <i>Legacy</i> defers to the applicable Area Plans. The recently adopted <i>East/Northeast Area Plan</i> recommends the subject property and the surrounding residential properties be rezoned for industrial use <u>if</u> developed comprehensively and developed in conformance with the Industrial Expansion Guidelines. Although this is not a rezoning action, the subject request is inconsistent with this recommendation in that it represents a piece meal, single lot approach to industrial expansion.</p>					
	<p>Planning staff suggests that if an additional way of accessing the adjacent GI zoned property is desired, it should be from Lowery Street.</p>					
<b>RELEVANT ZONING HISTORIES</b>						
Case	Request	Decision & Date	Direction from Site	Acreage	Recommendation	
					Staff	CCPB
W-2924	SUP for an Asphalt or Concrete Plant in GI	Approved 5-7-07	350' east	4.11	Approval	Approval
<b>SITE PLAN COMPLIANCE WITH UDO REQUIREMENTS</b>						
<b>Building Height</b>	<b>Maximum</b>			<b>Proposed</b>		
	40 feet			No buildings are proposed		
<b>Impervious Coverage</b>	<b>Maximum</b>			<b>Proposed</b>		
	NA			---		
<b>UDO Sections Relevant to Subject Request</b>	<ul style="list-style-type: none"> <li>Chapter B, Article II, Section 2-1.2(H) RS-9 District</li> <li>Chapter B, Article VI, Section 6-1.5 Special Use Permits Authorized by the Elected Body</li> </ul>					
<b>Complies with Chapter B, Article VII, Section 7-5.3</b>	<b>(A) Legacy policies:</b>			See comments above		
	<b>(B) Environmental Ord.</b>			NA		
	<b>(C) Subdivision Regulations</b>			NA		

<b>Analysis of Site Plan Compliance with UDO Requirements</b>	The site plan needs to show the existing driveway across the street in order to verify there will be a positive offset. It is anticipated that a revised site plan will be submitted which complies with the requirements of the UDO.
<b>CONCLUSIONS TO ASSIST WITH RECOMMENDATION</b>	
<b>Positive Aspects of Proposal</b>	<b>Negative Aspects of Proposal</b>
Proposal would provide an additional access point to an existing industrial site.	The request does not meet the required findings for a Special Use Permit in that it is not consistent with the recommendations of <i>Legacy</i> or the <i>East/Northeast Area Plan</i> .
	Request would allow for the installation of an industrial access drive across the street from single family homes.
<b>SITE-SPECIFIC RECOMMENDED CONDITIONS OF APPROVAL</b>	
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.	
<b><u>PRIOR TO THE ISSUANCE OF GRADING PERMITS:</u></b>	
<ul style="list-style-type: none"> <li>a. Developer shall obtain WSDOT driveway permit.</li> <li>b. Developer shall obtain Zoning Permit from the Inspections Division.</li> </ul>	
<b><u>PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS:</u></b>	
<ul style="list-style-type: none"> <li>a. Developer shall install all requirements of the WSDOT driveway permit.</li> <li>b. Any damage to City maintained streets, sidewalks, or curb shall be replaced or repaired to the requirements of the Public Works Department.</li> </ul>	

**STAFF RECOMMENDATION: DENIAL**

**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.**

Gary Roberts and Marco Andrade presented the staff report.

**PUBLIC HEARING**

FOR:

John E. Beeson, 503 High Street, Winston-Salem, NC 27101

- Machine and Welding is no longer using the back building for the storage of supplies and would like to sell it.
- It's not clear why the zoning lines were drawn the way they are.

- We need to encourage small businesses and not run them out of our County. They cannot afford to go to industrial parks and they need places like this to locate.
- For security purposes, Machine and Welding cannot share the existing driveway with a different business.
- Because of topography and restrictions such as stormwater, there would be difficulty in putting a driveway any place else.

AGAINST: None

### **WORK SESSION**

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

1. Mr. Beeson does not believe adding another driveway in a different location would be feasible. Staff encourages him to look at other options.
2. Lynne Mitchell discussed the need for housing for those who make minimum wage. There is a need to protect neighborhoods like these that provide affordable housing.
3. Carol Eickmeyer: We just adopted the area plan. We should give it at least six months before altering it or going against it's recommendations.
4. Wesley Curtis: One of the things we talked about in discussion about the area plan was the preservation of some of these neighborhoods. A lot of people were involved in creating the area plan and we should honor what they said and preserve this area.
5. Brenda Smith: I don't think putting the driveway through a parcel that's part of the industrial site is going to undo the intent of the area plan or not protect that part of the neighborhood.
6. Clarence Lambe: I think there's too much emphasis on the area plan as if they were granular. They are not. Requiring 100% assemblage before allowing development is crazy.
7. Jerry Clark: I wonder what the effect of this parcel being initially developed on this site had on the houses here. I'm sure it had some effect. If the homeowners decide they don't want to look at the new industrial development, they move and start leasing their houses. I just don't believe the petitioner can't come up with a better scheme than what I'm hearing.
8. Lynne Mitchell: I think it's a huge impact on the neighborhood and an inconvenience to the business.

9. Arnold King: I don't have a problem with the driveway. There's also no one here in opposition.
10. Arthur King: There ought to be a way to move the driveway further south or divide the existing driveway off Lowery Street to serve both properties.
11. Paul Mullican: I apologize for being late today but had an emergency I had to tend to. Since I wasn't here for all the discussion, I will refrain from voting on this case.

MOTION: Lynne Mitchell moved denial of Special Use Permit.

SECOND: Carol Eickmeyer

VOTE:

FOR: Jerry Clark, Wesley Curtis, Carol Eickmeyer, Arthur King, Lynne Mitchell

AGAINST: Arnold King, Clarence Lambe, Brenda Smith

EXCUSED: Paul Mullican

SITE PLAN MOTION: Lynne Mitchell certified that the site plan meets all code requirements and recommends staff conditions, including the two conditions added at the meeting which were to obtain a zoning permit and to repair any damage of the public streets.

SECOND: Jerry Clark

VOTE:

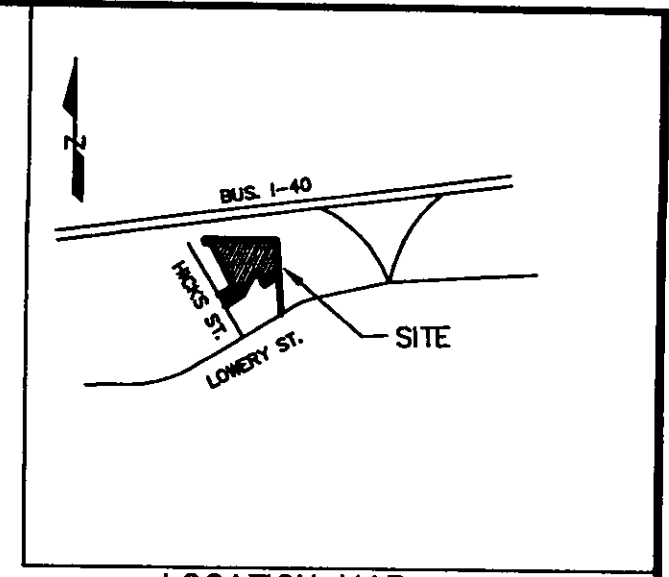
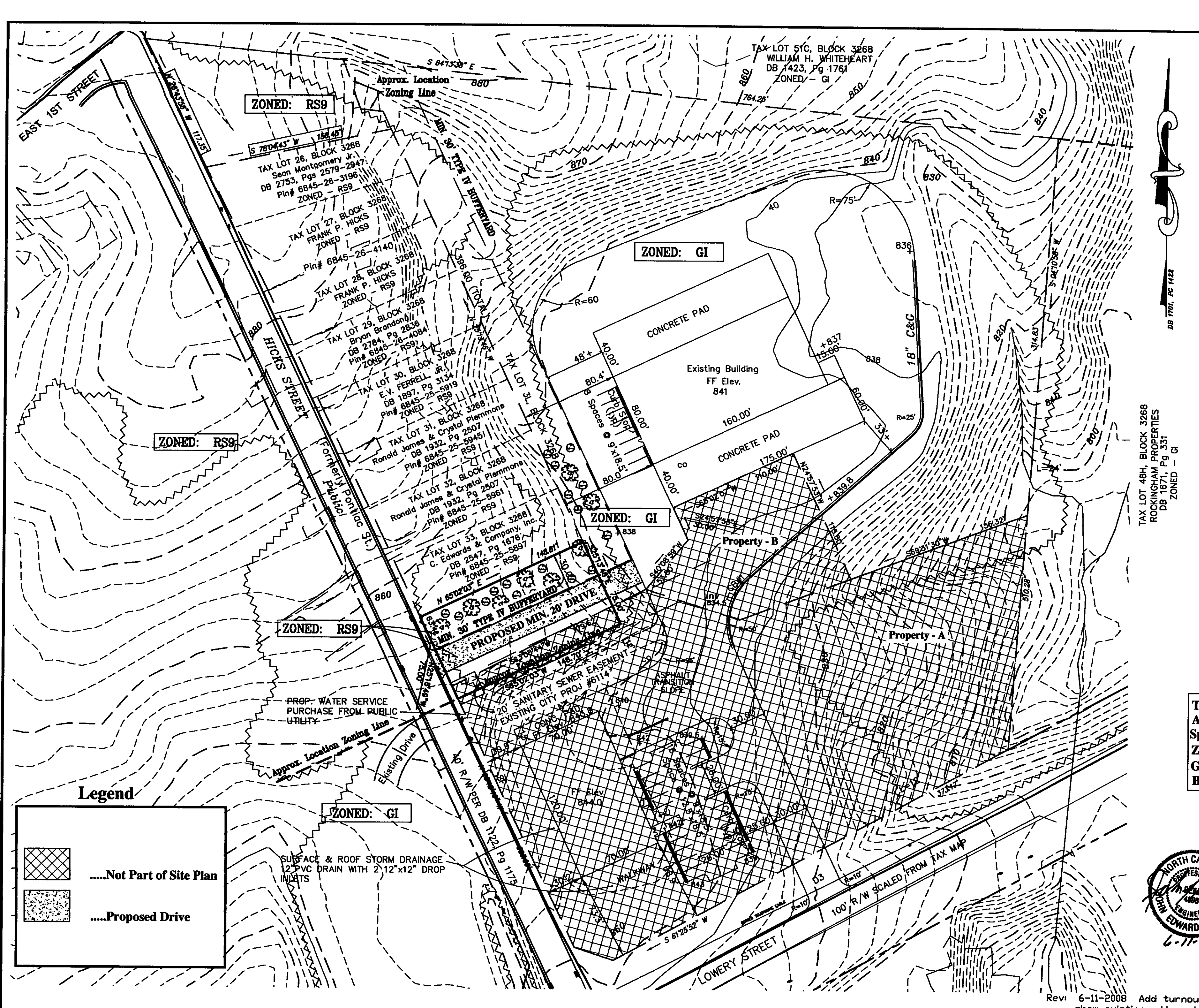
FOR: Jerry Clark, Wesley Curtis, Carol Eickmeyer, Arnold King, Arthur King,  
Clarence Lambe, Lynne Mitchell, Brenda Smith

AGAINST: None

EXCUSED: Paul Mullican

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A. Paul Norby, FAICP  
Director of Planning



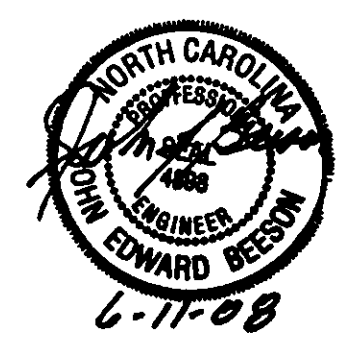
<b>ZONING</b>	
Existing Zoning:	GI & RS9
Proposed Zoning:	Special Use Permit
Type of Review Requested:	Planning Board
<b>SITE SIZE AND COVERAGES</b>	
Total Acreage:	0.28± Acres.
	11,156 Sq. Ft.
<b>INFRASTRUCTURE</b>	
Water:	<input checked="" type="checkbox"/> Public <input type="checkbox"/> Private
Sewer:	<input checked="" type="checkbox"/> Public <input type="checkbox"/> Private
Streets:	<input type="checkbox"/> Public <input checked="" type="checkbox"/> Private
<b>BUFFERYARDS (if applicable)</b>	
Adjoining Zoning:	RS9
Type Required:	minimum Type IV
Width Provided:	30'
Fence Option:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Not an Actual Survey

The Purpose of this map is to  
 Add an entrance on Hicks Street.  
 Special Use Permit - Portion of Lot 106  
 Zoned RS9 For Access to Existing  
 GI Zoning.  
 Building and Drives are Existing.

**Legend**

	.....Not Part of Site Plan
	.....Proposed Drive



<b>MACHINE &amp; WELDING SUPPLY COMPANY</b>		
P.O. BOX 1708 DUNN, NC 28835		
919-880-8102		
SCALE 1" = 60'		
FIELD WORK BY OTHERS	CHECKED BY: JEB	
TAX MAP: 648064	PANEL: Part of Lot 106	Block 288
FIG: 6845-26-7008		
TOWNSHIP: WINSTON	CITY: WINSTON-SALEM	COUNTY: FORSYTH
STATE: NC	DATE: 6-5-2008	PAGE NUMBER: 1 of 1
JOB NUMBER: 07811	DRAWN BY: TLBC	
<b>DEEDOR SURVEYING INC.</b> ENGINEERS SURVEYORS PLANNERS		
603 MAIN STREET WINSTON-SALEM, NC 27101 TELEPHONE: 336-740-0071		

Revi 6-11-2008 Add turnout and show existing adjacent drive

W.2980 Revised