



DOCKET #: W2522

PROPOSED ZONING:
 HB-S (Restaurant
 with Drive-through service)

EXISTING ZONING:
 RS9

PETITIONER:
 George P. Sweat

SCALE: 1" represents 200'

STAFF: Roberts

GMA: 3

ACRE(S): 0.84

MAP(S): 600846



January 23, 2002

George P. Sweat
4704 Eastwin Drive
Winston-Salem, NC 27104

RE: ZONING DOCKET W-2522

Dear Mr. Sweat:

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
Ronald A. Matamoros, 110 S. Stratford Road, Winston-Salem, NC 27104
Kelly Simeonides, 4733 Eastwin Drive, Winston-Salem, NC 27104

ACTION REQUEST FORM

DATE: January 23, 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 Petition of George P. Sweat

SUMMARY OF INFORMATION:

Zoning map amendment of George P. Sweat from RS-9 to HB-S [Restaurant (with drive-through service)]: property is located at the northwest corner of Jonestown Road and Eastwin Drive (Zoning Docket W-2522).

PLANNING BOARD ACTION:

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

CITY ORDINANCE - SPECIAL USE

Zoning Petition of George P. Sweat, Docket W-2522

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 RS-9 to HB-S [Restaurant (with drive-through service)] the zoning classification of the following described property:

Tax Block 3941, Tax Lot 2

Section 2. This Ordinance is adopted after approval of the site plan entitled Arup and Rita Patel and identified as Attachment "A" of the Special Use District Permit issued by the Board of Aldermen the _____ day of _____, to George P. Sweat.

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 Arup and Rita Patel. 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 George P. Sweat, (Zoning Docket W-2522). 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 [Restaurant (with drive-through service)], 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:

- **PRIOR TO THE ISSUANCE OF GRADING PERMITS**
 - a. Developer shall have a storm water management study submitted for review by the Public Works Department of the City of Winston-Salem. If required, an engineered storm water management plan shall be submitted and approved by the Public Works Department of the City of Winston-Salem.
 - b. Obtain a driveway permit from the North Carolina Department of Transportation (NCDOT). Additional conditions may be required by NCDOT.

- **PRIOR TO THE ISSUANCE OF BUILDING PERMITS**
 - a. Developer shall also dedicate 35 feet of right-of-way from the center line of Jonestown Road.
 - b. A cross access drive easement shall be recorded to allow cross access between the subject site and the property to the north in the event that property is rezoned to a business zoning district.

- **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS**
 - a. Developer shall install a sidewalk along the frontage on Jonestown Road to the specifications of the Public Works Department of the City of Winston-Salem prior to the issuance of occupancy permits.

- b. Developer shall install landscaping in accordance with UDO Section 3-4.
- c. Site lighting shall be located on the site side of required buffering and oriented toward the building. Fixtures will be placed a minimum of 100 feet apart and will be no higher than 25 feet above grade. Mercury lamps (metal halide types will not be permitted) with a maximum output of 7,500 lumens per light will be utilized.
- d. A cross access drive connection extending to the north property line shall be installed and an associated easement shall be recorded to allow cross access between adjoining properties.

- **OTHER REQUIREMENTS**

- a. Only one freestanding sign shall be permitted on this property. Said sign shall be a monument type with a maximum height of five (5) feet.

ZONING STAFF REPORT

DOCKET # W-2522
STAFF: Gary Roberts

Petitioner(s): George P. Sweat
Ownership: Same

REQUEST

From: RS-9 Residential Single Family District; minimum lot size 9,000 sf
To: HB-S Highway Business District [Restaurant (with drive-through service)]

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

Acreage: 0.84 acre

LOCATION

Street: Northwest corner of Jonestown Road and Eastwin Drive.
Jurisdiction: City of Winston-Salem.
Ward: West.

SITE PLAN

Proposed Use: Restaurant (with drive-through service).
Square Footage: 2,400 square feet.
Building Height: One story.
Parking: Required: 32 spaces; proposed: 32 spaces.
Bufferyard Requirements: Type IV bufferyard adjacent to RS-9.
Vehicular Use Landscaping Standards Requirements: UDO standards apply.

PROPERTY SITE/IMMEDIATE AREA

Existing Structures on Site: Single family home.

Adjacent Uses:

- North - Vacant, partially wooded, partially grassy lot, zoned RS-9. Further north is the Goodwill Industries Store, zoned LB-S.
- Northeast - Across Jonestown Road north of Frandell Road is Summit Station Shopping Center, zoned LB-S.
- East - Across Jonestown Road is a currently vacant restaurant, zoned LB-S.
- South - Across Eastwin Drive, future retail and office space is under construction, zoned LB-S.
- West - Single family homes, zoned RS-9.

GENERAL AREA

Character/Maintenance: Well-maintained businesses and single-family homes.
Development Pace: Rapid.

PHYSICAL FEATURES/ENVIRONMENTAL REVIEW

Impact on Existing Features: Removal of large tree at the southwestern corner of site and minor grading.

Topography: Gentle slope to the southeast and northwest from the ridge running through the middle of the property.

Vegetation/habitat: Typical residential yard with some large maturing variety trees.

Watershed: Site is not within the boundaries of a Water Supply Watershed.

TRANSPORTATION

Direct Access to Site: Jonestown Road; Eastwin Drive.

Street Classification: Jonestown Road - major thoroughfare; Eastwin Drive - collector.

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

Jonestown Road between Country Club Road and US 421 = 20,000/23,900

Trip Generation/Existing Zoning: RS-9

$0.84 \times 43,560/9,000 = 4 \text{ units} \times 9.57 \text{ (SFR Trip Rate)} = 38 \text{ trips per day}$

Trip Generation/Proposed Zoning: HB-S

$2,400/1,000 \times 496.12 \text{ (Fast food restaurant with drive-through trip rate)} = 1,190 \text{ trips per day}$

Sidewalks: Staff recommends a sidewalk along Jonestown Road.

Transit: Route 43, along Jonestown Road (Westside Connector).

HISTORY

Relevant Zoning Cases:

1. W-2475; RS-9 to LB-S (Multiple Business Uses - TWO PHASE); withdrawn August 9, 2001; current site; staff recommended denial.
2. W-2431; LO-S (Multiple Office Uses) to LB-S (Multiple Business Uses); approved October 25, 2000; southwest corner of Jonestown Road and Eastwin Drive; 1.54 acres; Planning Board and staff recommended approval.
3. W-2378; RS-9 to LB-S (General Merchandise Store); approved April 3, 2000; west side of Jonestown Road between Frandell Road and Southwin Drive; 1.28 acres; Planning Board and staff recommended approval.

4. W-2200; LB-S [Restaurant (without drive-through service)] and RS-9 to LB-S (Car Wash); denied January 5, 1998; southeast corner of Frandell Road and Jonestown Road, directly across Jonestown Road from current site; 1.14 acres; Planning Board and staff recommended denial.

CONFORMITY TO PLANS

Legacy GMP Area: Suburban Neighborhoods (GMA 3).

Relevant Comprehensive Plan Recommendation(s): *Legacy* proposes that commercial areas be compact rather than linear in nature, with businesses interconnected designed to be pedestrian oriented.

Area Plan/Development Guide: *Country Club/Jonestown Area Plan* (adopted 1985).

Relevant Development Guide Recommendation(s): The recommendations for the Jonestown Road/US 421 location in the area plan includes allowing a controlled transition from single-family residential to commercial. The following design standards should be used for such conversions:

1. Conversion to business or office uses is permitted with some limitations (including no drive-through restaurants);
2. Parking should be located in the rear. If in front, the 10' parking setback must be planted in grass, trees and shrubs;
3. Interior site access connections should be made to the side or rear in order to link other properties fronting on Jonestown Road.

ANALYSIS

The current proposal is to rezone 0.84 acre on the northwest corner of Jonestown Road and Eastwin Drive from RS-9 to HB-S in order to construct a drive-through restaurant. The property is now the site of a single family residence and associated accessory buildings. Jonestown Road is a major thoroughfare and the surrounding properties are zoned either LB-S or RS-9. During the August 2001 Planning Board meeting the petitioner withdrew a request to rezone the subject property from RS-9 to LB-S (Multiple Business Uses - TWO PHASE) (W-2475).

The site is within the boundaries of the *Country Club/Jonestown Area Plan* which has very specific design guidelines and land use recommendations for the Jonestown - US 421 area. The adopted policies within the plan have enabled the adjoining neighborhoods to retain a high quality of life and remain viable places to live. Mounting traffic volumes and potential off site impacts further reenforce the need for an orderly and controlled transition to office and limited commercial type uses. The area plan's explicit admonition regarding restaurants with drive-throughs has been consistently adhered to in previous rezoning requests considered since the area plan was adopted. Such uses typically generate relatively high levels of traffic and have notable off site impacts such as speaker box and car stereo noise at late hours, vehicular and fixed lighting over spills and litter and trash issues.

The area plan also recommends that parking be located to the rear of buildings; corner lots should have access onto side streets; and an interior service road connecting to the adjacent properties be provided. The subject site plan is being modified to address issues raised at the interdepartmental site plan review committee meeting, but does not address the proposal's noncompliance with other area plan recommendations.

While the site is suitable for limited commercial, office and possibly medium density residential, the requested use of restaurant with drive through and the above noted deficiencies of the site plan, warrant staffs recommendation for denial.

FINDINGS

1. *Legacy* proposes that commercial areas be compact rather than linear in nature, with businesses interconnected designed to be pedestrian oriented.
2. The *Country Club/Jonestown Area Plan* specifies against drive-through restaurants and calls for various site plan considerations which the current request does not address.
3. The adjacent single family residential properties would be negatively impacted by the proposed use.
4. Staff could support a request in which the proposed uses and site plan are consistent with the adopted policies of the area plan.

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 ANY PERMITS**
 - a. Obtain a driveway permit from the North Carolina Department of Transportation (NCDOT). Additional conditions may be required by NCDOT.
- **PRIOR TO THE ISSUANCE OF GRADING PERMITS**
 - a. Developer shall have a storm water management study submitted for review by the Public Works Department of the City of Winston-Salem. If required, an engineered storm water management plan shall be submitted and approved by the Public Works Department of the City of Winston-Salem.
- **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS**
 - a. Developer shall install a sidewalk along the frontage on Jonestown Road to the specifications of the Public Works Department of the City of Winston-Salem prior to the issuance of occupancy permits. Developer shall also dedicate 35 feet of right-of-way from the center line of Jonestown Road.

- b. Developer shall install landscaping in accordance with UDO Section 3-4.
 - c. Site lighting shall be located on the site side of required buffering and oriented toward the building. Fixtures will be placed a minimum of 100 feet apart and will be no higher than 25 feet above grade. Mercury lamps (metal halide types will not be permitted) with a maximum output of 7,500 lumens per light will be utilized.
 - d. A cross access drive connection extending to the north property line shall be installed and an associated easement shall be recorded to allow cross access between adjoining properties.
- **OTHER REQUIREMENTS**
 - a. Only one freestanding sign shall be permitted on this property. Said sign shall be a monument type with a maximum height of five (5) feet.

Gary Roberts presented the staff report.

PUBLIC HEARING

FOR:

Ron Matamoras, 110 South Stratford Road, Winston-Salem, NC 27104

I represent Mr. & Mrs. Patel who are the current franchisees for Baskin Robbins/Dunkin Donuts.

A requirement for them to get franchise approval for another site in Winston-Salem is a drive-through. The drive-through is the issue with staff. There are a number of places on Jonestown Road which have drive-throughs. This operation won't be able to happen without the drive-through.

Submitted pictures of sample.

We believe the area has changed and drive-throughs are appropriate here.

AGAINST:

Kelly Simeonides, 4733 Eastwin Drive, Winston-Salem, NC 27104

We recently purchased our home in November and we felt it was quite a blessing. The thought of turning this corner into a drive-through is disheartening.

This is such a nice area. You can imagine our concern of having two little children. A respectable business would be appropriate, but the only drive-throughs in this area are attached to shopping centers.

WORK SESSION:

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

1. The previous zoning request was for a portion of this site.

2. Steve Snelgrove - We have a small area plan with specific principles. It's very difficult for an outside company to come in and dictate standards for their establishment that are different than standards we've established.
3. Kem Schroeder - concerned about precedent that would be set by allowing drive-through and also the potential issue of our having denied drive-through before in a similar location that is almost adjacent to this site.

MOTION: Kem Schroeder moved denial of the zoning petition.

SECOND: Terry Powell

VOTE:

FOR: Avant, Bost, Clark, Doyle, King, Norwood, Powell, Schroeder, Snelgrove

AGAINST: None

EXCUSED: None

SITE PLAN MOTION: Kem Schroeder certified that the site plan meets all code requirements and recommends staff conditions.

SECOND: Terry Powell

VOTE:

FOR: Avant, Bost, Clark, Doyle, King, Norwood, Powell, Schroeder, Snelgrove

AGAINST: None

EXCUSED: None

A. Paul Norby, AICP
Director of Planning