

January 24, 2001

Debby Knott, et al
143 Williamsburg Road
Winston-Salem, NC 27107

RE: ZONING MAP AMENDMENT W-2447

Dear Ms. Knott:

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
Brad Coe, P. O. Box 36, Wallburg, NC 27373
Laura Parsons Ream, 1253 Teague Road, Winston-Salem, NC 27107
Charles M. Fulbright, 1241 Teague Road, Winston-Salem, NC 27107

ACTION REQUEST FORM

DATE: January 24, 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 Debby Lynn Knott, Zachary Steven Knott, Carl W. Osborne, Jr., and Laverne Osborne

SUMMARY OF INFORMATION:

Zoning map amendment of Debby Lynn Knott, Zachary Steven Knott, Carl W. Osborne, Jr., and Laverne Osborne from RS-9 to HB-S (Outdoor Display, Retail): property is located on the southwest corner of Thomasville Road and Teague Road (Zoning Docket W-2447).

PLANNING BOARD ACTION:

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

CITY ORDINANCE - SPECIAL USE

Zoning Petition of Debby Lynn Knott, Zachary Steven Knott, Carl W. Osborne, Jr., and Laverne Osborne, Docket W-2447

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 (Outdoor Display, Retail) the zoning classification of the following described property:

Tax Lots 1A, 1C, 1D, 1J, 2A, 2C, 2L, 107, 32A, and 32B; Tax Block 2654

Section 2. This Ordinance is adopted after approval of the site plan entitled Debby Knott and identified as Attachment "A" of the Special Use District Permit issued by the Board of Aldermen the _____ day of _____, to Debby Lynn Knott, Zachary Steven Knott, Carl W. Osborne, Jr., and Laverne Osborne.

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 Debby Knott. 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 Debby Lynn Knott, Zachary Steven Knott, Carl W. Osborne, Jr., and Laverne Osborne, (Zoning Docket W-2447).

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 (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 120 DAYS OF APPROVAL BY THE BOARD OF ALDERMEN**
 - a. Fire hydrants shall be installed in accordance with the City Fire and Utilities Departments.
 - b. Developer shall record a negative access easement along the entire frontage of Thomasville Road and Teague Road at all locations except the driveways to the site as shown on the site plan.

- **OTHER REQUIREMENTS**
 - a. If city garbage collection is used, dumpster must be on a 12 foot by 16 foot concrete pad which is at least 8 inches thick.
 - b. One monument sign with a maximum height of five (5) feet and a maximum copy area of 36 square feet is allowed.

ZONING STAFF REPORT

DOCKET # W-2447
STAFF: Suzy Hughes

Petitioner(s): Debby Lynn Knott, Zachary Steven Knott, Carl W. Osborne, Jr. and Laverne Osborne
Ownership: Same

REQUEST

From: RS-9 Residential Single Family District; minimum lot size 9,000 sf
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: 1.217 acres

LOCATION

Street: Southwest corner of Thomasville Road and Teague Road.
Jurisdiction: City of Winston-Salem.
Ward: Southeast.

SITE PLAN

Proposed Use: Outdoor Display, Retail.
Square Footage: 2,928 square feet total in two buildings.
Building Height: Single Story.
Parking: Required: 6; Proposed: 7
Bufferyard Requirements: Type IV adjacent to RS-9 Zoning Districts.
Vehicular Use Landscaping Standards Requirements: UDO Standards Apply.

PROPERTY SITE/IMMEDIATE AREA

Existing Structures on Site: Two single story buildings.

Adjacent Uses:

North -	RM-18 zoning; undeveloped.
Northeast -	RS-12 zoning; single family homes.
East -	RS-9 zoning; single family homes.
South -	RS-9 zoning; single family homes.
West -	RS-9 zoning; single family homes.

GENERAL AREA

Character/Maintenance: Moderate to well maintained single family homes surround site.
Development Pace: Slow.

PHYSICAL FEATURES/ENVIRONMENTAL REVIEW

Impact on Existing Features: Site is developed with a large amount of impervious surface.

Topography: Downward slope toward the northeast.

Streams: None.

Vegetation/habitat: No existing vegetation.

Constraints: None.

Farmland Preservation Sites: Very near a preserved site. The subject site is very close to a 108 acre tract of land which is in the Farmland Preservation Program. The farm, which is located at 4080 Thomasville Road is preserved in a 25 year lease which began in 1987.

TRANSPORTATION

Direct Access to Site: Thomasville Road/Teague Road.

Street Classification: Thomasville Road - major thoroughfare; Teague Road - minor thoroughfare.

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

Thomasville Road - between Teague and Union Cross Roads = no current count/12,000

Teague Road between Old Lexington and Thomasville Roads = 2,100/10,500

Trip Generation/Existing Zoning: RS-9

$1.217 \times 43,560 \text{ sf} = 53,012 \text{ sf}/9,000 \text{ sf} = 5 \text{ lots} \times 9.57 \text{ (single family trip rate)} = 47.85 \text{ trips/day}$

Trip Generation/Proposed Zoning: HB-S

$2,928/1,000 = 2.92 \times 37.5 \text{ (car sales trip rate)} = 109.8 \text{ trips/day}$

Planned Road Improvements: Transportation Improvement Program (TIP) R-2568 Thomasville Road widen to multi-lanes from I-40/US 311 to I-85 Bus. in Davidson County.

Construction scheduled for beyond fiscal year 2008.

HISTORY

Relevant Zoning Cases:

1. W-2258; RS-9 to RS-9-S (Residential Building Single Family and Manufactured Home Class A); denied November 2, 1998; northwest side of Teague Road southwest of Thomasville Road; 8.252 acres; Planning Board and staff recommended approval.
2. F-1226; RS-20 to RS-12; approved April 27, 1998; northeast side of Thomasville Road between Union Cross Road and Teague Road; 28.209 acres; Planning Board and staff recommended approval.
3. W-1394; R-5 to R-6; approved November 3, 1986; west side of Teague Road approximately 89 feet south of Thomasville Road; 0.46 acre; 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 commercial, office, and industrial uses from residential areas and the preservation of stable neighborhood areas.

Area Plan/Development Guide: *311 Corridor* (1984).

Relevant Development Guide Recommendation(s): This site lies within an area identified for low density residential development (0-4 units/acre) in the *311 Corridor* plan. However, there have been deviations to this plan over the past 16 years.

SPOT ZONE OPINION

The City Attorney has issued an opinion that this rezoning, if approved, would constitute an illegal spot zoning.

ANALYSIS

The petitioner has requested a rezoning of 1.217 acres from RS-9 to HB-S (Outdoor Display, Retail.) The northernmost building on the property is legally non-conforming for the proposed use. The southernmost building however, has lost its legally non-conforming status, and the proposed use cannot be legally operated utilizing said building. The petitioner has stated that there was intent to convert the southernmost building from its previous legally non-conforming use as a convenience store to one allowing motor vehicle sales. The conversion was not carried through and the southernmost building lost its legally non-conforming status.

Although this non-conforming use has been at this site for a long period, it is a use which does not fit with the surrounding uses. Staff is of the opinion that once non-conforming uses are abandoned and lose their legally non-conforming status it is time for cessation of the use. As part of the site has lost its legally non-conforming status, staff feels that the petition is not consistent with the other uses in the area. By approving the petition, a precedent will be set for intense highway commercial zoning along this section of Thomasville Road.

Staff realizes that it is unlikely that this site would support a residential single family use. It has quite a bit of impervious coverage, making residential use difficult. Therefore, staff would likely support a small neighborhood serving retail use with controlled access and no gas pumps.

FINDINGS

1. The petitioner has requested a rezoning of 1.217 acres from RS-9 to HB-S (Outdoor Display, Retail) .
2. The southernmost building has lost its legally non-conforming status, and the proposed use cannot be legally operated utilizing said building.

3. Although a non-conforming use has been at this site for a long period, HB-S Zoning does not fit with the surrounding uses.
4. Staff would likely support a small neighborhood serving retail use with controlled access and no gas pumps.
5. The City Attorney has issued an opinion that the rezoning, if approved, would constitute an illegal spot zone.

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. A variance must be approved by the City Zoning Board of Adjustment for building setbacks.
- **WITHIN 120 DAYS OF APPROVAL BY THE BOARD OF ALDERMEN**
 - a. Fire hydrants shall be installed in accordance with the City Fire and Utilities Departments.
 - b. Developer shall record a negative access easement along the entire frontage of Thomasville Road and Teague Road at all locations except the driveways to the site as shown on the site plan.
- **OTHER REQUIREMENTS**
 - a. If city garbage collection is used, dumpster must be on a 12 foot by 16 foot concrete pad which is at least 8 inches thick.
 - b. One monument sign with a maximum height of five (5) feet and a maximum copy area of 36 square feet is allowed.

[For information purposes only: The draft Legacy plan calls for a mix of housing types and prices in neighborhoods and commercial development providing daily shopping needs within a five or ten minute walk.]

Suzy Hughes presented the staff report.

PUBLIC HEARING

FOR:

Brad Coe, P. O. Box 36, Wallburg, NC 27373

I am the site plan designer for this request.

Ms. Knott was very desirous to meet all requirements. She has offered to limit access to 109 to one point and access to Teague Road to one point.

I remember this store being used for a convenience store back in the 1970s. It was discontinued for a short time, but it has frequently been used as a convenience store.

I'm a citizen in this area. Ms. Knott has been very polite and conscientious in trying to bring this into compliance.

I don't feel there is any negative impact from this request.

Debby Knott, 143 Williamsburg Road, Winston-Salem, NC 27107

The building lost its status because my father had a stroke and couldn't operate the facility. I came and talked with the City and thought we had everything worked out correctly.

I don't think this will make the value of anyone's property go down.

AGAINST:

Laura Parsons Ream, 1253 Teague Road, Winston-Salem, NC 27107

My house is the first long property south of this site.

I am sorry that Ms. Knott's father is ill.

When I bought my house 17 months ago, this site was vacant. It was not a car lot. If I was considering buying a house today, I wouldn't consider this area because of this lot.

It's dangerous because there are always cars parked on the road and traffic is bad.

I've spoken with Ms. Knott often times and had no results.

Hugh car carriers bring in these vehicles and park on 109. It makes traffic dangerous.

People come look at the vehicles at all times of day and night. They park along the roads, blocking the view for drivers.

It is an eyesore.

I definitely don't want a traffic signal at this intersection.

I feel this is dangerous.

Charles M. Fulbright, 1241 Teague Road, Winston-Salem, NC 27107

Submitted pictures.

Represents 22 residents of Teague Road who have signed petition objecting to this use.

The City of Winston-Salem told me this week that they have no record of a business license being issued for this site. Whether or not that is a mistake, I don't know.

The safety islands that were originally provided by NCDOT when it was a service station have been removed.

Several residents have complained and nothing has been done to improve it.

To the best of my understanding, the property still has two gasoline tanks in the ground. I feel the status of those tanks should be looked into before any use of the property is approved.

The City has put in another water meter and as a result they spent two days repaving this lot with no cost to the property owner.

I am completely opposed to the rezoning and to the establishment of this used car lot.

WORK SESSION

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

1. The current site has a legally nonconforming use and a use which is not legally nonconforming. If the zoning is not approved, the northernmost lot could be used as currently used, but the southernmost building could not be.
2. Granting this request would be precedent-setting.
3. Steve Johnson indicated that he does not believe the site plan conforms to the requirements of the UDO for two reasons: 1) The access to the site is extremely close to Teague Road, thereby creating a significant traffic problem. 2) The plan encourages parking along the roads by visitors looking at cars. Although the asphalt certainly encourages such parking, removing the asphalt would still encourage such parking because of the site plan design and the space provided along the roads.
4. Kem Schroeder asked Ronnie Grubbs of the Inspections Division to point the petitioner in the right direction regarding the removal of gasoline tanks on the abandoned site since by law the tanks are required to be removed when the use is abandoned for a year or more.

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

EXCUSED: None

SITE PLAN MOTION: Kem Schroeder denied the site plan based on the proximity of access to Teague Road and parking along the roads. However, if the site plan should be approved, staff conditions should apply.

SECOND: Steve Johnson

VOTE:

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

AGAINST: None

EXCUSED: None

A. Paul Norby, AICP
Director of Planning