



DOCKET #: W2589

PROPOSED ZONING:
 HB-S (Outdoor Display
 Retail)

EXISTING ZONING:
 LB

PETITIONER:
 Barry D. Hatcher and
 Dawn S. Hatcher

SCALE: 1" represents 200'

STAFF: Hall

GMA: 3

ACRE(S): 1.12

MAP(S): 624890



November 20, 2002

Barry D. Hatcher and Dawn S. Hatcher
6800 Red Bank Road
Germanton, NC 27019

RE: ZONING MAP AMENDMENT W-2589

Dear Mr. Hatcher and Ms. Hatcher:

The attached report of the Planning Board to the Board of Aldermen is sent to you at the request of the Aldermen. You will be notified by the City Secretary's Office of the date on which the Aldermen 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
Jay DeVaney, 701 Green Valley Road, Greensboro, NC

ACTION REQUEST FORM

DATE: November 20, 2002
TO: The Honorable Mayor and Board of Aldermen
FROM: A. Paul Norby, AICP, Director of Planning

BOARD ACTION REQUEST:

Request for Public Hearing on zoning map amendment of Barry D. Hatcher and Dawn S. Hatcher

SUMMARY OF INFORMATION:

Zoning map amendment of Barry D. Hatcher and Dawn S. Hatcher from LB to HB-S (Outdoor Display Retail): property is located on the south side of NC 66/Old Hollow Road west of NC 8/Germanton Road. (Zoning Docket W-2589)

PLANNING BOARD ACTION:

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

CITY ORDINANCE - SPECIAL USE

Zoning Petition of Barry D. Hatcher and Dawn S. Hatcher, Docket W-2589

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 Board of Aldermen 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 LB to HB-S (Outdoor Display Retail) the zoning classification of the following described property:

Tax Block 4979, Tax Lots 56, 57, 58, and 59

Section 2. This Ordinance is adopted after approval of the site plan entitled Barry D. Hatcher and Dawn S. Hatcher and identified as Attachment "A" of the Special Use District Permit issued by the Board of Aldermen the _____ day of _____, to Barry D. Hatcher and Dawn S. Hatcher.

Section 3. The Board of Aldermen 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 Barry D. Hatcher and Dawn S. Hatcher. 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 Board of Aldermen

of the City of Winston-Salem

The Board of Aldermen 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 Barry D. Hatcher and Dawn S. Hatcher, (Zoning Docket W-2589). 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-S (Outdoor Display Retail), approved by the Winston-Salem Board of Aldermen 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:

- **WITHIN 90 DAYS OF APPROVAL**
 - a. Developer shall have a storm water management study submitted for review by the Public Works Department of the City of Winston-Salem. All required storm water management devices shall be installed within 180 days. **NOTE: Subsequent to the Planning Board public hearing, City Public Works Department staff visited the site and determined that existing storm water controls are adequate. This finding satisfies the terms of this condition "a".**
 - b. Required bufferyards with landscape plantings shall be installed.
 - c. Building permits for renovated sales office shall be obtained from the City-County Inspections Division.

- **OTHER REQUIREMENTS**
 - a. Any new on-premises sign shall be a maximum of five (5) feet high with a maximum copy area of thirty-six (36) square feet.

ZONING STAFF REPORT

DOCKET # W-2589
STAFF: Glenn Simmons

Petitioner(s): Barry D. Hatcher and Dawn S. Hatcher
Ownership: Same

REQUEST

From: LB Limited Business District
To: HB-S Highway Business District (Outdoor Display Retail)

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

Acreage: 1.12 acres

LOCATION

Street: South side of NC 66/Old Hollow Road west of NC 8/Germanton Road.
Jurisdiction: City of Winston-Salem.
Ward: Northeast.

SITE PLAN

Proposed Use: Outdoor Display Retail (automobile sale lot).
Square Footage: 2,616 sf.
Building Height: One story.
Parking: Required: 5; proposed: 5 (in addition to display area and storage area); layout: typical auto sales display lot.
Bufferyard Requirements: Type IV abutting RS-9; type I bufferyard adjacent to LB.
Vehicular Use Landscaping Standards Requirements: UDO standards apply.

PROPERTY SITE/IMMEDIATE AREA

Existing Structures on Site: One story brick building (main), two utility buildings.

Adjacent Uses:

North -	RS-9 single family residential.
East -	LB Limited Business District and HB Highway Business District further east.
South -	RS-9 single family residential.
West -	RS-9 single family residential.

GENERAL AREA

Character/Maintenance: Mixture of fairly well-maintained homes and businesses.
Development Pace: Moderate.

PHYSICAL FEATURES/ENVIRONMENTAL REVIEW

Impact on Existing Features: Site is currently developed and has issues of non-compliance with UDO requirements for LB districts [see "affect environmental resources beyond the site" below]. The rezoning of this property is intended to rectify those issues.

Topography: There is an approximate change in elevation on the subject property of 8' (from an approximate elevation of 914' in the northeast down to an approximate elevation of 906' in the south).

Vegetation/habitat: Prior to the auto display lot, the site consisted of a conventional home with residential yard space. Based on aerial photo records much of the preexisting vegetation has been removed. There are no streams or wetlands on site.

Wetlands: None.

Will development of the site affect environmental resources beyond the site?

Possibly. The proposed development plan shows over 85% impervious coverage for the subject property. The site as currently developed exceeds that percentage, so existing impervious coverage will need to be removed in order to comply with the requirements for HB zoning.

Watershed: Site is not within a water supply watershed.

TRANSPORTATION

Direct Access to Site: Old Hollow Road; Germanton Road; Rock Springs Drive; White Oak Drive.

Street Classification: Old Hollow Road - major thoroughfare; Germanton Road - major thoroughfare; Rock Springs Drive - local road; White Oak Drive - local road.

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

Old Hollow Road between White Oak Drive and Germanton Road = 6,500/16,100

Germanton Road between Old Hollow Road and Hanes Mill Road = 13,000/16,100

Note: No ITE Trip Generation Rate for Outdoor Display Retail or Used Car Lot; unable to provide calculations.

Sidewalks: None.

Transit: None.

Bike: None.

HISTORY

Relevant Zoning Cases:

1. W-2455; HB-S to HB-S (Motor Vehicle, Repair and Maintenance; Adult Day Care Center; Recreation Services, Indoor; Recreation Services, Outdoor; Arts and Crafts Studio; Broadcast Studio; Child Day Care Center; Medical or Dental Laboratory; Restaurant (with drive-through service); Restaurant (without drive-through service); Hospital or Health Care Center; Health Services, Miscellaneous; Building Materials Supply; Medical and Surgical Offices; Offices Miscellaneous; Professional Office; Banking and Financial Services; Services, Business A; Services, Business B; Services, Personal; Building Contractors, General; Convenience Store; Car Wash; Food or Drug Store; General Merchandise Store; Hardware Store; Nursery, Lawn and Garden Supply Store, Retail; Retail Store, Specialty or Miscellaneous); approved April 2, 2001; Southwest corner of Hanes Mill Road and North Summit Square Boulevard; 1.04 acres; Planning Board and Staff recommended approval.
2. W-2388; HB-S (Shopping Center) and RS-9 to HB-S (Shopping Center and Theater, Indoor); approved October 4, 1999; north side of Hanes Mill Road east of University Parkway; 49.92 acres; Planning Board recommended approval, staff recommended denial.
3. W-1852; R-6 to B-3-S (Multiple Business Uses - Two Phase); approved November 15, 1993; east of University Parkway on both the south and north side of Oak Summit Square; 31.99 acres; Planning Board and staff recommended approval.

CONFORMITY TO PLANS

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

Relevant Comprehensive Plan Recommendation(s): Encourage convenient commercial services to support neighborhood needs but also protect residential areas from inappropriate commercial and industrial encroachment.

Area Plan/Development Guide: None.

ANALYSIS

This is a request to rezone 1.12 acres from existing LB to HB-S to allow for the use “Outdoor Display, Retail” as defined in the UDO. The property is located on the south side of NC 66 (Old Hollow Road) approximately four hundred feet west of the intersection with NC 8 (Germanton Road). The property is situated at the western edge of a small node of commercial development at the intersection of NC 8 and NC 66 and is bounded on the east by LB and HB zoned properties, and on the west by property zoned RS-9. Non-conforming commercial uses are also located in the northwest corner of this intersection on land zoned RS-9.

The proposed HB-S zoning is requested to correct a zoning violation where an automobile sales lot was recently constructed on the subject LB zoned property out of compliance with provisions of the UDO. Although the UDO allows automobile sales operations within the LB zoning district in areas designated in *Legacy* as Future Growth and Rural Areas, such a use is not permitted at the subject location which is inside the Suburban Growth Area. However, due to an error by Inspections staff in providing information to the owner, the owner was led to believe that the noncomplying “Outdoor Display, Retail” use could be permitted within the LB district at the current site. Staff notes that no building permits were requested or issued for the noncomplying auto sales operation for the development of the site as it currently exists. Further, staff notes that the existing, noncomplying auto sale lot improvements will have to be modified with the addition of required streetyards and bufferyards in order to meet minimum HB district requirements if approved.

Regardless of the circumstances which prompted this request, it is the role of the Planning Board to consider the request on its own merits, as to the appropriateness of changing the zoning from LB to HB-S. Planning staff considered a number of factors including the existing context of area and other uses currently allowed in the LB zoning district at this location. Albeit less intensive than the HB district, the LB district nonetheless permits a broad array of retail commercial and automobile-related uses, such as, Car Wash; Motor Vehicle, Rental and Leasing; Motorcycle Dealer; Motor Vehicle, Storage Yard; Convenience Store; Food or Drug Store; Banking and Financial Services; and Restaurant (without drive-through service). Any of these uses are already permitted by right under the general use provisions of the current LB zoning without the opportunity for the Planning Board or Board of Aldermen to require additional site plan conditions, provided that the minimum requirements of the UDO are met. Minimum requirements of the UDO for LB uses include fairly basic landscaping and street yard measures, 75% impervious surfaces, and signage that could be as high as 35 feet with only a few modifications of the site in its current condition. The property could appear much the same as it does today except for a higher sign and rather than cars being for sale, they could be for lease or rent or storage.

Although Planning staff cannot support General Use HB zoning at the subject location, certain provisions of Special Use District zoning can mitigate the impacts of the proposed Outdoor Display Retail use. Particularly, given the potential impacts of other similar LB general uses, single use HB-S with additional site plan conditions may offer a less intrusive and more desirable alternative to what is possible under the current LB zoning. Especially given the proximity of residentially zoned properties located west and north of the subject property, staff believes that the enhanced fifteen foot wide streetyard with a low earthen berm and evergreen shrub plantings will be an improvement over the minimum ten foot wide streetyard requirements of current LB district. As a special use district site plan condition, staff would further recommend that any new on premises signage be limited to a maximum height of five feet in lieu of the current 35 foot high allowance in the LB district.

Although staff believes that LB zoning in general is more compatible with adjacent residential than HB zoning, a suitable HB-S with limitations and site plan conditions could actually be a better transition for this site than allowing the property to develop for a number of LB uses permitted by right with few site plan restrictions. If the owner agrees to the recommended site plan conditions, staff would recommend approval.

FINDINGS

1. This is a request to rezone an existing, noncomplying automobile sales lot located in LB to HB-S (Outdoor Display Retail) to correct this violation.
2. Existing site improvements must be modified to conform to minimum HB requirements with respect to impervious surface coverages and bufferyards.
3. Many comparably intensive retail commercial and auto-related uses are allowed in the current LB zoning.
4. Additional site plan conditions beyond minimum HB zoning requirements are recommended by staff.
5. A single use HB-S (Outdoor Display, Retail) zoning may offer a less intrusive and more desirable alternative to what is possible under the current LB zoning.

STAFF RECOMMENDATION

Zoning: **APPROVAL**.

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

- **WITHIN IN 90 DAYS OF APPROVAL**
 - a. Developer shall have a storm water management study submitted for review by the Public Works Department of the City of Winston-Salem. All required storm water management devices shall be installed within 180 days. **NOTE: Subsequent to the Planning Board public hearing, City Public Works Department staff visited the site and determined that existing storm water controls are adequate. This finding satisfies the terms of this condition “a”.**
 - b. Developer shall install a minimum fifteen (15) foot wide street yard along the entire frontage of the property where a minimum ten foot wide streetyard is ordinarily required. Said streetyard shall additionally consist of a minimum thirty (30) inch high vegetated earthen berm with a single row of evergreen shrubs planted on top of the berm a minimum of eighteen (18) inch high (at installation measured from the top of the berm) and with a minimum spacing of eighteen (18) inches edge to edge.

- c. Required bufferyards with landscape plantings shall be installed.
- d. Building permits for renovated sales office shall be obtained from the City-County Inspections Division.

- **OTHER REQUIREMENTS**

- a. Any new on-premises sign shall be a maximum of five (5) feet high with a maximum copy area of thirty-six (36) square feet.

Glenn Simmons presented the staff report.

PUBLIC HEARING

FOR:

Jay DeVaney, 701 Green Valley Road, Greensboro, NC

Represent Mr. Hatcher.

Before he purchased this property, Mr. Hatcher investigated very carefully as to whether it would serve his purposes. Mr. Hatcher received a letter in March 2000 and another in June 2000 telling him the intended use was allowed in LB zoning on this site. He also was granted a driveway permit by NCDOT based on the City's confirmation legality of this use on this site.

25% of Mr. Hatcher's business is drive-by.

The neighborhood is in transition.

Mr. Hatcher can't make it with substantially less than he has there now. He only has 40 vehicles there now.

We ask your support of this request.

He purchased this property on good-faith based on the advise he had been given by City officials in writing.

AGAINST: None

WORK SESSION

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

1. In response to a question from the Planning Board, Ronnie Grubbs, Inspections Division explained:
 - a. Inspections wrote a letter in March 2000 stating that the use was authorized. This was based on the Table of Permitted Uses which had a "Z" in the LB column for "Outdoor Display Retail". However, the appropriate use condition (referenced in the "conds" column of that same table) stated that the use was only allowed in GMAs 4B and 5 which meant it was not allowed on that particular site.

- b. The March 2000 letter went on to state “provided you obtain the necessary zoning and building permits for the change of use if required.” Zoning and building permits were required and were not obtained.
 - c. Since both parties erred, Inspections has been working with the petitioner to correct the situation. Hence the application for rezoning today.
 - d. The petitioner is still required to get all necessary permits.
- 2. Arnold King - Strange that we would allow car sales in the rural area and not in the suburban area.
 - 3. Kerry Avant - I'm having a little bit of trouble with allowing car rental and not allowing car sales.
 - 4. The Board discussed reducing the width and height requirement of the berm and plantings to meet standard UDO streetyard requirements.

MOTION: John Bost moved approval of the zoning map amendment, certified that the site plan meets all code requirements and recommends staff conditions with the basic UDO requirements.

SECOND: Philip Doyle

VOTE:

FOR: Avant, Bost, Clark, Doyle, Folan, Glenn, King, Powell

AGAINST: None

EXCUSED: None

A. Paul Norby, AICP
Director of Planning