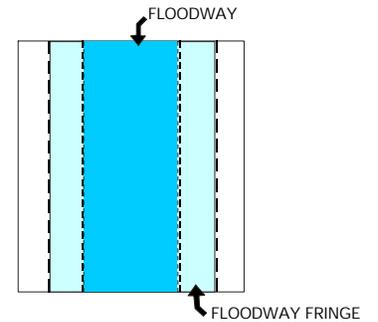


**DOCKET #:** W2514  
 (Continued from 11/8/01  
 CCPB meeting)

**PROPOSED ZONING:**  
 PB

**EXISTING ZONING:**  
 GI

**PETITIONER:**  
 Wyvonia J. Attucks  
 and Reginald T. Attucks



**SCALE:** 1" represents 200'

**STAFF:** Hughes

**GMA:** 2

**ACRE(S):** 0.18

**MAP(S):** 636850



December 19, 2001

Reginald T. Attucks and Wyvonia J. Attucks  
3190 Shaftesbury Lane  
Winston-Salem, NC 27105

RE: ZONING MAP AMENDMENT W-2514

Dear Mr. & Mrs. Attucks:

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  
James Ballard, 450 Metropolitan Drive, Winston-Salem, NC 27101  
Gaultney Leak, 3515 Cedar Post Road, Winston-Salem, NC 27107  
Asst. Police Chief Craig, P. O. Box 1707, Winston-Salem, NC 27102-1707

**ACTION REQUEST FORM**

**DATE:** December 19, 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 Reginald T. Attucks and Wyvonia J. Attucks

**SUMMARY OF INFORMATION:**

Zoning map amendment of Reginald T. Attucks and Wyvonia J. Attucks from GI to PB: property is located on the west side of Cunningham Avenue south of Vargrave Street (Zoning Docket W-2514).

**PLANNING BOARD ACTION:**

**MOTION ON PETITION:** APPROVAL  
**FOR:** UNANIMOUS  
**AGAINST:** NONE  
**SITE PLAN ACTION:** NOT REQUIRED

CITY ORDINANCE - GENERAL USE

Zoning Petition of Reginald T. Attucks and Wyvonia J. Attucks, Docket W-2514

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 GI to PB the zoning classification of the following described property:

Tax Block 1411A, Tax Lot 003V

Section 2. This ordinance shall become effective upon adoption.

## ZONING STAFF REPORT

**DOCKET #** W-2514

**STAFF:** Suzy Hughes

Petitioner(s): Reginald T. Attucks and Wyvonia J. Attucks

Ownership: Same

### **CONTINUANCE HISTORY**

This case was continued from the November 8, 2001 Planning Board meeting to allow staff to acquire statistics concerning criminal activity in the area.

### **REQUEST**

From: GI General Industrial District

To: PB Pedestrian Business District

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: 0.18 acre

### **LOCATION**

Street: West side of Cunningham Avenue south of Vargrave Street.

Jurisdiction: City of Winston-Salem.

Ward: Southeast.

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

Existing Structures on Site: Brick commercial building.

Adjacent Uses:

- North - US Highway 52.
- East - Single family residences zoned RM-5.
- Southeast - Multifamily residential structure zoned RM-5.
- South - Industrial and vacant land zoned GI.
- Southwest - US Highway 52.

### **GENERAL AREA**

Character/Maintenance: Moderately well maintained mixture of uses.

Development Pace: Slow.

## **PHYSICAL FEATURES/ENVIRONMENTAL REVIEW**

Impact on Existing Features: Site is developed with a commercial structure and parking.

Topography: Site is flat.

Vegetation/habitat: Site is developed completely, no visible significant vegetation.

## **TRANSPORTATION**

Direct Access to Site: Cunningham Avenue

Vargrave Street.

Street Classification: Cunningham Avenue - local street

Vargrave Street - minor thoroughfare.

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

Vargrave Street between US 52 and Stadium Drive = 1,800/16,100.

Sidewalks: On eastern side of Vargrave Street adjacent to site.

Transit: Route 3, along Vargrave Street, adjacent to site.

## **HISTORY**

There are no relevant zoning cases in this area.

## **CONFORMITY TO PLANS**

GMP Area (*Legacy*): Urban Neighborhoods.

Relevant Comprehensive Plan Recommendation(s): Urban Neighborhoods: Encourage quality infill development, greater residential densities where appropriate, neighborhood retail, and community services

and, historic preservation, rehabilitation and reuse of existing structures are encouraged.

Area Plan/Development Guide: *Southeast Area Plan* (under preparation).

Relevant Development Guide Recommendation(s): Consolidate commercial and industrial development at existing locations by locating neighborhood-based goods and services in areas currently zoned for non-residential use rather than using additional residentially zoned areas.

## **COMMUNITY DEVELOPMENT**

Certified Area/Name: Columbia Heights.

Type of Certification: Rehabilitation, Conservation, and Reconditioning.

Recommendations: The area has been certified as the Columbia Heights Rehabilitation, Conservation & Reconditioning area. City rehabilitation loan funds and code enforcement activities are directed to housing in the area. The certification does not provide funds and enforcement for commercial uses and properties.

## ANALYSIS

The petitioners are requesting a 0.18 acre parcel be rezoned from GI to PB. The petitioner currently uses the building to operate a barber shop, which is not allowed in GI zoning. There are two options for the petitioner to make the barber shop use legal. The petitioner could seek nonconforming status from the Inspections Division, such status would limit the petitioner to only the barber shop use unless a conversion was sought after obtaining nonconforming status. Another option is to seek rezoning. The petitioner has chosen this option and PB zoning which would allow a multitude of possible uses. Barber shops were allowed under the previous I-3 zoning which was converted to GI with the adoption of the UDO.

GI does not allow barber shops nor many other business and service uses. PB general use zoning would allow many commercial uses that are not allowed in GI zoning districts. A comparison of uses allowed in the PB and GI Districts in the City of Winston-Salem is attached to the staff report.

Nonconforming status would allow the petitioner to operate the barber shop legally although the property would retain its zoning classification of GI. Nonconforming status of the existing use has not been officially determined however, Inspections has indicated that the petitioner would likely be granted nonconforming status for the barber shop, as Inspections has files on record to indicate it was being operated as such prior to UDO. In order for an official determination of nonconforming status to be made the petitioner would have to submit affidavits to the Inspections Division. If granted nonconforming status, the petitioner may go to the Zoning Board of Adjustment to seek a conversion of the non-conforming use to another use of similar or less intensity. Typically the Board does not grant conversions for more intense uses.

The area has been certified as the Columbia Heights Rehabilitation, Conservation & Reconditioning area. City rehabilitation loan funds and code enforcement activities are directed to housing in the area. The certification does not provide funds and enforcement for commercial uses and properties.

The area could benefit from some neighborhood serving uses. Uses allowed in the requested PB general zone encompass a broad range of uses (see attached list). Some of the uses which could be housed on the project site may not be appropriate at this location. *Legacy* recommends the reuse of existing structures as well as the development of neighborhood retail. The draft *Southeast Area Plan* recommends locating neighborhood-based uses in non-residentially zoned districts rather than rezoning residential districts. Some of the uses allowed in the PB District would not be appropriate at this location.

A report from the Winston-Salem Police Department (WSPD) is included as a supplement to this report to indicate criminal activity in the area and there will be a representative from the WSPD at the December 13, 2001, Planning Board meeting to answer questions of this nature in greater detail. There are also uses which are simply not appropriate for a fragile residential neighborhood, such as Convenience Stores which allow the sale of alcohol and ABC Stores.

Planning staff had originally considered the possibility of suggesting the petitioner seek special use district zoning with a condition prohibiting the sale of alcohol. After researching this possibility it has been determined that the ABC Board has jurisdiction over the sale of alcohol and such a condition would not be enforceable. The applicant also stated at the November Planning Board hearing that he did not want such a condition.

Due to the broad range of uses requested and the current criminal problems in the larger surrounding area, staff is concerned that some of the uses allowed by this rezoning could make the process of neighborhood revitalization more difficult, and therefore cannot recommend approval for this request. By maintaining the nonconforming status of the site, the owner can continue the existing business and apply to the Zoning Board of Adjustment for a change of use to a use of similar intensity.

### **FINDINGS**

1. Request generally complies with the *Legacy* recommendations.
2. Request is generally consistent with the *Southeast Area Plan*.
3. The area surrounding the site is a mixture of residential uses and industrial property.
4. The site currently is operating as a nonconforming business use.
5. Certain uses permitted in the PB District such as Convenience Stores with alcohol sales and ABC Stores would not be appropriate at this location.
6. Staff may be able to support some limited neighborhood uses.

### **STAFF RECOMMENDATION**

Zoning: **DENIAL**.

### **PUBLIC HEARING** - November 8, 2001

Suzy Hughes presented the staff report.

FOR:

Reginald T. Attucks, 3190 Shaftesbury Lane, Winston-Salem, NC 27105

I have a retail sales license issued to me by the City.

I have run this business as a convenience store and barber shop.

My wife does have every intention of offering every convenience to this neighborhood, so beer and wine would be part of that.

We plan to incorporate police officers to help on busy days and keep drugs away from this business.

We had permission to do this before the UDO. I'm about sunk if this is denied. We have invested a lot of money in this, believing that all we had to do was get another license.

I will run the barbershop and my wife will run the convenience store.

Surveyed 300 people in neighborhood

265 people support a convenience store

12 against

7 doesn't matter.

AGAINST: None

### **WORK SESSION**

During discussion by the Planning Board, the following point was made:

1. Information which the Planning Board would like to have before considering this case next month includes: police statistics on crime in the area, whether this use is non-conforming, range of uses allowed in PB, any presumed limitations which might be placed on his business so he will be clear about what they are.

MOTION: John Bost moved continuance of the zoning map amendment to December 13, 2001.

SECOND: Terry Powell.

VOTE:

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

AGAINST: None

EXCUSED: None

### **PUBLIC HEARING** - December 13, 2001

Suzy Hughes presented the staff report. Assistant Police Chief Craig spoke briefly about the police report included in Planning Board packets and answered questions from the Board. He pointed out that although availability of alcohol is associated with higher crime rates that there is not always a clear cause-effect relationship.

FOR:

Reginald Attucks, 3190 Shaftesbury Lane, Winston-Salem, NC 27105

All I'm asking this board to do is give me the privileges I've already had for 14 years. I already have a permit from the City to do this.

When we let crime run our lives, that enslaves all of us.

James Ballard, 450 Metropolitan Drive, Winston-Salem, NC 27101

My concern is that the police chief has presented a very slanted view.

Are you going to deny the use of alcohol in all the areas you are trying to redo? I think it's unfair to single out this area.

Please don't deny this request.

Gualtney Leak, 3515 Cedar Post Road, Winston-Salem, NC 27107

This gentlemen is a leader in our community. We need more leaders like this.  
You don't have a community unless you have businesses.

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, Assistant Police Chief Craig explained that part one offenses consist of such crimes as rape, robbery, aggravated assault, murder, arson, and burglary. CFS is the abbreviation for "calls for service" which is a record of every time the police are called or a police officer initiates a call for service. This record is required by law and can include such things as a stranded motorist - it's not necessarily crime. CFS can be made away from the crime location if people don't have phones available immediately.
2. John Bost - Is this an at-risk neighborhood? Assistant Police Chief Craig - yes. The risk of crime is approximately four times higher than the overall City area. This does indicate this area is at risk.
3. Jerry Clark - In reference to report from police, there are already places near here that sell alcohol.
4. Kerry Avant - I think we're on a subject about which we have no expertise. I don't know that this should be the driving force for this rezoning.

MOTION: Kerry Avant moved approval of the zoning map amendment.

SECOND: Jimmy Norwood

VOTE:

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

AGAINST: None

EXCUSED: None

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A. Paul Norby, AICP  
Director of Planning