



DOCKET #: W2726

PROPOSED ZONING:
 HB-S (Outdoor Display
 Retail, Repair &
 Maintenance, Motor
 Vehicle Storage Yard)

EXISTING ZONING:
 RS-9

PETITIONER:
 David Lee Grubbs for
 property owned by Same

SCALE: 1" represents 400'

STAFF: Marchant

GMA: 3

ACRE(S): 1.02

MAP(S): 630838



October 20, 2004

David Lee Grubbs
1503 Old Thomasville Road
Winston-Salem, NC 27107

RE: ZONING MAP AMENDMENT W-2726

Dear Mr. Grubbs:

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
Stephen G. Calaway, 1330 Ashley Square, Winston-Salem, NC 27103
Judy Bell, 220 Meadowview Drive, Winston-Salem, NC 27107
Tina Parks, 337 Rhyne Avenue, Winston-Salem, NC 27107

ACTION REQUEST FORM

DATE: October 20, 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 David Lee Grubbs

SUMMARY OF INFORMATION:

Zoning map amendment of David Lee Grubbs from RS-9 to HB-S (Motor Vehicle, Repair & Maintenance; and Motor Vehicle, Storage Yard): property is located at the northwest corner of Clemmonsville Road and Harmon Road (Zoning Docket W-2726).

PLANNING BOARD ACTION:

MOTION ON PETITION: APPROVAL
FOR: CLARK, FOLAN, GLENN, KING, LAMBE, NORWOOD,
SMITH
AGAINST: EICKMEYER
SITE PLAN ACTION: CONFORMS

CITY ORDINANCE - SPECIAL USE

Zoning Petition of David Lee Grubbs, Docket W-2726

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-9 to HB-S (Motor Vehicle, Repair & Maintenance; and Motor Vehicle, Storage Yard) the zoning classification of the following described property:

Tax Block 2577, Tax Lots 48B and 407

Section 2. This Ordinance is adopted after approval of the site plan entitled David Lee Grubbs and identified as Attachment "A" of the Special Use District Permit issued by the City Council the _____ day of _____, to David Lee Grubbs.

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 David Lee Grubbs. 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 David Lee Grubbs, (Zoning Docket W-2726). 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 HB-S (Motor Vehicle, Repair & Maintenance; and Motor Vehicle, Storage Yard), approved by the Winston-Salem City Council the _____ day of _____, 20____" and signed, provided the property is developed in accordance with requirements of the HB-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 GRADING PERMITS**
 - a. Driveway permit shall be issued by the City of Winston-Salem.
 - b. Developer shall have a storm water management plan submitted for review by the Public Works Department of the City of Winston-Salem. If required, an engineering storm water management plan shall be submitted and approved by the City of Winston-Salem Public Works Department.

- **PRIOR TO THE ISSUANCE OF BUILDING**
 - a. Developer shall record a negative access easement along the frontage of Clemmonsville Road.

- **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS**
 - a. Developer shall install a fire hydrant to the specifications of the City of Winston-Salem Fire Department.
 - b. Provisions for emergency access must be provided through gate access to the City of Winston-Salem Fire Department specifications.
 - c. Sidewalk shall be installed along the frontage of Harmon Street at the back of the right-of-way.

- **OTHER REQUIREMENTS**

- a. Freestanding signage shall be limited to one (1) monument sign with a maximum height of six (6) feet.
- b. Fencing shall not be higher than six feet high and consist of black vinyl materials. Additionally, existing fencing along Clemmonsville Road shall be moved behind the street yard, subject to approval from the North Carolina Department of Transportation.
- c. The width of the driveway for the existing structure shall be reduced to a maximum of 35 ft wide.
- d. Sidewalks and curbs damaged during construction shall be replaced.
- e. No outside storage shall be permitted.

ZONING STAFF REPORT

DOCKET # W-2726
STAFF: Bret Marchant

Petitioner(s): David Lee Grubbs
Ownership: Same

REQUEST

From: RS-9
To: HB-S (Motor Vehicle Repair & Maintenance, and Motor Vehicle Storage Yard)

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

Acreage: 1.02

LOCATION:

Street: Northwest Corner of Clemmonsville Road and Harmon Road
Jurisdiction: City of Winston-Salem
Ward: Southeast.

SITE PLAN

Proposed Use: Motor Vehicle Repair & Maintenance and Motor Vehicle Storage Yard

Square Footage: The existing structure is 1,913 sf and a 2,000 sf addition is proposed.

Additionally, a 600 sf automotive sales building is proposed.

Building Height: 40 feet maximum height

Density: N/A

Parking: Required: 19; Proposed: 19; Layout: Parking is located in the east-central section of the site, south of the proposed new structure.

Bufferyard Requirements: Type IV bufferyard adjacent to RS-9, 15 feet minimum width

Vehicular Use Landscaping Standards Requirements: UDO Requirements Apply

PROPERTY SITE/IMMEDIATE AREA

Existing Structures on Site: An existing frame and masonry building that is used as a motor vehicle repair and maintenance facility is present on the site. It is a legal non-conforming use.

Adjacent Uses:

- North- Single family residences.
- East- Single family residences.
- South- Single family residences.
- West- A narrow strip of land zoned RS-9 adjacent to US 52.

GENERAL AREA

Character/Maintenance: The area near the subject property consists of well and adequately maintained single family residences.

Development Pace: Slow

HISTORY

Relevant Zoning Cases:

1. W-2509; RS-9 to HB-S (Outdoor Display Retail); withdrawn by Planning Board on December 13, 2001 at request of petitioner; northeast quadrant of US 52 and Clemmons Road (located directly west of the subject property). Staff recommended denial.
2. W-2540; GI to HB; withdrawn by the Board of Aldermen on June 3, 2002; north side of Clemmons Road, east of Palmer Lane; Planning Board and staff recommended denial.
3. W-1937; RS-9 to HB-S (Multiple Business Uses – TWO PHASE); approved February 6, 1995; west side of South Main Street, south of Clemmons Road; Planning Board initially recommended denial, but the case was remanded from the Board of Aldermen and the Planning Board recommended approval. Staff recommended denial.

PHYSICAL FEATURES/ENVIRONMENTAL REVIEW

Impact on Existing Features: The proposed site plan will increase the amount of impervious surface on the subject property. The gravel outdoor display area could increase the amount of dust on this and adjacent sites.

Topography: The subject property experiences an elevation change of approximately eight feet, rising from about 906 feet along the site's northern border up to about 914 feet in the site's southwestern section.

Streams: No streams are located on the subject property.

Vegetation/habitat: A small amount of vegetation is present along the western border of the subject property.

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

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

TRANSPORTATION

Direct Access to Site: Clemmons Road, Harmon Road, US 52

Street Classification: Clemmons Road – Major Thoroughfare; Harmon Road – Local Road; US 52 - Freeway

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

Clemmons Road between US 52 and Old Lexington Road = 16, 000/23,900

US 52 between I-40 and Clemmons Road = 42,000/63,600

Trip Generation/Existing Zoning: RS-9

1.02 x 43,560/9,000 = 4 units x 9.57 (SFR Trip Rate) = 38 Trips per Day

Trip Generation/Proposed Zoning: HB-S

6 bays x 12.48 (Automotive Care Center Trip Rate on a Saturday) = 74 Trips per Day

Planned Road Improvements: None

Traffic Impact Study recommended: No

Sidewalks: Existing sidewalk along north side of Clemmons Road.

Transit: Route 14 along Clemmons and Harmon Roads

Bicycle Route: None

CONFORMITY TO PLANS

GMP Area (*Legacy*): Suburban Neighborhoods (GMA 3)

Relevant Comprehensive Plan Recommendation(s): *Legacy* supports neighborhood serving commercial in close proximity to residential areas. *Legacy* also calls for existing neighborhoods to be preserved and revitalized, and protected from inappropriate commercial and industrial encroachment.

Area Plan/Development Guide: The subject property is not located within any small area plan/development guide area(s).

HISTORIC RESOURCES REVIEW

Known Historic Resources: No

ANALYSIS

This petition is to rezone 1.02 acres of land on the northwest corner of Clemmons Road and Harmon Road from RS-9 to HB-S (Motor Vehicle, Repair & Maintenance; and Motor Vehicle, Storage Yard). Currently, an existing legal nonconforming motor vehicle repair and maintenance use is located on the subject property. The submitted site plan proposes a 2,000 sf addition to the existing structure, along with a new 600 sf automotive sales building.

The subject property is not located in an area plan or development guide area. However, *Legacy* supports appropriate neighborhood serving commercial uses and it also calls for existing neighborhoods to be preserved and protected from inappropriate encroaching commercial and industrial development.

This property is located at the only entrance of one neighborhood and directly across from the primary entrance of another neighborhood south of Clemmonsville Road. Consequently, development on this site can significantly impact the character, integrity, and value of these neighborhoods.

The location of this request would negatively impact surrounding neighborhoods because, as mentioned above, this site essentially serves as a gateway to two neighborhoods. Moreover, while Clemmonsville Road is a well traveled thoroughfare, this particular area has remained viable for residential uses and locating intense commercial development at this location would begin to erode this area's residential character.

The homes along Harmon Road and Rhyne Avenue are particularly vulnerable to the encroachment of commercial development because they are wedged in between US 52 to the west, Norfolk Southern Railroad and GI zoned land to the east, and RM8 zoned land to the north. Locating intense commercial development at the southern end of this neighborhood would further isolate this neighborhood and detract from its existing character. Approving this request would also likely establish a precedent for further commercial development in this neighborhood.

The intensity of this development and the specific types of uses that are proposed on this property would also negatively impact surrounding neighborhoods. A 1.02 acre site with Motor Vehicle, Repair and Maintenance; and Motor Vehicle, Storage Yard uses and with the features shown on this proposed site plan would negatively affect the visual, physical, and overall character of the neighborhood.

While many of these uses currently function on this subject property, they do so as a legal nonconforming use. Nonconforming uses are a purposeful aspect of zoning. However, their existence does not condone a rezoning to accommodate an expansion or intensification of their use. Because almost any alteration to the property results in a loss of its nonconforming status, nonconforming uses are not usually intended to last in perpetuity. Rezoning this property, as requested, would establish a negative precedent for other similar nonconforming situations. If this business has grown to the point that such a large expansion is necessary, now would be the appropriate time to relocate to a site zoned for such uses.

FINDINGS

1. The subject property is not located in an area plan or development guide area, but *Legacy* supports preserving the integrity and character of existing neighborhoods.
2. The location of this request would negatively impact surrounding neighborhoods because this site essentially serves as a gateway to two neighborhoods.
3. The homes along Harmon Road and Rhyne Avenue are particularly vulnerable to the encroachment of commercial development.

4. The intensity of this development and the specific types of uses that are proposed on this property would also negatively impact surrounding neighborhoods.
5. The existence of a nonconforming use on this site does not condone a rezoning to accommodate an expansion or intensification of that use. Nonconforming uses are not usually intended to last in perpetuity.

STAFF RECOMMENDATION

Zoning: **DENIAL**

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

- **PRIOR TO THE ISSUANCE OF GRADING PERMITS**
 - a. Driveway permit shall be issued by the City of Winston-Salem.
 - b. Developer shall have a storm water management plan submitted for review by the Public Works Department of the City of Winston-Salem. If required, an engineering storm water management plan shall be submitted and approved by the City of Winston-Salem Public Works Department.
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 - a. Developer shall record a negative access easement along the frontage of Clemmonsville Road.
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 - c. The width of the driveway for the existing structure shall be reduced to a maximum of 35 ft wide.
 - d. Sidewalks and curbs damaged during construction shall be replaced.
 - e. No outside storage shall be permitted.

Bret Marchant presented the staff report. Glenn Simmons stated that a faxed petition and letter against the proposal had been received just before the hearing. The 19 signatures appear to represent neighbors just to the north of the subject site.

PUBLIC HEARING

FOR:

Stephen G. Calaway, 1330 Ashley Square, Winston-Salem, NC 27103

- This garage was built in the late fifties.
- At that time there wasn't any zoning.
- Mr. Grubbs has worked hard to improve the appearance of this garage.
- Mr. Grubbs is at a point where he needs to expand the facility to almost double the size.
- The pavement in front of the entrance will be reduced.
- The entrance will be moved closer to Clemmonsville Road.
- The fence belongs to NCDOT and borders an impound lot.
- Trading a non-conforming garage for a special use garage, including the sign ordinance, buffering, fences, etc. to protect this neighborhood is a good trade for the City of Winston-Salem.
- It's also a good business venture for this property owner.
- Without question, this is the type of business that does serve a local neighborhood.
- We're adding a sidewalk which is desperately needed in this neighborhood.

Judy Bell, 220 Meadowview Drive, Winston-Salem, NC 27107

- I own the house across the street.
- I've owned my house for three years.
- The subject site was an eyesore. Mr. Grubbs has cleaned it up and made it a very nice facility.
- Foot traffic on that corner has ceased and there is no longer trash all over the place.
- I don't think the traffic which this business would generate would impact us very much.

AGAINST: None

WORK SESSION

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

1. Mr. Grubbs went door to door in the neighborhood. He had limited disapproval.
2. It is located closed to an interstate off-ramp.
3. This location is already here and will probably not be able to expand after this since the site will be full.
4. This has been here since before zoning existed.

5. The one person who would be most impacted by the request is supporting it.
6. I wish the neighbors who sent in the petition in opposition to this request were here to discuss it. I hope they will attend the City Council meeting when this case is heard.

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

SECOND: Brenda Smith

VOTE:

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

AGAINST: Eickmeyer

EXCUSED: None

Written Comments by Planning Board Members:

Carol Eickmeyer: The neighbors' petition influenced me - I want this to not be on your consent agenda. With luck, you will hear, in person from neighbors.

A. Paul Norby, AICP
Director of Planning

