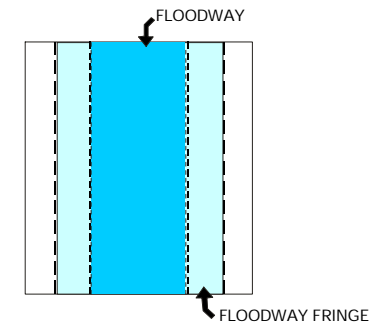


**DOCKET #:** W2446  
 Remanded to CCPB at  
 2/5/01 Aldermen meeting)

**PROPOSED ZONING:**  
 GI-S (Motor Vehicle  
 Dismantling and Wrecking  
 Yard)

**EXISTING ZONING:**  
 LI

**PETITIONER:**  
 BMC Land Company



**SCALE:** 1" represents 200'

**STAFF:** Roberts

**GMA:** 3

**ACRE(S):** 4.06

**MAP(S):** 630874



April 25, 2001

Benny Church  
BMC Land Company Inc.  
P.O. Box 16113  
Winston-Salem, NC 27115

RE: Zoning Map Amendment W-2446

Dear Mr. Church:

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  
Steve Calaway, 1330 Ashley Sq., Winston-Salem, NC 27103  
Tricia M. Williams, 1041 Brookmeade Dr., Winston-Salem, NC 27106  
Champion Ind., C/O Jim Krier, 3765 Champion Blvd., Winston-Salem, NC 27105  
Jim Phelps- Parish Tire Co., 292 Kapp St., Winston-Salem, NC 27105  
Salem Leasing Corp., C/O Stephen Dula, P.O. Box 24788, Winston-Salem, NC 27114

**ACTION REQUEST FORM**

**DATE:** April 25, 2001  
**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 BMC Land Company, Inc.

**SUMMARY OF INFORMATION:**

Zoning map amendment of BMC Land Company, Inc. from LI to GI-S (Motor Vehicle Dismantling and Wrecking Yard): property is located the north side of Kapp Street approximately 300 feet east of Patterson Avenue (Zoning Docket W-2446).

**PLANNING BOARD ACTION:**

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

CITY ORDINANCE - SPECIAL USE

Zoning Petition of BMC Land Company, Inc., Docket W-2446

AN ORDINANCE AMENDING THE  
WINSTON-SALEM CITY  
ZONING ORDINANCE AND THE  
OFFICIAL ZONING MAP OF  
THE CITY OF WINSTON-SALEM, N.C.

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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 LI to GI-S (Motor Vehicle Dismantling and Wrecking Yard) the zoning classification of the following described property:

Tax Block 2895      Tax Lot 211B

Section 2. This Ordinance is adopted after approval of the site plan entitled Benny Church and identified as Attachment "A" of the Special Use District Permit issued by the Board of Aldermen the \_\_\_\_\_ day of \_\_\_\_\_, to BMC Land Company, Inc.

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 Benny Church. 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 BMC Land Company, Inc., (Zoning Docket W-2446). 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 GI-S (Motor Vehicle Dismantling and Wrecking Yard), 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 GI-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: (These conditions are additional requirements for development. All other city or county code regulations still apply.)

- **OTHER REQUIREMENTS**

- a. One freestanding ground sign shall be permitted along the frontage on Kapp Street. Any new sign or replacement sign shall be limited to monument type with a maximum height of five (5) feet and a maximum copy area of thirty-six (36) square feet.

## ZONING STAFF REPORT

**DOCKET #** W-2446

**STAFF:** Gary Roberts

Petitioner(s): BMC Land Company, Inc.

Ownership: Same

### **CONTINUANCE HISTORY**

This petition was remanded to the Planning Board by the Board of Aldermen to allow the petitioner to consider special use zoning.

### **REQUEST**

From: LI Limited Industrial District

To: GI-S General Industrial District (Motor Vehicle Dismantling and Wrecking Yard)

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

Acreage: 4.06 acres

### **LOCATION**

Street: North side of Kapp Street 300 feet east of Patterson Avenue.

Jurisdiction: City of Winston-Salem.

Ward: Northeast.

### **SITE PLAN**

Proposed Use: Motor Vehicle Dismantling and Wrecking Yard.

Parking: Required: None; Proposed: None.

Bufferyard Requirements: Type I buffer (10' minimum width) around entire perimeter; 8-foot opaque fence or wall along Kapp Street right-of-way.

### **PROPERTY SITE/IMMEDIATE AREA**

Existing Structures on Site: None, site is occupied with dismantled/wrecked tractor trailers.

Adjacent Uses:

North - Tractor trailer and mobile home storage yard.

East - Manufactured housing sales.

Southeast - Industrial structure/warehouse.

South - Industrial warehouse building.  
Southwest - HVAC operation.

## **GENERAL AREA**

Character/Maintenance: Industrial & service type uses.  
Development Pace: Slow to moderate.

## **PHYSICAL FEATURES/ENVIRONMENTAL REVIEW**

Topography: Moderate slope downward to the north.  
Streams: None shown on available maps, applicant states that a small stream runs along the northern property line.  
Vegetation/habitat: Some existing buffer trees along the perimeter of this project but no vegetation within the project area.  
Floodplains: Within a block of a floodway.

## **TRANSPORTATION**

Direct Access to Site: Kapp Street.  
Street Classification: Kapp Street - collector.  
Average Daily Traffic Count/Estimated Capacity at Level of Service D (Vehicles per Day): N/A  
Transit: WSTA Route 10A on Kapp Street.

## **HISTORY**

Relevant Zoning Cases:

1. W-2240; LI to GI approved August 3, 1998; located at the northern terminus of Idlewild Industrial Drive north of Kapp Street; 0.17 acre; Planning Board and staff recommended approval.
2. W-2153; GI to LI approved July 7, 1997; northeast side of Patterson Avenue between Kapp Street and Park Plaza Drive; 1.84 acres; Planning Board and staff recommended approval.
3. W-1689; I-2 to I-3 (reclassified to GI in the UDO conversion); approved December 17, 1990; located across Patterson Avenue from W-2153 (see above); 22.56 acres; Planning Board and staff recommended approval.

## **CONFORMITY TO PLANS**

GMP Area (*Vision 2005*): Area 3: Urban.

Relevant Comprehensive Plan Recommendation(s): The plan calls for the separation and buffering of industrial and commercial land uses from residential and the preservation of stable neighborhood areas.

Area Plan/Development Guide: Just outside of a residential and semi-public area in the *Carver Road/Ogburn Station Development Guide* (1991).

## **ANALYSIS**

This request, under a general use petition, was heard by the Planning Board on January 11, 2001. It was unanimously recommended for denial at that time. On February 5 the Board of Aldermen remanded the case to the Planning Board at the request of the attorney of the applicant for a special use district request.

The subject property is located mid-block along Kapp Street and is currently zoned LI (I-2 prior to the UDO conversion). The applicant has been cited by the Inspections Division with operating an illegal Motor Vehicle Dismantling and Wrecking Yard. The site does not qualify as a non-conforming use since it was vacant as recently as 1987. The current use was also illegal under the previous I-2 zoning. This use is only permitted in the GI district, hence the rezoning request from LI to GI-S.

Staff has concerns about extending the proposed GI uses onto Kapp Street which is a primary entrance to a residential neighborhood to the east. In addition, the existing LI District provides for a wide array of suitable, less intensive alternative uses which would be more in keeping with the overall character of the area.

Although the special use district zoning restricts the use of the property to a single use, a motor vehicle dismantling and wrecking yard is not in character with the LI neighborhood. The proposed site plan shows nothing more than what is required under the minimum requirements of the UDO.

## **FINDINGS**

1. *Vision 2005* calls for the preservation of stable neighborhoods.
2. The proposed use could have a negative impact on nearby properties.
3. The existing LI zoning includes many reasonable uses which would be more in keeping with the general character of the area.



## **STAFF RECOMMENDATION**

Zoning: **DENIAL**.

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

- **OTHER REQUIREMENTS**
  - a. One freestanding ground sign shall be permitted along the frontage on Kapp Street. Any new sign or replacement sign shall be limited to monument type with a maximum height of five (5) feet and a maximum copy area of thirty-six (36) square feet.

*[For information purposes only: The petitioner's site is located in the Urban Neighborhoods growth management area of the draft Legacy comprehensive plan. The goal of the Economic Vitality chapter of the plan is to "attract environmentally sensitive new businesses and expand existing large and small businesses to provide a broad range of employment opportunity and a high quality of life for people living and working in Forsyth County."]*

**PUBLIC HEARING** - January 11, 2001 (Petition at that time was for GI zoning.)

Gary Roberts presented the staff report.

FOR:

Benny Church, 2440 Pittman Road, Tobaccoville, NC 27115

I purchased this property when it had I-2 zoning. Under those requirements I was able to use it as a storage and salvage yard, but could not put a building on it.

We dismantle tractors for people in the community.

AGAINST:

Malvern K. Timm, 1021 Greenhurst Road, Winston-Salem, NC 27104

I represent Champion Industries.

Champion owns 16 acres south of this site and currently has two companies located on their property. A third company is being added soon. Champion's corporate headquarters are on Kapp Street.

We've always been embarrassed by the appearance of this property. We have continued to expand and grow and feel we've been a good citizen to the neighborhood. We would like to continue to be good neighbors.

Tricia M. Williams, 1041 Brookmeade Drive, Winston-Salem, NC 27106

I represent Frances McGee who owns industrial lots next to this site.

We oppose this rezoning because we feel allowing this site to continue to be used as it currently is will discourage future use of properties in this area.

This lot has become less attractive over the years.

We would like to keep the Limited Industrial zoning and ask Mr. Church to clean up his lot under the guidelines for that district.

We feel the appearance of this site would be a deterrent to new buyers.

### **WORK SESSION**

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

1. Under LI Zoning, Mr. Church would not be allowed to work on inoperable vehicles or do any dismantling.
2. I-2 allowed the storage of tractor trailers, but not the dismantling of it.
3. This is not a legally nonconforming lot.
4. If the rezoning fails, Inspections will file legal charges against the operator.

MOTION: Steve Johnson moved denial of the zoning map amendment to GI.

SECOND: James Rousseau

VOTE:

FOR: Avant, Bost, Johnson, King, Powell, Schroeder, Snelgrove

AGAINST: None

EXCUSED: None

### **PUBLIC HEARING-** April 12, 2001

FOR:

Steve Calaway, 1330 Ashley Square, Winston-Salem, NC 27103

There are a lot of industrial uses in this area, including a half mile of solid industrial use adjoining this site.

There are approximately 60 tractors immediately against Mr. Church's property. There are another 100 tractor-trailers on Salem Leasing's property.

There are approximately 30 manufactured homes (derelicks or trade-ins, not new) immediately against Mr. Church's property. There are another 50 on that site.

Distributed photos.

This particular lot has been there since 1982, predating other industrial uses in this area.

Tractor trailers use parts like Mr. Church stores on this site.

This is a valid, needed use. Where would you put it if you didn't put it here?

AGAINST:

Tricia M. Williams, 1041 Brookmeade Drive, Winston-Salem, NC 27106

My mother owned industrial land adjacent to this site. We oppose this zoning because we believe if Mr. Church is allowed to keep it as it is, it will contribute significantly to the deterioration of land values in this area.

Our land was purchased and in use for almost 20 years prior to Mr. Church's purchase of this site.

Our family feels Mr. Church needs to clean up his lot under the existing zoning. We feel changing it to general industrial will only make it worse.

Jim Krier, represent Champion Industries, 3765 Champion Blvd., Winston-Salem, NC 27105  
Champion is part of an international organization. The only access to our site is by this property in question, with both entrances being on Kapp Street almost directly across from this site.

We manufacture commercial food service equipment. We must maintain an image of sanitation and hygiene and are frequently inspected for such standards. Our site exemplifies these standards.

We are opposed to this rezoning.

Jim Phelps, Vice-President of Parrish Tires, 292 Kapp Street, Winston-Salem, NC 27105  
We are opposed to this rezoning. Kapp Street may not be the prettiest area in the community, but this would only harm the area.

Stephen Dula, Salem Leasing Corporation, P. O. Box 24788, Winston-Salem, NC 27114  
We own a lot of land in this area.

We support staff's recommendation of denial.

This facility has done nothing but deteriorate in the time we've been here and we don't see that rezoning will do anything but worsen the deterioration.

## **WORK SESSION**

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

1. This site does not show any activity in 1984 aerials but shows two trailers in 1987.
2. The site was zoned I-2 prior to the UDO conversion. This use was not allowed under that zoning.
3. Dismantling is not allowed in HB.
4. It may be possible for the petitioner to use his property on Patterson Avenue for this use also. However, we don't know the zoning classification of that property. (Staff later determined that the Patterson Avenue property under discussion was zoned HB and the use "Motor Vehicle, Dismantling and Wrecking Yard" would not be permitted there without rezoning.)
5. Inspections would work with the petitioner to determine a reasonable time frame to clean up the site if this is denied.
6. Arnold King: I agree this is an eyesore. There's also been truck activities in this area for many, many years. We need to give the petitioner time to relocate the

facility.

7. Ronnie Grubbs: We would probably request a certain number of vehicles to be moved off the site per month.
8. LI zoned property is at a premium in this county.

MOTION: Kem Schroeder moved denial of the zoning map amendment.

SECOND: Steve Johnson

VOTE:

FOR: Avant, Bost, Johnson, King, Powell, Rousseau, Schroeder, Snelgrove

AGAINST: None

SITE PLAN MOTION: Steve Johnson certified that the site plan meets the minimum code requirements and recommended staff conditions.

SECOND: Jim Rousseau

VOTE:

FOR: Avant, Bost, Johnson, King, Powell, Rousseau, Schroeder, Snelgrove

AGAINST: None

During further discussion, the Planning Board noted that the petitioner was willing to consider additional conditions.

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A. Paul Norby, AICP  
Director of Planning