



DOCKET #: W2443

PROPOSED ZONING:
LB-S (Multiple Uses)

EXISTING ZONING:
RS9

PETITIONER:
George Hofman, Jr.,
for property owned by others

SCALE: 1" represents 200'

STAFF: Hughes

GMA: 3

ACRE(S): 2.97

MAP(S): 612862



December 20, 2000

Dr. George Hofman, Jr.
5400 Indiana Avenue
Winston-Salem, NC 27106

RE: ZONING MAP AMENDMENT W-2443

Dear Dr. Hofman:

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
Doug Stimmel, 305 W. Fourth Street, Winston-Salem, NC 27101
Carol Strittmatter, 817 Clovelly Road, Winston-Salem, NC 27106

ACTION REQUEST FORM

DATE: December 20, 2000
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 George Hofman, Jr. for property owned by Catherine B. Livengood

SUMMARY OF INFORMATION:

Zoning map amendment of George Hofman, Jr. for property owned by Catherine B. Livengood from RS-9 to LB-S (Veterinary Service; Professional Office; and Offices, Miscellaneous): property is located on the northeast side of Robinhood Road west of Whitaker Road (Zoning Docket W-2443).

PLANNING BOARD ACTION:

MOTION ON PETITION: APPROVAL
FOR: AVANT, BOST, JOHNSON, ROUSSEAU, WILLIAMS
AGAINST: KING, POWELL, SCHROEDER, SNELGROVE
SITE PLAN ACTION: APPROVED WITH ADDITIONAL CONDITIONS

CITY ORDINANCE - SPECIAL USE

Zoning Petition of George Hofman, Jr. for property owned by Catherine B. Livengood, Docket W-2443

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 LB-S (Veterinary Service; Professional Office; and Offices, Miscellaneous) the zoning classification of the following described property:

Tax Lots 048B and 048C, Tax Block 3410

Section 2. This Ordinance is adopted after approval of the site plan entitled Hofman Veterinarian and identified as Attachment "A" of the Special Use District Permit issued by the Board of Aldermen the _____ day of _____, to George Hofman, Jr. for property owned by Catherine B. Livengood.

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 Hofman Veterinarian. 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 Hofman, Jr. for property owned by Catherine B. Livengood, (Zoning Docket W-2443). 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 LB-S (Veterinary Service; Professional Office; and Offices, Miscellaneous), 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 LB-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 plan 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 BUILDING PERMITS**
 - a. On-site fire hydrant locations shall be approved by the City of Winston-Salem in writing to the Inspections Division.
 - b. A minimum of 45 feet of right-of-way from the centerline along the entire length of the property adjacent to Robinhood Road shall be dedicated in fee simple to the North Carolina Department of Transportation.

- **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS**
 - a. All required storm water management devices shall be installed.
 - b. All required fire hydrants shall be installed in accordance with the City of Winston-Salem Fire Department.
 - c. If right-in, right-out access to Robinhood Road is granted said improvements shall be completed to North Carolina Department of Transportation and City of Winston-Salem specifications. Such improvements shall include, but are not limited to, the construction of a 100' long westbound deceleration lane and associated taper.
 - d. If vehicular access to Robinhood Road is granted developer shall install a five (5) foot wide sidewalk to City of Winston-Salem specifications along the entire frontage of the property along Robinhood Road. Said sidewalk shall be placed at the back of proposed new right-of-way.
 - e. Stub connection shall be constructed to west property line to adjacent shopping center with acceptable grades for future extension into that property. The Engineering Department of the City of Winston-Salem shall verify to the Inspections Division this condition has been met.
 - f. Developer shall provide a cross access agreement with adjacent property owner to the west and shall coordinate with the adjacent property owner to provide functional vertical grade relationship with vehicular stub connection.

- **OTHER REQUIREMENTS**
 - a. A maximum of one (1) free standing monument sign with a maximum height of five (5) feet shall be allowed along the entire frontage of Robinhood Road.
 - b. The petitioner shall have temporary access via a right-in, right-out access onto Robinhood Road until Mt. Tabor Place stub road is installed in a manner which provides reasonable access at the property line and which satisfies the needs of emergency vehicles. When the stub connection is completed through the existing shopping center, then the access to Robinhood Road shall be removed.

ZONING STAFF REPORT

DOCKET # W-2443
STAFF: Suzy Hughes

Petitioner(s): George Hofman, Jr.
Ownership: Catherine B. Livengood

REQUEST

From: RS-9 Residential Single Family District; minimum lot size 9,000 sf
To: LB-S Limited Business District (Veterinary Service; Professional Office; and Offices, Miscellaneous)

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

Acreage: 2.87 acres

LOCATION

Street: Northeast side of Robinhood Road west of Whitaker Road.
Jurisdiction: City of Winston-Salem.
Ward: West.

SITE PLAN

Proposed Use: Veterinary Services.
Square Footage: 4,000 square feet.
Building Height: Single story.
Parking: Required: 10; proposed: 10.
Bufferyard Requirements: None.
Vehicular Use Landscaping Standards Requirements: UDO standards apply.

PROPERTY SITE/IMMEDIATE AREA

Existing Structures on Site: Site is currently vacant.

Adjacent Uses:

- North & East- Whitaker Square property zoned HB-S; the retention ponds for the shopping center are located immediately north and east of the current site.
- South - Single family residential neighborhood zoned RS-9.
- Southwest - Office uses zoned LO-S.
- West - The former Mount Tabor Food Mart, recently approved for a shopping center, zoned HB-S.

GENERAL AREA

Character/Maintenance: Well maintained.

Development Pace: Fast.

PHYSICAL FEATURES/ENVIRONMENTAL REVIEW

Impact on Existing Features: Site is undeveloped and heavily wooded.

Topography: Site slopes down steeply to east.

Vegetation/habitat: Site is heavily wooded.

Constraints: Severe slopes make this property difficult to access and develop.

TRANSPORTATION

Direct Access to Site: Robinhood Road.

Street Classification: Major thoroughfare.

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

Robinhood Road from Silas Creek Parkway to Peace Haven Road - 26,000/20,000

Trip Generation/Existing Zoning: RS-9

$2.87 \times 43,560 = 124,581.6/9,000 = 13$ units $\times 9.57$ (SFR trip rate) = 124 trips

Trip Generation/Proposed Zoning: LB-S

$4,000/1,000 = 4 \times 36.13$ (medical/dental trip rate) = 144 trips

Planned Road Improvements: Tied to development of property to west.

Transit: WSTA Route 21 along Robinhood Road.

HISTORY

Relevant Zoning Cases:

1. W-2377; RM-12 to NO-S (Professional Office; and Medical or Surgical Offices); approved April 3, 2000; northwest side of Polo Road between Robinhood Road and Greenvalley Road; 0.41 acre; Planning Board and staff recommended approval.
2. W-2359; HB and RS-9 to HB-S (Shopping Center); approved January 18, 2000; northeast side of Robinhood Road between Whitaker Road and Peacehaven Road; 9.21 acres; Planning Board and staff recommended approval.
3. W-2110; RS-9 to LO-S (Banking and Financial Services); withdrawn December 2, 1996; east side of Peacehaven Road north of new Whitaker Road; Planning Board and staff recommended denial.

CONFORMITY TO PLANS

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

Relevant Comprehensive Plan Recommendation(s): Development of commercial activity nodes at planned locations; separation and buffering of commercial, office, and industrial uses from residential areas.

Area Plan/Development Guide: *Robinhood Road Area Plan* (1986).

Relevant Development Guide Recommendation(s): This property exists in an area designated for mixed use/planned unit development. Both sides of Whitaker Road are proposed for mixed use - special use development where residential use at various densities, office, and commercial development would be permitted.

ANALYSIS

This is a request to rezone this 2.87 acres parcel from RS-9 to LB-S (Veterinary Services; Professional Office; and Offices, Miscellaneous). The subject property is located immediately east of property recently approved as an HB-S shopping center which also includes property once part of the old Mt. Tabor Food Mart. The subject site, which slopes steeply to the east, is difficult to develop and is substantially limited with respect to vehicular access.

The *Robinhood Road Area Plan* calls for mixed-use development in this area. The plan also specifies there be only one curb cut made between Whitaker Road and the old Mt. Tabor Food Mart. According to the area plan, a curb cut to Robinhood Road is to be made only if the land is developed for residential use. If the land is developed for non-residential uses, the area plan states there is to be no access on Robinhood Road; the access is to be through adjacent commercially zoned property to the northwest.

Staff finds that the proposed right-in right-out access on Robinhood Road is not consistent with the area plan recommendations. The adjacent property through which access must occur has not yet been developed. As the adjacent property has not been developed staff feels it is premature to rezone the subject site as there is no appropriate access.

FINDINGS

1. The subject request is to rezone a 2.87 acres parcel from RS-9 to LB-S (Veterinary Services; Professional Office; and Offices, Miscellaneous).
2. The *Robinhood Road Area Plan* calls for mixed-use development in this area.
3. The *Robinhood Road Area Plan* also specifies there be only one curb cut made between Whitaker Road and the prior Mt. Tabor Food Mart, and only for residential use.
4. If the land is developed for non-residential uses, the area plan states there is to be no access on Robinhood Road; the access is to be through adjacent property.

5. As the adjacent property has not been developed staff believes it is premature to rezone the subject site as there is no appropriate access.

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 GRADING PERMITS**
 - a. Developer shall have a storm water management plan 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 BUILDING PERMITS**
 - a. On-site fire hydrant locations shall be approved by the City of Winston-Salem in writing to the Inspections Division.
 - b. A minimum of 45 feet of right-of-way from the centerline along the entire length of the property adjacent to Robinhood Road shall be dedicated in fee simple to the North Carolina Department of Transportation.
 - c. Developer shall provide a cross access agreement with adjacent property owner to the west and shall coordinate with the adjacent property owner to provide functional vertical grade relationship with vehicular stub connection.

- **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS**
 - a. All required storm water management devices shall be installed.
 - b. All required fire hydrants shall be installed in accordance with the City of Winston-Salem Fire Department.
 - c. If right-in, right-out access to Robinhood Road is granted said improvements shall be completed to North Carolina Department of Transportation and City of Winston-Salem specifications.
 - d. If vehicular access to Robinhood Road is granted developer shall install a five (5) foot wide sidewalk to City of Winston-Salem specifications along the entire frontage of the property along Robinhood Road. Said sidewalk shall be placed at the back of proposed new right-of -way.
 - e. Stub connection shall be constructed to west property line to adjacent shopping center with acceptable grades for future extension into that property. The Engineering Department of the City of Winston-Salem shall verify to the Inspections Division this condition has been met.

- **OTHER REQUIREMENTS**
 - a. A maximum of one (1) free standing monument sign with a maximum height of five (5) feet shall be allowed along the entire frontage of Robinhood Road.

[For information purposes only: The draft *Legacy* plan calls for compact commercial activity centers. It supports the mixing of commercial and residential uses, especially higher density residential uses within walking distance of the jobs and shopping needs of residents.]

Glenn Simmons presented the staff report.

PUBLIC HEARING

FOR:

Doug Stimmel, 305 West Fourth Street, Suite 1-A, Winston-Salem, NC 27101

I thought this was a simple proposal but it's turned out to be quite complex.

Introduced the petitioner and other vets who would be operating here.

The requested building is about the size of a large individual family home.

We have proposed saving the majority of the trees.

86% of our site is in open space.

This keeps impervious surface and storm water to small impacts.

Our goal all along was to create the least impact to the neighborhood.

Realistically, a vet's office has less traffic than medical and dental uses. They average 2-3 clients per hour as opposed to the 10 indicated for medical and dental uses.

We're allowed to put 13 homes on this site with 8-10 times the impervious surface.

This proposal is better than what the site is currently zoned for.

The issue all along has been the access issue. This is a State road under State jurisdiction. Our first stop in considering this was to talk with State DOT. They indicated agreement to a right-in, right-out.

Our client would like to have the right-in, right-out and stub street. Staff feels we should only have access through the shopping center. We are willing to compromise and let the access to Robinhood Road be a temporary access.

Basically, staff has asked us to become an outparcel of a site where we have no control.

We can live with that, but don't want to have a situation where access is so steep or so difficult that it dissuades customers.

We need a means to get to our property until such time as Mt. Tabor Place figures out what they are doing and when.

The neighborhood's concern is that if we go away, a lot of worse things can happen here.

We've spent six months trying to get to this point.

I don't think it's feasible to get access through Whitaker Square.

AGAINST:

Carol Strittmatter, 817 Clovelly Road, Winston-Salem, NC 27106

I represent the Robinhood Trails Association.

As much as we dislike more commercial development, we have realized that this will be commercially developed. If we have to lose to something, this is not a bad thing to lose too. Our concern is the right-in, right-out on Robinhood.

Our two concerns have always been storm water runoff and traffic.
When the Mt. Tabor Place project was approved, a condition was that access to this site be through Mt. Tabor Place. However, Mt. Tabor Place has not been developed. I think whatever happens, Mt. Tabor Place owners and developers have to be involved.
Quoted from Aldermen's minutes from meeting.

WORK SESSION

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

1. Steve Johnson: Has staff addressed with the petitioner the substantial incline and curve found here between the Mt. Tabor Place site and the current site?
2. Glenn Simmons: The grade here is 11% at this location. What the petitioner is proposing, and what we would propose, is that when the access is made, it would be suitable for emergency vehicles and delivery and so forth. I have a call in to the Fire Marshall to find out exactly what their criteria would be. They have reviewed this site plan and the 11% grade appears to be acceptable since they did not comment that it is a problem. The concern is making sure that the property to the west meets the grade requirements for functional access. That would have to be done through the construction review process when this property comes in for building permits.
3. Steve Johnson: So whose responsibility will it be to make sure the grades line up? If the developer of Mt. Tabor Place has only been required to provide the stub, I don't think he's counting on doing some additional grading so that this site could be utilized, although it was at one time owned by the same property owner.
Glenn Simmons: I guess that's part of the reason why we think the shopping center should come first. In the process of doing the work on the shopping center and getting the building permits, we would want to be sure that the grade relationship would be adequate.
4. The Mt. Tabor Place stub is required to be located where it is shown on their site plan, and as such it should line up horizontally to this proposed access.
5. Kerry Avant: Would it be a reasonable request for the petitioner of this case to not actually put this access in until such time as the shopping center is developed and at the time they have to abandon the right-in right-out they would then be required to coordinate with the shopping center? Glenn Simmons: I would say it might work better the other way. If he were to go on and put the stub street in now, to his needs, then it would be incumbent upon the shopping center to meet those grades and make it work. By installing his stub street first, the petitioner really sets the stub location and grades which the other development would have to meet.

6. Steve Snelgrove: Is it impractical to think that they could get access to that other site now? Glenn Simmons: The existing parking lot at Mt. Tabor Place is quite a distance away from this location. We can't ask someone to go off-site and make conditions for something like that.
7. Steve Snelgrove: I have some concerns with this right-in, right-out. I understand that may be a practical consideration, but without a deceleration lane and an acceleration lane in that site, people fly down that road and anytime there's an ice storm like there was last night, I have actually seen people sliding down the hill when they're trying to get up it. If you ever tried to stop there or come out there, it's a disaster waiting to happen.
8. Kem Schroeder: I'm also concerned about the right-in, right-out because I think we're creating another Blockbuster situation where it's right-in, right-out now and people have to go all the way down, do a u-turn on Peace Haven and come back up and then take their right out.
9. Steve Snelgrove: I'm sympathetic to the use. I think it's a nice use for this area. I just think the timing is really challenging given the traffic situation.
10. Kem Schroeder: Is it topographically impossible to get an easement across the HB property behind it to Whitaker Road? Glenn Simmons: When the petitioner came in several months ago, we talked about all the opportunities and constraints of this property and one of the things we did discuss was that access was going to be the issue. The degree to which it was an issue was something to be discussed and developed through our staff review. But one of the things we suggested was that if they were to get access off Whitaker Road at this point, that would be a much better solution to the access concern. Again, though, that is requiring access to come through property that is not owned by the petitioner.
11. Doug Stimmel: There's approximately a 30-40 foot drop from our proposed building to the bottom of this area of the Whitaker Place property. Crossing that is not feasible for a use of this size.
12. Kem Schroeder: I share Steve's concern that if you put even that right-in, right-out, access on Robinhood Road, this shouldn't be a vet's; it should be an emergency care because there are going to be even more accidents than there are already at Clovelly.
13. Glenn Simmons: Initially the City of Winston-Salem had asked for a complete lane the full length of the property which would tie in with improvements which were part of the shopping center. That's a pretty onerous requirement for a use of this nature to do. What they have agreed to do and what was a compromise that

transportation officials considered to be a safe arrangement would be to put in a 100' deceleration lane at this point that would allow folks to get out of the travel lane and to slow down before turning into the project.

14. Kem Schroeder: Conditions on this petition cannot be enforceable on adjoining property owners.
15. Doug Stimmel: If he builds his stub street to grade, we can meet that. I think it is the responsibility of staff to apply a condition requiring him to build to grade when he comes through the Planning Review or staff change process.
16. Kem Schroeder: One of the big issues for us with Mt. Tabor Place was the connection to Whitaker Square. If I don't have assurance that this right-in, right-out entrance will go away, I can't support this because I feel it's a very dangerous entrance.
17. Doug Stimmel: If we don't get access through Mt. Tabor Place, is this a totally useless piece of property that nothing can ever be done with? Single family can still go on it and access onto Robinhood Road is permitted for single family.
18. Plans for the potential widening of Robinhood Road include widening Robinhood Road to Coliseum Drive, but it's about a twenty-year plan and there is no funding for it.
19. Alderman Bob Northington's motion to approve Mt. Tabor Place requires the petitioner there to provide reasonable access to the current site. Paul Norby: "Reasonable access" can be defined as "requiring that the access work for emergency vehicles". If it doesn't work for emergency vehicles, it is not a reasonable access.
20. Kerry Avant: It seems like you could hold up that shopping center if they didn't agree to take that stub street to the property line and mutually agree to make it workable. There's just as much burden on them as there is on this property owner.
21. Steve Johnson: I think we have to consider that a developer who has gotten his plan approved is not going to spend any more money than he has to. Maybe the safety issue is where we hang our hat. This is a wonderful use for this site compared to what else could be done here. I'm in favor of the zoning, but the site plan has some issues which have to be resolved. The developer agreeing to right-in, right-out being temporary is the best approach.
22. Steve Snelgrove: This is a wonderful use, but it's putting the cart before the horse. It's a safety issue.

23. Kem Schroeder: I don't know if I can even support a temporary right-in, right-out.

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

SECOND: Steve Johnson

VOTE:

FOR: Avant, Bost, Johnson, Rousseau, Williams

AGAINST: King, Powell, Schroeder, Snelgrove

EXCUSED: None

SITE PLAN MOTION: Kerry Avant certified that the site plan meets all code requirements and recommended staff conditions. In addition, a deceleration lane shall be installed and the right-in, right-out on Robinhood Road shall be temporary, to be abandoned when the stub to the property to the west is put in and that the stub street meet emergency vehicles needs.

SECOND: Steve Johnson

VOTE:

FOR: Avant, Bost, Johnson, Rousseau, Snelgrove, Williams

AGAINST: Powell, Schroeder

EXCUSED: None

Confusion expressed by a member. More discussion was held before the vote was retaken:

FOR: Avant, Bost, Johnson, Rousseau, Snelgrove, Williams

AGAINST: King, Powell, Schroeder

EXCUSED: None

A. Paul Norby, AICP
Director of Planning