



DOCKET #: W2706
 (Continued from 7/8/04
 CCPB meeting)

PROPOSED ZONING:
 PB-S (Museum or Art Gallery;
 Retail Store, Specialty or
 Miscellaneous)

EXISTING ZONING:
 RS-7

PETITIONER:
 Annie Hairston for
 property owned by Vivian Burke

SCALE: 1" represents 200'

STAFF: Roberts

GMA: 3

ACRE(S): 0.11

MAP(S): 636854



September 22, 2004

Annie Hairston for property owned
by Vivian H. Burke
2600 Beechmont Street
Winston-Salem, NC 27101

RE: ZONING MAP AMENDMENT W-2706

Dear Ms. Hairston:

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, AICP
Director of Planning

pc: City Secretary's Office, P.O. Box 2511, Winston-Salem, NC 27102

ACTION REQUEST FORM

DATE: September 22, 2004
TO: The Honorable Mayor and City Council
FROM: A. Paul Norby, AICP, Director of Planning

COUNCIL ACTION REQUEST:

Request for Public Hearing on zoning map amendment of Annie Hairston for property owned by Vivian H. Burke

SUMMARY OF INFORMATION:

Zoning map amendment of Annie Hairston for property owned by Vivian H. Burke, from RS-7 to PB-S (Museum or Art Gallery; and Retail Store, Specialty or Miscellaneous): property is located on the north side of Lawrence Street west of Martin Luther King Jr. Drive (Zoning Docket W-2706).

PLANNING BOARD ACTION:

MOTION ON PETITION: APPROVAL
FOR: UNANIMOUS
AGAINST: NONE
SITE PLAN ACTION: CONFORMS

CITY ORDINANCE - SPECIAL USE

Zoning Petition of Annie Hairston for property owned by Vivian H. Burke, Docket W-2706

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 RS-7 to PB-S (Museum or Art Gallery; Retail Store, Specialty or Miscellaneous) the zoning classification of the following described property:

Tax Block 406, Tax Lot 13

Section 2. This Ordinance is adopted after approval of the site plan entitled Annie Hairston for property owned by Vivian H. Burke and identified as Attachment "A" of the Special Use District Permit issued by the City Council the _____ day of _____, to Annie Hairston for property owned by Vivian H. Burke.

Section 3. The City Council hereby directs the issuance of a Special Use District Permit pursuant to the Zoning Ordinance of the *Unified Development Ordinances* for a development to be known as Annie Hairston for property owned by Vivian H. Burke. Said Special Use District Permit and site plan with associated documents are attached hereto and incorporated herein.

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

CITY - SPECIAL USE DISTRICT PERMIT

SPECIAL USE 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 District Permit for the site shown on the site plan map included in this zoning petition of Annie Hairston for property owned by Vivian H. Burke, (Zoning Docket W-2706). The site shall be developed in accordance with the plan approved by the Board and bearing the inscription: "Attachment A, Special Use District Permit for PB-S (Museum or Art Gallery; Retail Store, Specialty or Miscellaneous), approved by the Winston-Salem City Council the _____ day of _____, 20____" and signed, provided the property is developed in accordance with requirements of the PB-S zoning district of the *Zoning Ordinance of the Unified Development Ordinances*, the Erosion Control Ordinance, and other applicable laws, and the following additional conditions be met:

- **PRIOR TO THE ISSUANCE OF BUILDING PERMITS**
 - a. Off-site parking arrangements, including the required leases, to be confirmed by the Inspections Division.
- **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS**
 - a. Bufferyard variance must be approved where the side of the principal structure and existing concrete encroaches into the required 15 foot bufferyard. Other bufferyard areas shall be planted as required.
 - b. All parking spaces leased across the street shall be marked and the handicap space installed per NC Building Code.
- **OTHER REQUIREMENTS**
 - a. Second floor of principal structure to be used for storage only.
 - b. No freestanding signage shall be allowed.

ZONING STAFF REPORT

DOCKET # W-2706
STAFF: Gary Roberts

Petitioner(s): Annie Hairston
Ownership: Vivian Burke

REQUEST

From: RS-7 Single Family Residential District; 7,000 sf minimum lot size
To: PB-S Pedestrian Business District (Museum or Art Gallery; Retail Store,
Specialty or Miscellaneous)

Both general and special use district zoning were discussed with the applicant(s) who decided to pursue the zoning as requested.

Acreage: 0.11 acre

CONTINUANCE HISTORY

This petition was initially submitted as a general use request and was recommended for denial at the July 8, 2004 Planning Board meeting. The petition was withdrawn at the August 2, 2004 City Council meeting. The current PB-S request was submitted in response to the discussion at said City Council meeting.

LOCATION:

Street: North side of Lawrence Street west of Martin Luther King Jr. Drive.
Jurisdiction: City of Winston-Salem.
Ward: East.

SITE PLAN

Proposed Use: Art gallery with retail sales.
Square Footage: 970± sf, (first floor), of two story, 1,608 sf, building to be used.
Building Height: Two story.
Parking: Required: 2 spaces; Proposed: Awaiting revised site plan; Layout: Will utilize some degree of off-site parking.
Bufferyard Requirements: 15 foot Type II bufferyard adjacent to RS-7. Proposed site plan will require a bufferyard width variance from the Zoning Board of Adjustment.
Vehicular Use Landscaping Standards Requirements: UDO standards apply.

PROPERTY SITE/IMMEDIATE AREA

Existing Structures on Site: Single family residence.

Adjacent Uses:

Northeast-	Duplex zoned RM-5-S.
East-	Undeveloped property zoned HB.
Southeast-	Single family residence zoned RS-7.
South-	Special Occasions gift shop zoned HB.
Southwest-	Single family residence zoned RS-7.
West-	Single family residence zoned RS-7.
Northwest-	Single family residence zoned RS-7.

GENERAL AREA

Character/Maintenance: A mixture of well maintained residential dwellings and businesses.

Development Pace: Slow.

HISTORY

Relevant Zoning Cases:

1. W-2652; RS-7 to PB-S (Multiple business and office uses); approved November 3, 2003; west side of Martin Luther King Jr. Drive between Third Street and Fourth Street; 0.56 acre; Planning Board and staff recommended approval with site design considerations regarding screening of parking below building overhang.
2. W-2544; RS-7 to GB; denied August 8, 2002; southwest corner of Martin Luther King Jr. Drive and Fifth Street; 0.25 acre; Planning Board and staff recommended denial.
3. W-1674; B-3-S (Eating Establishments) to B-3; approved October 1, 1990; southwest corner of Martin Luther King Jr. Drive and Lawrence Street; 0.41 acre; Planning Board and staff recommended approval.
4. W-619; R-4 to R-3-S (Duplex); approved November 9, 1977; southwest corner of Claremont Avenue (now Martin Luther King Jr. Drive) and Second Street; 0.30 acre; Planning Board and staff recommended approval.

PHYSICAL FEATURES/ENVIRONMENTAL REVIEW

Impact on Existing Features: Possible removal of large, mature tree in rear yard to accommodate off-street parking if said parking is located on site.

Topography: Gentle slope downward to the southeastern section of the site.

Vegetation/habitat: Typical residential yard with large mature tree in rear yard.

Environmental Resources Beyond The Site: The proposed site plan does not appear to impact environmental resources beyond the site.

Water Supply Watershed: The subject property is not located in a water supply watershed.

TRANSPORTATION

Direct Access to Site: Lawrence Street.

Street Classification: Lawrence Street – Local Road.

Average Daily Traffic Count/Estimated Capacity at Level of Service D (Vehicles per Day):

Martin Luther King Jr. Drive between First and Second Streets = 19,000/26,900

Trip Generation for Existing/Proposed Zoning:

No trip generation rates available for proposed uses. The trip generation would likely be quite small

Sidewalks: Existing on both sides of Lawrence Street and nearby Martin Luther King Jr. Drive.

Transit: Routes 3 and 27 along Martin Luther King Jr. Drive.

Bicycle Route: Route 10 along Martin Luther King Jr. Drive.

CONFORMITY TO PLANS

GMP Area (*Legacy*): Urban Neighborhoods, GMA 2.

Relevant Comprehensive Plan Recommendation(s): For Urban Neighborhoods, *Legacy* encourages quality infill development, greater residential densities where appropriate, neighborhood retail, and community services. Historic preservation, rehabilitation and reuse of existing structures and protection of residential areas from inappropriate commercial and industrial encroachment is also encouraged.

Area Plan/Development Guide: *East Winston Area Plan*, adopted by City Council in 1987.

Relevant Development Guide Recommendation(s): The Existing Land Use Map shows this site and the property immediately east to Martin Luther King, Jr. Drive as Single Family Residential (0-8 DU/AC.) The Development Plan shows this site and the property immediately east to Martin Luther King as Low Density Residential (O-5 DU/AC.) This area is shown for “Residential Improvement,” emphasizing code enforcement and aggressive marketing of the City’s rehabilitation programs to assure maintenance and improvement of housing stock. Other relevant Plan recommendations include: encourage private investment and development in the area; preserve existing housing stock; protect housing of historic significance to the African-American community; and, encourage special use zoning petitions.

COMMUNITY DEVELOPMENT

Certified Area/Name: East Winston #3 (NCR-59) General Neighborhood Renewal Plan (GNRP).

Type of Certification: Certified as *Blighted* in 1969.

Redevelopment Recommendation(s): East Winston #3 GNRP was primarily a residential rehabilitation project, with limited acquisition and clearance activity. The remaining records do not indicate that property in the area of the petition site was to be acquired by the City.

ANALYSIS

The subject request is to rezone a 0.11 acre site located on the north side of Lawrence Street, west of Martin Luther King Jr. Drive, from RS-7 to PB-S. The site was recently requested for a PB general use designation which the Planning Board recommended for denial of at their July 8, 2004 meeting because of the wide variety of uses allowed in PB general. The case was then withdrawn at the August 2, 2004 City Council meeting.

The site is located on the eastern edge of a single family neighborhood which adjoins the Highway Business zoned properties along Martin Luther King Jr. Drive. Currently located on the property is a 1,608 square foot, two-story house. However, according to the site plan, only the first floor, consisting of 970± square feet, will be used for the proposed use. Directly across Lawrence Street is the parking area for a gift shop. The eastern border of the site is adjacent to an undeveloped lot zoned HB which fronts on Martin Luther King Jr. Drive.

The site is located within *Legacy's* Urban Neighborhoods which encourages protection of residential areas from commercial and industrial encroachment. The property is also located within the *East Winston Area Plan* which recommends low density residential for the subject property and encourages preservation of the existing housing stock.

Subsequent to the withdrawal of the initial general use request, staff worked with the petitioner in order to address the land use concerns and site development constraints which were noted in the previous staff report. The lots within this traditional pre WWII neighborhood are relatively narrow with minimal side yard setbacks. Therefore the "spill over" impact from adjacent non-residential activity can be significant.

The site plan originally submitted with the new PB-S request presented some practical difficulties, including a utility pole right at the driveway location, the need for bufferyard variances for parking in the rear of the structure, and the reliance on a "paper alley" which would have had to be opened by the petitioner to provide an outlet from the parking lot. From a site visit, it appears that opening up the alley would have required the tearing down of existing fences put up by neighboring property owners.

However, the resubmitted special use request and revised site plan works toward preserving the residential character of the area by retaining the existing structure and by substantially limiting the potential intensity and the number of permitted uses. The revised site plan significantly reduces the problems for adjacent properties utilizing at least some degree of off-site parking. According to the site plan, all the parking requirements will be accommodated either on the lot of Special Occasions, across Lawrence Street, or partially on the adjacent undeveloped HB

zoned lot to the east. The plan would keep the 15 foot bufferyard to the rear of the structure intact. In addition, the platted, unopened alley located along the northern edge of the site would not need to be improved for egress as was shown on the initial site plan, avoiding disturbance to the adjoining properties.

While the area plan recommends single family residential for the subject property, the view from the front of the house is of a commercial parking lot across the street. In addition, being directly adjacent to an undeveloped, corner lot zoned HB, only limited protection is provided from a wide array of possible commercial development scenarios. Staff anticipates that the proposed use of art gallery with retail sales, will have little if any negative impact on the residential portion of Lawrence Street. By retaining the existing structure, significantly limiting the permitted uses and utilizing off-site parking, the subject request provides a smooth transition between the HB property to the east and the single family residential neighborhood to the west. Based upon review of the revised site plan, staff recommends approval of the request.

FINDINGS

1. *Legacy* recommends protection of residential areas from inappropriate commercial and industrial encroachment within Urban Neighborhoods.
2. The *East Winston Area Plan* recommends low density residential for the subject property and encourages preservation of the existing housing stock.
3. By retaining the existing structure, significantly limiting the permitted uses and utilizing off-site parking, the subject request provides an acceptable transition between the HB property to the east and the single family neighborhood to the west.

STAFF RECOMMENDATION

Zoning: **APPROVAL**

Site Plan: Staff certifies that **the site plan meets all code requirements**, and recommends the following conditions:

- **PRIOR TO THE ISSUANCE OF BUILDING PERMITS**
 - a. Off-site parking arrangements, including the required leases, to be confirmed by the Inspections Division.
- **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS**
 - a. Bufferyard variance must be approved where the side of the principal structure and existing concrete encroaches into the required 15 foot bufferyard. Other bufferyard areas shall be planted as required.
 - b. All parking spaces leased across the street shall be marked and the handicap space installed per NC Building Code.

- **OTHER REQUIREMENTS**

- a. Second floor of principal structure to be used for storage only.
- b. No freestanding signage shall be allowed.

PUBLIC HEARING

FOR: None

AGAINST: None

WORK SESSION

MOTION: Dara Folan moved approval of the zoning map amendment, certified that the site plan meets all code requirements and recommends staff conditions.

SECOND: Carol Eickmeyer

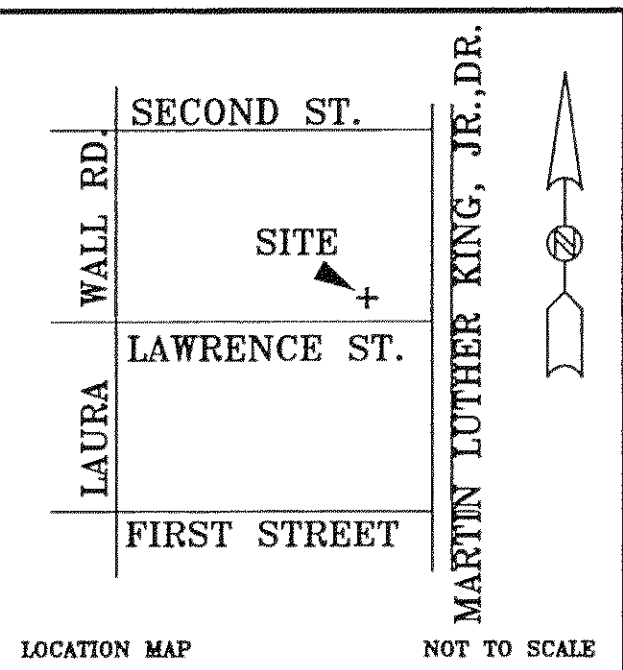
VOTE:

FOR: Clark, Eickmeyer, Folan, Glenn, King, Lambe, Mullican, Norwood, Smith

AGAINST: None

EXCUSED: None

A. Paul Norby, AICP
Director of Planning



LOCATION MAP NOT TO SCALE



REFERENCE NORTH
REF. P.B. 9 PG. 34

LEGEND

EP	EXISTING IRON PIPE	IP	IRON PLACED
CM	CONCRETE MONUMENT	MN	MAGNETIC NORTH
BM	BENCH MARK	P/L	PROPERTY LINE
R/W	RIGHT-OF-WAY	C/L	CENTERLINE
EP	EDGE OF PAVEMENT	FC	FACE OF CURB
PC	POINT OF CURVATURE	LC	LONG CURVE
PT	POINT OF TANGENCY	CH	CHORD
S	STOOP	P	PORCH
OH	OVERHANG	CP	CARPOR

NOTE:
THIS MAP OR DRAWING AND ANY ACCOMPANYING DOCUMENTS ARE FURNISHED TO THE PERSON(S) NAMED THEREON AND NO ALTERATIONS OR USE BY OTHERS IS PERMITTED UNLESS AUTHORIZED BY UNITED LIMITED ENGINEERING AND LAND SURVEYING, P.A.
THIS PLAN IS SUBJECT TO ANY EASEMENTS, AGREEMENTS, OR RIGHTS-OF-WAY OF RECORD PRIOR TO THE DATE OF THIS PLAT, EVIDENCE OF WHICH WAS NOT VISIBLE AT THE TIME OF OUR INSPECTION.

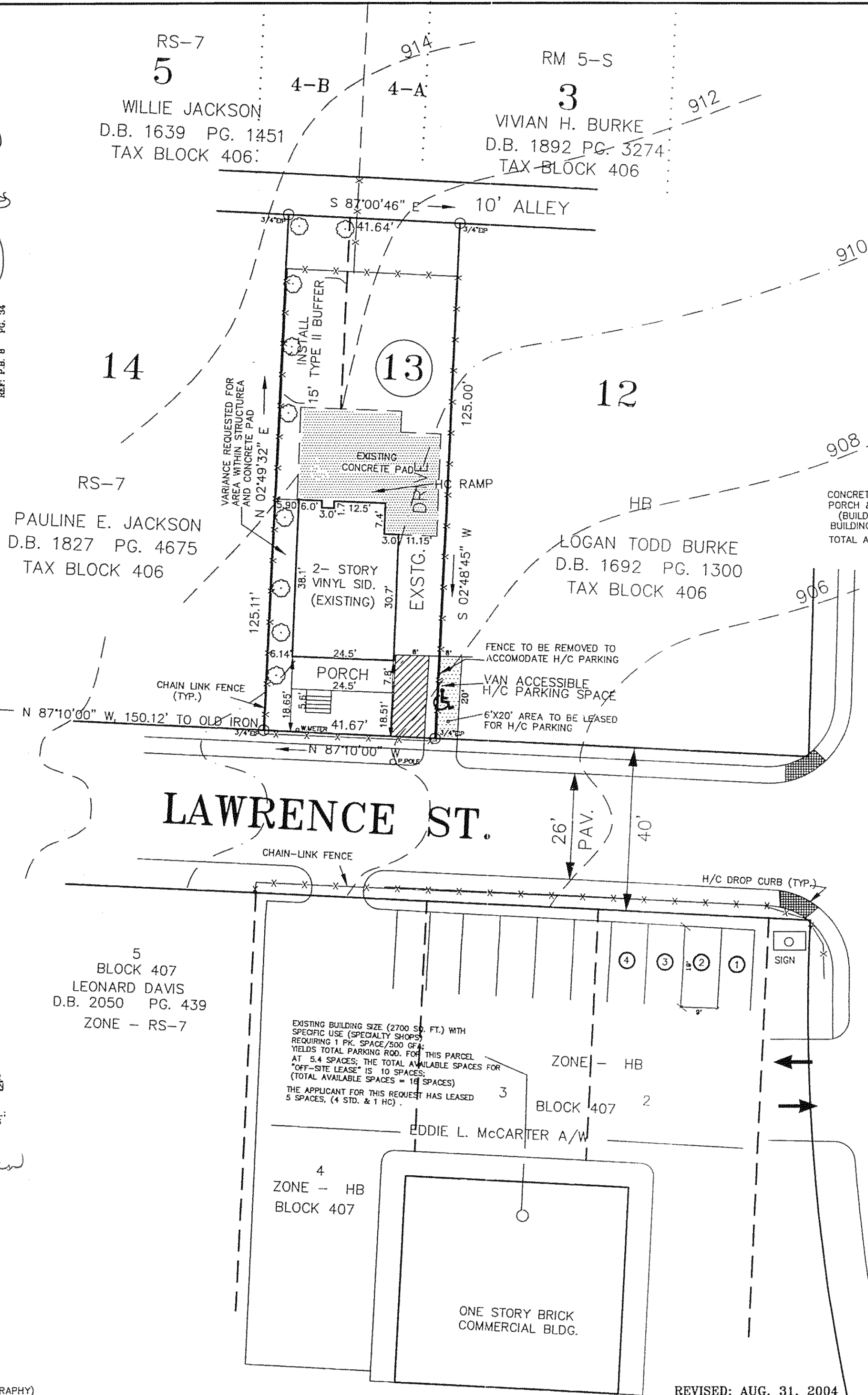
FLOOD ZONE X
FEMA COMMUNITY PANEL NO. 37087C 0276 H
MAP REVISED OCTOBER 20, 1998
MAP NOT FOR RECORDATION.
DMD AREA = 0.120 ACRES +-

"I, DANIEL W. DONATHAN, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN DEED BOOK PAGE ETC.) (OTHER); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND IN DEED BOOK PAGE; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:15,000+; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED; WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS THE 27TH DAY OF JULY, 2004 A.D."

Daniel W. Donathan
SURVEYOR
PLS L-1192
REGISTRATION NUMBER

LANDSCAPING, PARKING, AND BUILDING ACCESSES ARE THE MAJOR SITE IMPROVEMENTS

NOTE:
EXISTING TOPO = FINAL TOPO (NO CHANGES PROPOSED FOR TOPOGRAPHY)



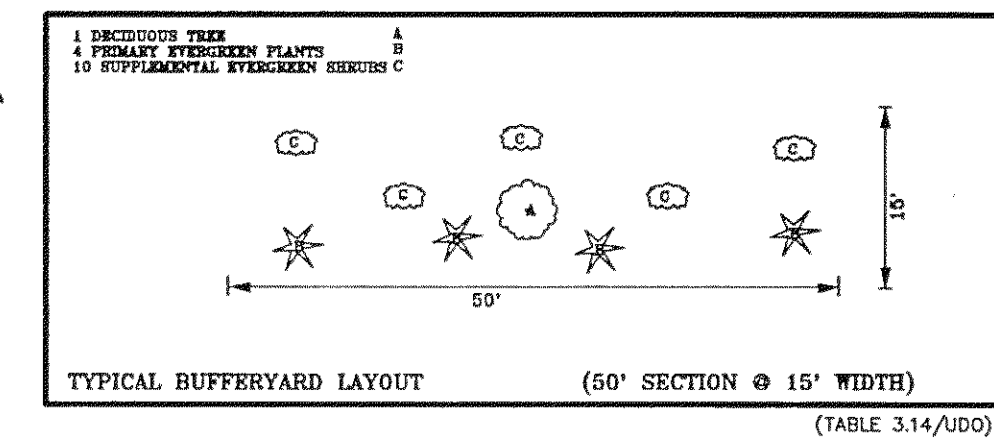
ZONING	
EXISTING ZONING:	RS-7
PROPOSED ZONING:	PB-S
MUSEUM/ART GALLERY AND RETAIL, SPECIALTY OR MISC.	
REQUEST FOR PLANNING BOARD REVIEW	

PROPOSED USE: PB- PERSONAL SERVICES, HAIR SALON	
REQUIRED PARKING =	2 SPACES
PARKING PROVIDED =	4 SPACES
	1 HC
PARKING CALCULATIONS:	
(TABLE NO. 3.8 OF THE UDO)	
1 SPACE/500 SF (GFA)	969.57/500 = 1.93 SPACES REQUIRED
LOADING SPACE N/A	(OR = 2.42 SPACES REQUIRED)
UNLOADING SPACE N/A	

SITE SIZE AND COVERAGES	
TOTAL ACREAGE	0.120 AC.+-
SITE COVERAGES:	
BUILDING TO LAND	= 21.0%
PAVEMENT TO LAND	= 16.04%
OPEN SPACE	= 62.96%
TOTAL	= 100%
BUILDING HEIGHT = TWO STORY, VINYL SIDING	
BUILDING SIZE =	906.8 SQ. FT./FLR.
(PORCH = ADDN. 181.1 SQ. FT.)	

BUFFERYARDS	
ADJOINING ZONING:	HB, RM-5-S, & RS-7
TYPE REQUIRED:	TYPE II
WIDTH PROVIDED:	10'
FENCE OPTION:	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

INFRASTRUCTURE	
WATER:	PUBLIC (CITY OF W-S)
SEWER:	PUBLIC (CITY OF W-S)
STREETS:	PUBLIC



MARTIN LUTHER KING, JR. BLVD.

PETITIONER: ANNIE HAIRSTON; WINSTON-SALEM, N. C.
PHONE NO. (336) 722-2070 ZIP CODE: 27101
FAX NO. (336) 722-2544
PROPERTY ADDRESS: 1321 LAWRENCE STREET

PROPERTY OF:
VIVIAN H. BURKE

WINSTON-SALEM, FORSYTH CO., N. C.
BEING LOT 13, BLOCK B, OF THE R. B. HORNE PROPERTY; AS SHOWN ON FORSYTH CO. TAX MAP BLOCK 406; DEED BOOK 2427, PAGE 150

SCALE: 1" = 20'

DATE: 07-27-04
REV: 09-08-04

UNITED LIMITED
ENGINEERING AND LAND SURVEYING, P.A.
1022 WEST FIRST STREET, SUITE 103
WINSTON-SALEM, NC 27101 (336) 723-8683

W-2706

REVISED: AUG. 31, 2004