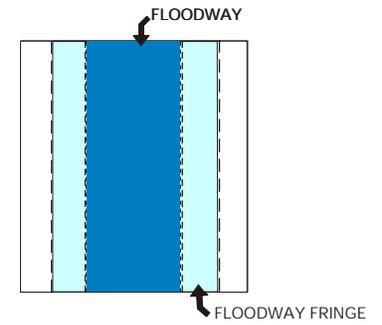


DOCKET #: W2640

PROPOSED ZONING:
RM18

EXISTING ZONING:
RM18, RS9, RS12, HB-S

PETITIONER:
Kelly Smith Doub



SCALE: 1" represents 600'

STAFF: Hall

GMA: 3

ACRE(S): 20.80

MAP(S): 612878



DRAFT ZONING STAFF REPORT

DOCKET # W-2640
STAFF: S. Chad Hall

Petitioner(s): Kelly Smith Doub
Ownership: Same

REQUEST

From: RM-18 (Residential, Multifamily – 18 units per acre maximum),
RS-12 (Residential, Single Family – 12,000 square feet minimum lot size),
RS-9 (Residential, Single Family – 9,000 square feet minimum lot size),
HB-S (Highway Business – Special Use)
To: RM-18 (Residential, Multifamily – 18 units per acre maximum)

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

NOTE: This is a general use zoning petition; therefore, ALL uses permitted in the above requested district should be considered.

Acreage: 20.8 acres

LOCATION:

Street: West side of Bethania Station Road and the southern terminus of Williamsburg Road
Jurisdiction: City of Winston-Salem
Ward: North

PROPERTY SITE/IMMEDIATE AREA

Existing Structures on Site: Site is currently undeveloped.

Adjacent Uses:

- North- Developed single family zoned RS-12
- East- Developed RM-18 known as Mountain Lodge Apartments
- South- Par three golf course and restaurant zoned HB-S; undeveloped RS-9
- West- Developed RS-9, RS-12

GENERAL AREA

Character/Maintenance: Well maintained mixture of housing stock.
Development Pace: Slow

PHYSICAL FEATURES/ENVIRONMENTAL REVIEW

Impact on Existing Features: Fifty percent of the floodplain may be developed per the UDO.

Topography: The subject property has a slight elevation change from 784.3 feet in the western portion of the site to about 770 feet in the eastern portion of the site.

Streams: Mill Creek lies just to the southeast of the subject property.

Vegetation/habitat: A significant amount of vegetation is scattered in various portions of the subject property.

Floodplains: According to the zoning map, the subject property is almost entirely in the 100-year floodplain (Zone AE).

Wetlands: Three wetlands are located along the southern border of the property (perhaps just to the south of the property line). They are all classified as PUBHh (Palustrine Unconsolidated Bottom Permanently Flooded, Excavated) per the Rural Hall Quad.

Environmental Resources Beyond The Site: Because this is a general use petition, environmental impacts beyond the site cannot be determined at this time.

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

Compliance with Federal/State requirements for wetland/stream protection: Because this is a general use petition, determining compliance is not possible at this time. However, the petitioner is responsible for complying with all federal and state regulations for wetlands and stream protection.

TRANSPORTATION

Direct Access to Site: Williamsburg Road; Bethania Station Road; Bethabara Park Blvd.

Street Classification: Williamsburg Road – Local Road; Bethania Station Road – Minor Thoroughfare; Bethabara Park Boulevard – Major Thoroughfare

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

Bethania Station Road between Bethabara Park Boulevard and Shattalon Drive = 6,600/14,600

Bethabara Park Boulevard between Bethabara Road and Bethania Station Road = 14,000/32,200

Planned Road Improvements: None

Sight Distance: Good

Connectivity of street network: Cannot be determined through general use petition. If approved, Planning staff and the Planning Board will have the opportunity to review the multifamily site plan for connectivity, but the public would not have an opportunity to comment.

Sidewalks: None existing.

Transit: Route 44 along Bethabara Park Boulevard and Bethania Station Road.

HISTORY

Relevant Zoning Cases:

1. W-2058; RS-9 and RM-18 to HB-S (Golf Course; and Restaurant without drive through service); approved July 1, 1996; North side of Bethania Station Road, north of the intersection of Bethabara Park Boulevard and Bethania Station Road; 3.91 acres; Planning Board and staff recommended approval.
2. W-1300; R-2-S, R-3-S, and R-4 to R-2-S (TWO PHASE); approved October 7, 1985; Southeast intersection of Bethania Station road and Bethabara Park Boulevard; 60 acres; Planning Board and staff recommended approval.

CONFORMITY TO PLANS

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

Relevant Comprehensive Plan Recommendation(s): *Legacy* promotes higher density residential densities within the municipal services area where appropriate. Appropriateness includes environmentally sensitive development that respects natural areas (including floodprone areas and wetlands) and enhances the quality of our built environment.

Area Plan/Development Guide: *Polo-Reynolda Area Plan* (adopted in 1985)

Relevant Development Guide Recommendation(s): The *Polo-Reynolda Area Plan* recommends that the subject property be developed as both moderate- and high-density residential uses. The northern portion of the site that runs parallel to the un-named road (locally known as Parr Road) running east-west is shown in the floodplain with no change from existing single family residential uses, while the remaining portion of the site is recommended for high density (up to 17 units/acre). The site is also identified as a potential park site.

ANALYSIS

The current request is to rezone 20.8 acres from RM-18, RS-12, RS-9, and HB-S (Golf Course; and Restaurant without drive through service) to RM-18. The site is located on the west side of Bethania Station Road and the southern terminus of Williamsburg Road. A vast majority of the subject property lies within the floodplain of Mill Creek; only the northeast corner is outside of the floodplain.

This general use request incorporates four existing underlying zoning districts. Rezoning a portion of the HB-S site would not nullify that site plan for said restaurant and associated parking. As it relates to the other underlying zoning districts, there is some misunderstanding as to the boundaries of the existing RM-18. Planning staff reviewed a preliminary plan for a multifamily development in 1982 (PBR #82006) that illustrated multifamily development to occur beyond the current RM-18 multifamily zoning district line. While not caught during review of that project, the zoning line has never changed and, therefore, staff cannot honor the preliminary plan.

The *Polo-Reynolda Area Plan* (adopted 1985) recommends that the subject property be developed as both moderate- and high-density residential uses. The northern portion of the site that runs parallel to the un-named road (locally known as Parr Road) running east-west is shown in the floodplain with no change from existing single family residential uses, while the remaining portion of the site is recommended for high density (up to 17 units/acre). The site is also identified as a potential park site.

Legacy promotes higher density residential within the municipal services area where appropriate. Appropriateness includes environmentally sensitive development that respects natural areas (including floodprone areas and wetlands) and enhances the quality of our built environment. Being a general use request, it is impossible to adequately evaluate the impacts of the proposed development as it relates to the natural environment. At this particular location, additional attention needs to be given to the consideration of *any* proposed development.

As documented by the *Winston-Salem Journal* (Friday, March 21, 2003) in an article entitled “Flooding Results in Evacuations”, rising waters forced the evacuation of more than 300 residents from the Mountain Lodge Apartments located to the east of the subject property along Bethania Station Road. While the *Unified Development Ordinance* (UDO) will permit development within 50% of the floodplain, the current conditions of the site suggest that there would be adverse effects to adjacent properties if another severe flood event were to occur. The March flooding was not an isolated event.

Mill Creek base flood elevations have risen dramatically over the last several decades, principally as the result of the substantial new urban development within the upstream watershed. Potential further loss of flood storage area within the subject property may likely worsen the existing problem.

This conclusion was also reached in a lawsuit involving the subject property, *E. Vernon Ferrell, Jr. v. Eugene Doub, DJD Investments, Inc.*, Forsyth County Superior Court, Case No. 01-CVS-9817, that supported a previous injunction where the court rendered the following:

“Clearly the (subject) property, which is in undeveloped condition and largely within the 100-year flood plain, is not suitable for the construction of residential apartments.”

This decision was reached after evaluating the measures that would be necessary to raise any development on the subject property to a point higher than the 100-year flood plain and the adverse impacts to adjacent properties, specifically the Mountain Lodge Apartments.

As previously mentioned, being a general use request, no direct determinations can be made regarding the aforementioned potential impacts. Additionally, other factors cannot be evaluated such as access to the site, connectivity of the street network, and visual and/or physical relationships to existing development in the area. A site plan would help

in the evaluation of those elements. However, Planning staff concludes, even in the absence of such a plan, that the best use for the property as it pertains to the health, safety, and welfare of the public would be for the site to be utilized as a park which is one option recommended in the *Polo-Reynolda Area Plan*. Rezoning the property to allow more intense use of the site (and add value) to the property may work against future public acquisition for a park. In lieu of available funds for the City to acquire the land for a park, the owner may develop the property under existing zoning.

Although the UDO permits limited development to occur within floodplains, such development must be done in an extremely sensitive manner to minimize impacts to surrounding areas, especially in areas experiencing flooding problems.

The general use petition also prevents public discussion of issues related to compatibility with surrounding residential areas and connectivity with area streets.

In lieu of addressing floodplain issues through improved regulations and given the sensitive nature of the subject property, a site plan would at least allow staff to evaluate the potential impacts of development and adequately prepare conditions to protect surrounding lands and landowners, should the request be approved.

FINDINGS

1. The *Polo-Reynolda Area Plan* recommends that the subject property be developed as both moderate and high density residential uses or a park.
2. *Legacy* promotes higher density residential within the municipal services area where appropriate; appropriateness includes environmentally sensitive development.
3. Rising waters recently forced the evacuation of more than 300 residents from the Mountain Lodge Apartments located east of the subject property.
4. A recent Forsyth County Superior Court case concluded that the subject property was not suitable for residential apartments (multifamily).
5. A general use request, for this specific site, does not provide adequate information to ascertain multiple impacts.

STAFF RECOMMENDATION

Zoning: **DENIAL.**