

DOCKET #: F1500
(continued from 7/10/08)

PROPOSED ZONING:
LI-S

EXISTING ZONING:
RS9

PETITIONER:
Hubbard Realty of Winston-Salem,
et al, & McGuire Construction
Co. Inc. for property
owned by Same

SCALE: 1" represents 600'

STAFF: Bennett

GMA: 3

ACRES: 5.64

**NEAREST
BLDG:** 120'

MAP(S): 594822

F

August 20, 2008

Hubbard Realty of Winston-Salem et al
McGuire Construction Co. Inc.
c/o Austin McGuire
4007-A Country Club Road
Winston-Salem, NC 27104

RE: ZONING MAP AMENDMENT F-1500

Dear Mr. McGuire:

The attached report of the Planning Board to the Forsyth County Board of Commissioners is sent to you at the request of the Commissioners.

When the rezoning is scheduled for public hearing, you will be notified by Carla Holt, Clerk to the County Commissioners, of the date on which the Commissioners will hear this petition.

Sincerely,

A. Paul Norby, FAICP
Director of Planning

Attachment

pc: Carla Holt, County Manager's Office
Alex Carter, 503 High Street, Winston-Salem, NC 27101
Kevin Fox, 5120 Spiral Wood Drive, Clemmons, NC 27012

FORSYTH COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: _____ **AGENDA ITEM NUMBER:** _____

SUBJECT:-

- A. Public Hearing on Zoning Map Amendment of Hubbard Realty of Winston-Salem et al & McGuire Construction Co. Inc. from RS-9 to LI-S (Arts and Crafts Studio; Building Materials Supply; Implement Sales and Service; Wholesale Trade A; Wholesale Trade B; Building Contractors, General; Building Contractors, Heavy; Motor Vehicle, Rental and Leasing; Non-Store Retailer; Offices, Miscellaneous; Professional Office; Services, Business A; Services, Business B; Storage Services, Retail; Testing and Research Lab; Warehousing; Recreation Facility, Public; Academic Biomedical Research Facility; Manufacturing A; Manufacturing B; and Utilities) and Special Use Permit to cross LI-S zoned property to access a RS-9 zoned site: property is located at the eastern terminus of Clementine Drive, west of Prairie Grove Drive (Zoning Docket F-1500).
- B. Ordinance amending the Forsyth County Zoning Ordinance and Official Zoning Map of the County of Forsyth, North Carolina.
- C. Approval of Special Use District Permit
- D. Approval of Site Plan
- E. Approval of Special Use Permit

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:-

SUMMARY OF INFORMATION:-

See attached staff report.

After consideration, the Planning Board recommended approval of the rezoning petition and Special Use Permit.

ATTACHMENTS:- YES NO

SIGNATURE: _____ **DATE:** _____
County Manager

COUNTY ORDINANCE - SPECIAL USE

Zoning Petition of Hubbard Realty of Winston-Salem, et al
& McGuire Construction Co. Inc., Docket F-1500

AN ORDINANCE AMENDING
THE FORSYTH COUNTY
ZONING ORDINANCE AND THE
OFFICIAL ZONING MAP OF
THE COUNTY OF FORSYTH,
NORTH CAROLINA

BE IT ORDAINED by the Board of County Commissioners of the County of
Forsyth as follows:

Section 1. The Zoning Ordinance of the *Unified Development Ordinances* of the County of Forsyth, North Carolina, and the Official Zoning Map of the County of Forsyth, North Carolina, are hereby amended by changing from RS-9 to LI-S (Arts and Crafts Studio; Building Materials Supply; Implement Sales and Service; Wholesale Trade A; Wholesale Trade B; Building Contractors, General; Building Contractors, Heavy; Motor Vehicle, Rental and Leasing; Non-Store Retailer; Offices, Miscellaneous; Professional Office; Services, Business A; Services, Business B; Storage Services, Retail; Testing and Research Lab; Warehousing; Recreation Facility, Public; Academic Biomedical Research Facility; Manufacturing A; Manufacturing B; and Utilities) the zoning classification of the following described property:

BEGINNING at an iron in the eastern corner of Lentz Property Management, LLC, as recorded in Deed Book 2103, Page 2072 at the Forsyth County Register of Deeds, PIN 5892-63-0936, being the southern line of Norfolk Southern Railway; Thence with the southern line of said railway North 83°58'09" East 97.83 feet to an iron; Thence following a curve to the right with a radius of 1184.52', Ark length of 424.75' with a chord bearing and distance of North 73°42'48" East 422.48 feet to a point; Thence following a new line, Hubbard Realty of Winston-Salem, Inc. and McGuire Construction Co., Inc. as recorded in Deed Book 1641, Page 1137 at the Forsyth County Register of Deeds, five (5) courses; 1) South 21°30'57" East 180.43 feet to a point; 2) South 24°17'33" West 181.56 feet to a point in the creek also being the new corner of PIN 5892-74-3035; 3) South 13°01' 05" West 90.46 feet to a point; 4) South 58°02'53" West 514.40 feet to a point; 5) North 88°40'21" West 36.11 feet to an iron in the eastern line of Clemmons Discount Sales, Inc. as recorded in Deed Book 1868, Page 760 at the Forsyth County Register of Deeds, PIN 5892-63-4428, also being the southwest corner of PIN 5892-74-3484; Thence North 02°19'24" East 126.86 feet to a point in the centerline right-of-way of Clementine

Drive; Thence North 02°19'24" East 90.41 feet to an iron in the eastern line of Lentz Property Management, LLC, as recorded in Deed Book 2103, Page 2072 at the Forsyth County Register of Deeds, PIN 5892-63-0936; Thence following said line North 01°41'36" West 218.63 feet to an iron in said line; Thence North 01°39'16" West 128.56 feet to the point and place of BEGINNING. Being a portion of PIN 5892-74-3484 containing 5.642 acres more or less.

Section 2. This Ordinance is adopted after approval of the site plan entitled Hubbard Realty of Winston-Salem et al & McGuire Construction Co. Inc., and identified as Attachment A of the Special Use District Permit issued by the Forsyth County Board of Commissioners the _____ day of _____, 20____ to Hubbard Realty of Winston-Salem et al & McGuire Construction Co. Inc.

Section 3. The Board of Commissioners 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 Hubbard Realty of Winston-Salem et al & McGuire Construction Co. Inc. 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.

COUNTY, SPECIAL USE DISTRICT PERMIT
SPECIAL USE DISTRICT PERMIT

Issued by the Forsyth County
Board of Commissioners

The Forsyth County Board of Commissioners issues a Special Use District Permit for the site shown on the site plan map included in this zoning petition of Hubbard Realty of Winston-Salem et al & McGuire Construction Co. Inc. (Zoning Docket F-1500). 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 LI-S (Arts and Crafts Studio; Building Materials Supply; Implement Sales and Service; Wholesale Trade A; Wholesale Trade B; Building Contractors, General; Building Contractors, Heavy; Motor Vehicle, Rental and Leasing; Non-Store Retailer; Offices, Miscellaneous; Professional Office; Services, Business A; Services, Business B; Storage Services, Retail; Testing and Research Lab; Warehousing; Recreation Facility, Public; Academic Biomedical Research Facility; Manufacturing A; Manufacturing B; and Utilities)", approved by the Forsyth County Board of Commissioners the ____ day of _____, 20 ____" and signed, provided the property is developed in accordance with requirements of the LI-S zoning district of the Zoning Ordinance of the *Unified Development Ordinances* of the County Code, the Erosion Control Ordinance, and other applicable laws, and the following conditions be met:

- **PRIOR TO THE ISSUANCE OF ANY PERMITS:**
 - a. Developer shall obtain a Land Disturbing Permit
 - b. Flag 30' stream buffer in field.
 - c. Provide copy of state water quality stream disturbance notification.
- **PRIOR TO THE ISSUANCE OF GRADING PERMITS:**
 - a. Developer shall obtain a driveway permit from NCDOT; additional improvements may be required prior to issuance of driveway permit.
- **PRIOR TO THE ISSUANCE OF BUILDING PERMITS:**
 - a. Record final plat in the office of the Register of Deeds.
- **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS:**
 - a. All required improvements of the NCDOT driveway permit shall be completed.

COUNTY ORDINANCE - SPECIAL USE PERMIT

Special Use Permit of Hubbard Realty of Winston-Salem, et al
& McGuire Construction Co. Inc.,
Docket F-1500

AN ORDINANCE ISSUING A SPECIAL USE
PERMIT TO CROSS LI-S ZONED PROPERTY TO
ACCESS A RS-9 ZONED SITE

BE IT ORDAINED by the Board of Commissioners of Forsyth County as follows:

Section 1. The Board of Commissioners hereby makes an affirmative finding as follows,
based upon the material and competent evidence presented at the public hearing:

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved;
2. That the use meets all required conditions and specifications;
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and,
4. That the location and character of the use, if developed according to the application and plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with *Legacy*.

Section 2. The Forsyth County Board of Commissioners hereby issues a special use permit for Hubbard Realty of Winston-Salem et al & McGuire Construction Co. Inc. in accordance with Section 6-1.5 of the Zoning Ordinance of the *Unified Development Ordinances* to cross LI-S zoned property to access a RS-9 zoned site to be established on the following described property:

BEGINNING at an iron in the eastern corner of Lentz Property Management, LLC, as recorded in Deed Book 2103, Page 2072 at the Forsyth County Register of Deeds, PIN 5892-63-0936, being the southern line of Norfolk Southern Railway; Thence with the southern line of said railway North 83°58'09" East 97.83 feet to an iron; Thence following a curve to the right with a radius of 1184.52', Ark length of 424.75' with a chord bearing and distance of North 73°42'48" East 422.48 feet to a point; Thence following a new line, Hubbard Realty of Winston-Salem, Inc. and McGuire Construction Co., Inc. as recorded in Deed Book 1641, Page 1137 at the Forsyth County Register of Deeds, five (5) courses; 1) South 21°30'57" East 180.43 feet to a

point; 2) South 24°17'33" West 181.56 feet to a point in the creek also being the new corner of PIN 5892-74-3035; 3) South 13°01' 05" West 90.46 feet to a point; 4) South 58°02'53" West 514.40 feet to a point; 5) North 88°40'21" West 36.11 feet to an iron in the eastern line of Clemmons Discount Sales, Inc. as recorded in Deed Book 1868, Page 760 at the Forsyth County Register of Deeds, PIN 5892-63-4428, also being the southwest corner of PIN 5892-74-3484; Thence North 02°19'24" East 126.86 feet to a point in the centerline right-of-way of Clementine Drive; Thence North 02°19'24" East 90.41 feet to an iron in the eastern line of Lentz Property Management, LLC, as recorded in Deed Book 2103, Page 2072 at the Forsyth County Register of Deeds, PIN 5892-63-0936; Thence following said line North 01°41'36" West 218.63 feet to an iron in said line; Thence North 01°39'16" West 128.56 feet to the point and place of BEGINNING. Being a portion of PIN 5892-74-3484 containing 5.642 acres more or less.

Section 3. This Ordinance is adopted after approval of the site plan entitled Hubbard Realty of Winston-Salem et al & McGuire Construction Co. Inc. and identified as Attachment "A" of the Special Use Permit issued by the Board of Commissioners the _____ day of _____, _____ to Hubbard Realty of Winston-Salem et al & McGuire Construction Co. Inc.

Section 4. The Board of Commissioners hereby directs the issuance of a Special Use Permit pursuant to Section 6-1.5 of the Zoning Ordinance of the *Unified Development Ordinances* for a development to be known as Hubbard Realty of Winston-Salem et al & McGuire Construction Co. Inc.. Said Special Use Permit and site plan with associated documents are attached hereto and incorporated herein.

Section 5. This Ordinance shall be effective from and after its adoption.

**CITY-COUNTY PLANNING BOARD
STAFF REPORT**

PETITION INFORMATION			
Docket #	F-1500		
Staff	Kelly Bennett		
Petitioner(s)	Hubbard Realty of Winston-Salem et al & McGuire Construction Co. Inc.		
Owner(s)	Same		
Subject Property	Portion of PIN 5892-74-3484		
Type of Request	Special Use Zoning Request and Special Use Permit for access through LI-S to serve RS-9-zoned land		
Proposal	<p>The petitioner is requesting to amend the Official Zoning Maps for the subject property from RS-9 (Residential Single Family) to LI-S (Limited Industrial). The petitioner is requesting the following uses:</p> <ul style="list-style-type: none"> Arts and Crafts Studio; Building Materials Supply; Implement Sales and Service; Wholesale Trade A; Wholesale Trade B; Building Contractors, General; Building Contractors, Heavy; Motor Vehicle, Rental and Leasing; Non-Store Retailer; Offices, Miscellaneous; Professional Office; Services, Business A; Services, Business B; Storage Services, Retail; Testing and Research Lab; Warehousing; Recreation Facility, Public; Academic Biomedical Research Facility; Dirt Storage; Manufacturing A; Manufacturing B; Borrow Site; Utilities; and Motor Vehicle, Storage Yard 		
Zoning District Purpose Statement	The LI District is primarily intended to accommodate limited manufacturing, wholesaling, warehousing, research and development, and related commercial and service activities which, in their normal operations, have little or no adverse effect upon adjoining properties. The district is established to provide locations for industrial development in Growth Management Areas 1, 2, 3, and 4, and Metro Activity Centers.		
Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(S)	(S)(1) - Is the proposal consistent with the purpose statement(s) of the requested zoning district(s)?		
	Yes, the site is located within GMA 3.		
GENERAL SITE INFORMATION			
Location	Eastern terminus of Clementine Drive, west of Prairie Grove Drive		
Jurisdiction	Forsyth County		
Site Acreage	Approximately ± 5.64 acres		
Current Land Use	Undeveloped land		
Surrounding Property Zoning and Use	Direction	Zoning District	Use
	North	RS-9	Railroad and Undeveloped property
	East	RS-9	Residential Property
	South	RS-9	Undeveloped Property

	West	LI	Large footprint industrial warehousing	
Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(S)	(S)(2) - Is/are the use(s) permitted under the proposed classification/request compatible with uses permitted on other properties in the vicinity?			
	The properties to the west, where the parcel has access onto Clementine Dr, are zoned LI, which is compatible with the requested LI-S zoning. The surrounding residential property will be compatible with the requested LI-S zoning as the buildings will be as far as possible from the residential development and will be buffered by mature large-variety trees.			
Physical Characteristics	Moderate downward slope toward a small creek which traverses the property			
Proximity to Water and Sewer	Water line to end of Clementine Dr, 8" Sewer Line runs through property			
Stormwater/ Drainage	A branch of Muddy Creek crosses the subject property from west to east. Muddy Creek lies approximately 3,700 feet northeast of the subject property's eastern border.			
Watershed and Overlay Districts	The site is not within a water supply watershed.			
Analysis of General Site Information	The subject request is to rezone ±5.64 acres of undeveloped property located at the eastern terminus of Clementine Drive from RS-9 to LI-S. Clementine Drive extends eastward approximately one half of a mile from Hampton Road and is fronted along both sides by numerous large footprint manufacturing and industrial warehouses which are zoned LI. To the north of the subject property is a railroad with undeveloped RS-9 property located on the opposite side. The southeastern side of the property is bordered by the Peppertree subdivision. Both the subject property and the residential subdivision were once part of the same 45± acre tax lot owned by the petitioner. A 100-foot-wide Duke Power easement runs between this subdivision and the subject property.			
Generalized Recommended Conditions	<u>BRIEF DESCRIPTION OF CONDITION(S):</u> <ul style="list-style-type: none"> • Land Disturbing Permit required; • Copy of State Water Quality Stream Disturbance Notification prior to permits; • Flag 30ft buffer each side of stream from top of banks. 			
SITE ACCESS AND TRANSPORTATION INFORMATION				
Street Name	Classification	Frontage	ADT Count	Capacity/LOS D
Clementine Dr	Local	60'	NA	Local
Proposed Access Point(s)	Clementine Drive			
Planned Road Improvements	A 2-lane, 2.3 mile extension of Idols Road from Hampton Road to South Stratford Road is scheduled for construction between 2008 and 2014.			

Trip Generation - Existing/Proposed	<p><u>Existing Zoning:</u> RS-9 $5.64 \times 43,560 / 9,000 = 27$ residential units $\times 9.57$ (Single Family Detached Housing Trip Rate) = 259 Trips per Day.</p> <p><u>Proposed Zoning:</u> LI-S $20,000\text{sf}/1,000 \times 39.71$ (Building Materials and Lumber Trip Rate) = 795 Trips per Day.</p>
Sidewalks	None.
Analysis of Site Access and Transportation Information	Site is accessed by Clementine Drive which is not shared by nearby residential development. Clementine is lined with large footprint LI zoned buildings and would be an appropriate access point if the subject property is rezoned for industrial use. Should this rezoning request be approved, the petitioner will be required to obtain a special use permit to access the remaining residential property, controlled by the petitioner, to the east of subject property. This application and staff report cover both the rezoning and the special use permit.
Generalized Recommended Conditions	<p><u>BRIEF DESCRIPTION OF CONDITION(S):</u></p> <ul style="list-style-type: none"> Obtain Driveway permit from NCDOT.
CONFORMITY TO PLANS AND PLANNING ISSUES	
Legacy GMA	GMA 3 (<i>Suburban Neighborhoods</i>)
Relevant Legacy Recommendations	<ul style="list-style-type: none"> <i>Economic Development:</i> Promote economic development which is compatible with existing residential neighborhoods and other business developments.
Relevant Area Plan(s)	<i>Clemmons Area Development Guide (2001)</i>
Area Plan Recommendations	<ul style="list-style-type: none"> <i>Land Use Plan Map:</i> Shown for single-family residential. (p.6)
Thoroughfare Plan Information	<i>Winston-Salem Urban Area Fiscally Constrained Transportation Plan 2004 – 2030:</i> A 2-lane, 2.3 mile extension of Idols Road from Hampton Road to South Stratford Road is scheduled for construction between 2008 and 2014.
Special Use Permit Findings	<p>The portion of this request involving providing access to the remaining residential property controlled by the petitioner involves a special use permit. For Special Use Permits (SUP) requiring approval by the Elected Body, certain findings have to be met. Findings of the Planning Board accompanying a favorable recommendation shall include:</p> <p><u>Planning Board Findings:</u></p> <ol style="list-style-type: none"> The development is in conformity with <i>Legacy</i>. (Yes) Water and sewer service are available in adequate capacity. (Yes) Where buildings greater than thirty-five (35) feet in height are proposed within the City of Winston-Salem limits, there is adequate access for aerial fire-fighting equipment. (N/A) Streets and highways, both within and in the vicinity of the development, are of such design and traffic-carrying capacity that the development will not create a traffic hazard. (Yes)

	<p>5. General layout and design of the development meet all requirements of this Ordinance. <i>(Yes)</i></p> <p>6. Adequate, safe and convenient provision is made for vehicular and pedestrian movement on the site with particular attention paid to the needs of public safety equipment and personnel (fire, police, etc) and service vehicles and personnel (sanitation, postal delivery, etc). <i>(Yes)</i></p> <p>7. The Planning Board may recommend to the Elected Body conditions as identified in Section 6-1.3(A)(1) for the issuance of the special use permit to reduce impacts associated with the project. <i>(See "SITE-SPECIFIC RECOMMENDED CONDITIONS OF APPROVAL" section below)</i></p> <p>The Elected Body shall issue a special use permit only when the Elected Body makes an affirmative finding as follows:</p> <p><u>Elected Body Findings:</u></p> <ol style="list-style-type: none"> 1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved. <i>(Yes)</i> 2. That the use meets all required conditions and specifications. <i>(Yes)</i> 3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and, <i>(Yes)</i> 4. That the location and character of the use, if developed according to the application and plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with <i>Legacy</i>. <i>(Yes)</i>
Other Applicable Plans and Planning Issues	Clemmons Council will provide no comments on other jurisdictions' cases at this time.
Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(S)	<p>(S)(3) - Have changing conditions substantially affected the area in the petition?</p> <p>No.</p> <p>(S)(4) - Is the requested action in conformance with <i>Legacy</i>?</p> <p>Yes. This proposal makes reasonable use of a parcel that cannot reasonably be used for its currently-zoned residential purpose but allows only those uses that would not disturb those in the surrounding residential area.</p>
Analysis of Conformity to Plans and Planning Issues	The <i>Clemmons Area Development Guide (CADG)</i> recommends the subject property be developed with single family homes consistent with the development pattern of the Peppertree subdivision. In regard to accommodating future industrial needs, the <i>CADG</i> recommends the undeveloped acreage located on the north side of the railroad tracks as being the most suitable area. Part of the reasoning behind this recommendation is the enhanced access provided by the future Idols Road Extension project (U-2707). Planning staff notes that the <i>CADG</i> was adopted by the Village of Clemmons, but not Forsyth County, who

currently has jurisdiction over this rezoning. The Village of Clemmons has no comment on this case, as they do not comment on zoning cases out of their jurisdiction.

While there is a strong presence of residential development in the nearby Peppertree subdivision, the topography of this area connects the parcel to Clementine Drive. Furthermore, the Peppertree subdivision was developed with cul-de-sacs which close off the most logical residential connectivity to this site. Moreover, the proximity of the parcel to existing industrial buildings and railroad tracks make it a practical limited industrial site. If this parcel is rezoned, its development will be, from a practical standpoint, very limited.

Although the subject property borders residential property, much of the parcel under the proposed rezoning will remain untouched. The proposed buildings are only one story and will be pushed back against the railroad tracks, approximately 500 feet from the nearest residence. Furthermore, the requested LI-S zoning will require all activities to take place indoors. Because the petitioner's proposed uses are limited to those with few externalities, this project would not be inconsistent with Legacy's recommendation of the promotion of economic development that is compatible with existing residential neighborhoods and business development. Required buffers and fully grown large-variety trees will block views of the industrial area from the existing residential development. If other existing trees are not removed, as the site plan indicates, there should be an ample buffer between these two land uses.

RELEVANT ZONING HISTORIES

Case	Request	Decision & Date	Direction from Site	Acreage	Recommendation	
					Staff	CCPB
F-1408	Rezone from RS-9 to LI	Withdrawn 5/10/04	Larger version of same site	9.86	N/A	Withdrawn
F-1347	SIDA for LI property	Approved 10/8/01	Approx .5 mile West	10.48	Approve	Approve
F-682	R-6 to I-2	Approved 1/12/84	South	11.4	Approve	Approve

SITE PLAN COMPLIANCE WITH UDO REQUIREMENTS

Building Square Footage	Square Footage		Placement on Site	
	20,000 sf		Northern border of property, along railroad tracks.	
Parking	Required	Proposed	Layout	
	50 spaces	58 spaces	90° Head-in parking	
Building Height	Maximum		Proposed	
	70ft		1 story	
Impervious Coverage	Maximum		Proposed	
	90%		22.6%	

UDO Sections Relevant to Subject Request	<ul style="list-style-type: none"> Chapter B, Article II, Sect 2-1.4(A) LI District Chapter B, Article III, Sect. 3-3 Parking, Stacking, and Loading Areas Chapter B, Article III, Sect. 3-5 Bufferyard Requirements 	
Complies with Chapter B, Article VII, Section 7-5.3	(A) Legacy policies:	Yes, see comments above.
	(B) Environmental Ord.	Yes.
	(C) Subdivision Regulations	N/A
Analysis of Site Plan Compliance with UDO Requirements	Site plan complies with parking and bufferyard requirements. Type IV Bufferyards are required between subject property and single family residential property. Adequate parking is shown on site plan. Staff believes the petitioner has done an adequate job of clustering the developed portion of the site closer to existing LI zoning and the railroad tracks.	
CONCLUSIONS TO ASSIST WITH RECOMMENDATION		
Positive Aspects of Proposal		Negative Aspects of Proposal
Topography makes site a logical continuance and terminus of LI zoning on Clementine Drive		Neighbors perceive industrial development as too close to neighborhood
Area has adequate number of trees to block externalities of LI uses		
SITE-SPECIFIC RECOMMENDED CONDITIONS OF APPROVAL		
The following proposed conditions are from interdepartmental review comments and are proposed in order to meet codes or established standards, or to reduce negative off-site impacts.		
<ul style="list-style-type: none"> <u>PRIOR TO THE ISSUANCE OF ANY PERMITS:</u> <ol style="list-style-type: none"> Developer shall obtain a Land Disturbing Permit Flag 30' stream buffer in field. Provide copy of state water quality stream disturbance notification. <u>PRIOR TO THE ISSUANCE OF GRADING PERMITS:</u> <ol style="list-style-type: none"> Developer shall obtain a driveway permit from NCDOT; additional improvements may be required prior to issuance of driveway permit. <u>PRIOR TO THE ISSUANCE OF BUILDING PERMITS:</u> <ol style="list-style-type: none"> Record final plat in the office of the Register of Deeds. <u>PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS:</u> <ol style="list-style-type: none"> All required improvements of the NCDOT driveway permit shall be completed. 		

**STAFF RECOMMENDATION: APPROVAL OF REZONING
APPROVAL OF SPECIAL USE PERMIT**

NOTE: These are **staff comments** only; final recommendations on projects are made by the City-County Planning Board, with final decisions being made by the appropriate Elected Body,

who may approve, deny, table or request modification for any project. **THE APPLICANT OR REPRESENTATIVE IS STRONGLY ENCOURAGED TO ATTEND THE PUBLIC HEARINGS WHERE THE CASE WILL BE CONSIDERED BY THE PLANNING BOARD AND THE ELECTED BODY.**

Kelly Bennett presented the staff report.

PUBLIC HEARING

FOR:

Alex Carter, 503 High Street, Winston-Salem, NC 27101

- The original plan was to use the whole tract. We brought this down to a much smaller tract and pushed the buildings as far back as we could.
- There is primarily RS-9 around the site except to the west which is zoned LI.
- I think there is concern about the proximity to RS-9. Displayed diagram on overhead showing distance between cul-de-sacs and proposed buildings. All buildings are at least 500 feet from existing residential properties.

Austin McGuire, 4007-A Country Club Road, Winston-Salem, NC 27104

- The City Fire Department came to inspect a similar facility which I own. The tenant who has been there 12 years had two gallons of paint which he mixed for his own use. The Fire Department said he could not have any paint so they closed him down and kicked him out.
- This small business man ended up having to go to Yadkinville to find a place where he could have his business.
- I decided there needed to be some places where people like him could work in Forsyth County.
- I already owned this property and started taking a look at it. It's against railroad tracks on one side, the other side is going to abut Idol's Road Extension, and the only entrance is through the property on Clementine Drive which is zoned industrial, and then it has a power line. That seems like the perfect location for 1,000-2,000 square foot warehouse/office space in one or two buildings, each with 4-6 tenants.
- I met with some of the homeowners from Peppertree. It seemed like one of their concerns was access. They wanted to make sure there was no access from Peppertree which there is not. The only access is through the industrial site on Clementine, so this site is really only appropriate for industrial use.
- They were concerned about the Dirt Storage and Borrow Pit. I don't have any use for those. We can eliminate that use.
- My plan is to build two nice looking office/warehouse buildings on the back side near the train tracks.
- Regarding visibility, I understand their concerns. They don't want to sit on their back decks and see something ugly. I don't think in the summertime they'll be able to see anything. It's just in the wintertime when the leaves are off that they'll be able to see the site.
- Right now there's about 50 tractor trailers down in the cul-de-sac. If that road becomes access to our buildings, those tractor trailers will have to be moved. You'll have heavy buffering and two good-looking small buildings with landscaping.

- I think the unknown is a problem for the neighbors because they just have to trust that we'll build something attractive. I've still got 85 lots in Peppertree. Most of those back up to the site we're talking about today. My investment there is huge. I've got to sell these lots to builders and the builders have to be able to sell them to homeowners. I'm not going to build something that will devalue my investment there.
- My intent is to build a private drive into the site, to leave as much landscape as possible and add more buffering and landscape where needed. I think it'll look better after the work is done than it does now.
- Regarding building height, most of my buildings have ceilings around 12-14' high. I'd be more than happy with a 20' maximum height and that would include any parapet I added.
- In response to a question from the Planning Board, Mr. McGuire noted that he did not know who owned the trailers, but they would have to be moved if that road becomes access to this site.
- There will definitely not be tractor-trailers on my property unless it's someone like UPS coming in to make a delivery and leave again.
- This is designed for small business owners like building contractors, small HVAC company, woodworkers, small plumbing company, a T-shirt company.
- We do plan on keeping these units and not selling them. If we did sell them, we certainly wouldn't do so until the development in Peppertree is completed. We couldn't control their appearance if we didn't own them and that could negatively impact our investment in Peppertree.

AGAINST:

Kevin Fox, 5120 Spiral Wood Drive, Clemmons, NC 27012

- I'm representing hundreds of families who are in opposition to this request.
- Asked those in opposition to stand.
- This is a fantastic neighborhood and a great community.
- We are more than 400 families.
- We chose this neighborhood for its rural beauty. We are committed to preserving our neighborhood, our environment, and our quality of life.
- We have things such as parades for our kids.
- This is wrong for our neighborhood.
- Staff didn't support this rezoning in 2004 because of recommendations from *Legacy* and the *Clemmons Area Development Guide*.
- Petitioner doesn't take care of his property.
- Warehousing is proposed, but could someday be used for Beer, Wine, and Distilled Beverages - Wholesale Trade; Academic Biomedical Research Facility; Chemicals and Allied Products - Wholesale Trade; Wrecking and Demolition Work; Building Contractors Heavy; Motor Vehicle Storage Yard; and/or Manufacturing, all of which would have a negative impact on our property values and on the quality of life.
- This is wrong for the City and County because it's piecemeal zoning, doesn't conform to *Legacy*, conflicts with the *Clemmons Area Development Guide*, and is not compatible with the County's vision of building and maintaining vibrant neighborhoods.
- The tractor trailers are a concern. They are abandoned. Chris Murphy, Inspections Division, explained that the tractor trailers are on an adjacent site.

- The only thing that is different this time is that there is more residential development there.
- Please uphold the appropriate zoning that is already in place.
- Please remember *Legacy*.

WORK SESSION

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

1. In 2004, the request was for 10 acres to be rezoned instead of the 6 acres requested today.
2. The property is listed in the area which Winston-Salem will not annex which makes it likely that it will eventually be annexed by Clemmons.
3. There are some violations out here. We're not sure if the notice of violation is on this site or off Clover Drive. It really depends on how the property was permitted and how the tractor-trailers are being used. They are allowed in LI zoning. The storage of equipment outside is not allowed and should be moved inside. If a trailer is licensed for over-the-road use (if it's drivable), it's considered a motor vehicle and if it is stored on the site it would be considered Motor Vehicle Storage Yard, also something allowed in LI. It really comes down to how it was permitted. Any trailers parked on the currently zoned RS-9 property would be in violation and should be moved.
4. The petitioner agreed that use "Motor Vehicle Storage Yard" could be dropped as he doesn't need it.
5. As explanation, Chris Murphy stated that the use mentioned by the petitioner which was shut down was in an HB District. The use going on there was "Wholesale Trade A" which is not allowed in the HB District. There was some paint mixing which was shut down by the Fire Department, but the zoning enforcement officers took action because the use that was happening is not allowed in the HB District.
6. In response to a question from the Planning Board, Mr. McGuire indicated that his engineer, John Beeson, has told him the two buildings currently planned are all he could fit onto this site and the four acres adjoining the railroad tracks. He stated that the area is basically undevelopable due to the train tracks and power lines and that the site could never be accessed across the railroad tracks. This is the extent of what we can develop, including parking spaces.
7. The site plan states that existing trees will remain. If the trees/vegetation does not meet the minimum standards, more will be planted.
8. The public road will be terminated in a cul-de-sac. Access to this site will be via private drive from the cul-de-sac.

9. Citizens have the right to report violations to Inspections which will then act on the situation.
10. If there is more than one vehicle which does not run on a property, it is a violation.
11. The request in 2004 was a different concept with considerably larger buildings. It was withdrawn, but was also a general use request. The existing warehouses were there when Peppertree was developed. People bought their homes in spite of the warehouses. The developer has moved the buildings all the way back to the railroad tracks. He's going to clean up his property, leave existing trees, and clean up the trailers even if they aren't on his property. This is a low-impact request. This is not a place for single family homes. I don't know what else he could do with this site.
12. Wesley Curtis: In general I dislike converting any residential property to industrial. However, this site plan is appropriate and residential development is not going to happen here.
13. Jerry Clark: These warehouses were already here when the neighbors bought their homes. This is a great use for this site.
14. Lynne Mitchell: Our job is to weigh the evidence on both sides. I'm going to support this, but I do thank everyone for coming out to address this issue.
15. Arthur King: Given all that has happened in this area, this is the best use for this particular piece of property.
16. Carol Eickmeyer: This is the kind of issue that makes me queasy. I do truly understand the need for low-impact business to have places to operate. I also understand the shock of living much more close to a business that's unknown. I admire the opposition for being here and trying to figure out how to make it better if you can't make it go away. I'm voting against it because sometimes when we send things forward without a unanimous vote, it gets a little closer look at the next level. I would encourage the opposition to look closely at the uses and buffering and make sure it's something you can live with. The people who own this property have the right to get something from it. You would want that same privilege, so the trick is to figure out what everybody can live with. You have several weeks to figure out what you can live with. Don't clap for me. I'm not particularly against this, but I do think it needs a closer look before it's voted on at the next level. I also appreciate what Mr. McGuire has given up.

MOTION: Paul Mullican moved approval of the zoning map amendment, eliminating the uses "Borrow Site", "Dirt Storage", and "Motor Vehicle Storage Yard" and limiting the height to 20 feet.

SECOND: Brenda Smith

VOTE:

FOR: Jerry Clark, Wesley Curtis, Arnold King, Arthur King, Lynne Mitchell, Paul Mullican, Brenda Smith

AGAINST: Carol Eickmeyer

EXCUSED: None

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

SECOND: Jerry Clark

VOTE:

FOR: Jerry Clark, Wesley Curtis, Carol Eickmeyer, Arnold King, Arthur King, Lynne Mitchell, Paul Mullican, Brenda Smith

AGAINST: None

EXCUSED: None

SPECIAL USE PERMIT MOTION: Paul Mullican moved approval of the Special Use Permit.

SECOND: Jerry Clark

Carol Eickmeyer indicated she is not convinced that the request meets all the Findings of Fact and therefore would vote against this request.

VOTE:

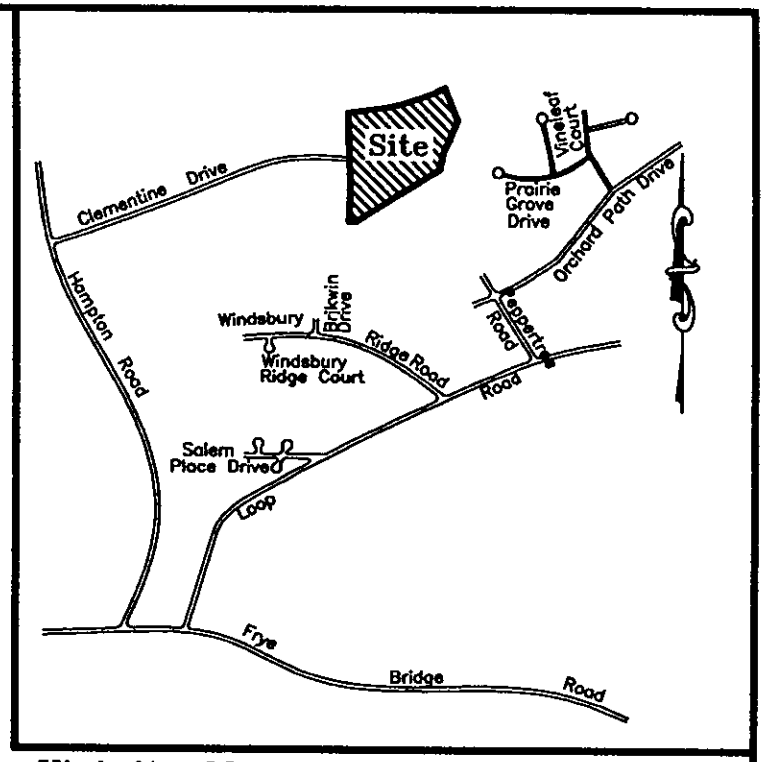
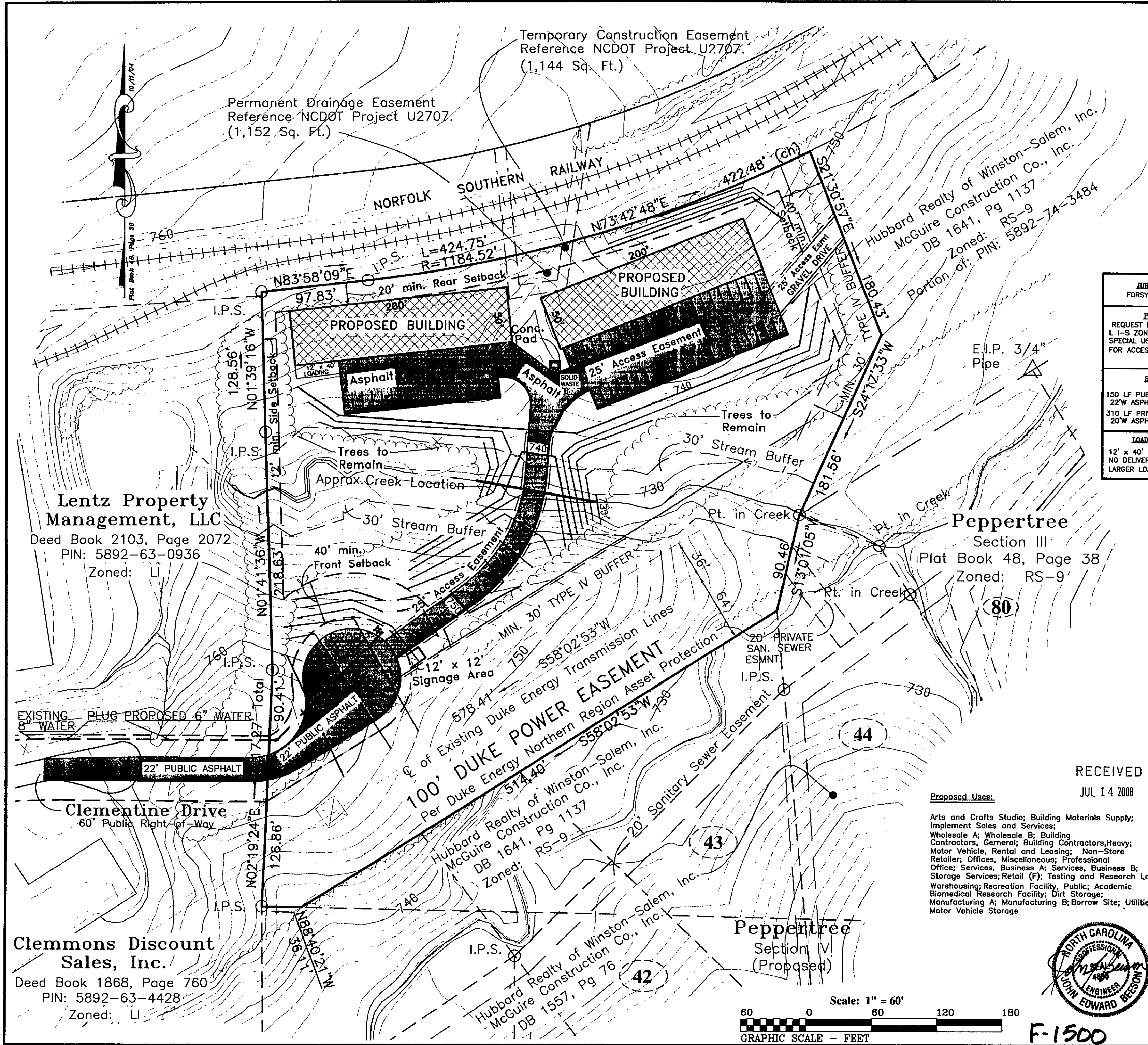
FOR: Jerry Clark, Wesley Curtis, Arnold King, Arthur King, Lynne Mitchell, Paul Mullican, Brenda Smith

AGAINST: Carol Eickmeyer

EXCUSED: None

According to information furnished on April 30, 2008 by the Office of the Tax Assessor, the subject property was in the name of Hubbard Realty & McGuire Construction.

A. Paul Norby, FAICP
Director of Planning



Vicinity Map Not to Scale

JURISDICTION FORSYTH COUNTY	ZONING Existing Zoning: RS-9 Proposed Zoning: LI-S Type of Review Requested:
PURPOSE REQUEST FOR LI-S ZONING & SPECIAL USE PERMIT FOR ACCESS	SITE SIZE AND COVERAGES Total Acreage: 5.842± Acres. Site Coverages: Building to Land: 8.14% Pavement to Land: 14.47% Open Space: 77.39% (Total = 100%) Building Sq. Footage (Max.): 20,000 Sq. Ft. Building Height: 1 (Pt. or Stories)
STREETS 150 LF PUBLIC 22'W ASPHALT 310 LF PRIVATE 20'W ASPHALT	LOADING SPACE 12' x 40' LOADING SPACE NO DELIVERS REQUIRE LARGER LOADING SPACE
INFRASTRUCTURE Water: <input checked="" type="checkbox"/> Public <input type="checkbox"/> Private Sewer: <input checked="" type="checkbox"/> Public <input type="checkbox"/> Private Streets: <input checked="" type="checkbox"/> Public <input type="checkbox"/> Private	OFF-STREET PARKING Proposed Uses: SEE LIST Parking Calc.: 1 Spaces/ 400 SQ.FT. Required Parking: 60 Spaces. Parking Provided: 66 Spaces.
BUFFERYARDS (if applicable) Adjoining Zoning: RS-9 Type Required: MIN. 15' TYPE IV Width Provided: MIN. 30' TYPE IV Fence Option: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Lentz Property Management, LLC
Deed Book 2103, Page 2072
PIN: 5892-63-0936
Zoned: LI

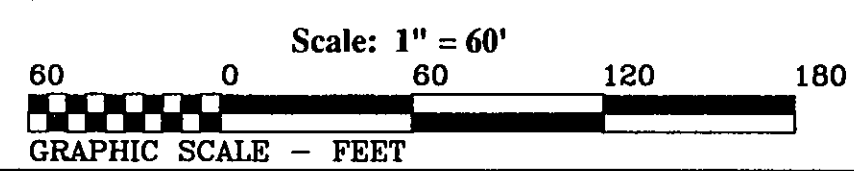
Peppertree
Section III
(Plat Book 48, Page 38)
Zoned: RS-9

Clemmons Discount Sales, Inc.
Deed Book 1868, Page 760
PIN: 5892-63-4428
Zoned: LI

100' DUKE POWER EASEMENT
Per Duke Energy Northern Region Asset Protection
Hubbard Realty of Winston-Salem, Inc.
McGuire Construction Co., Inc.
DB 1641, Pg 1137
Zoned: RS-9

Proposed Uses:
Arts and Crafts Studio; Building Materials Supply; Implement Sales and Services; Wholesale A; Wholesale B; Building Contractors, General; Building Contractors, Heavy; Motor Vehicle, Rental and Leasing; Non-Store Retailer; Offices, Miscellaneous; Professional Office; Services, Business A; Services, Business B; Storage Services; Retail (F); Testing and Research Lab; Warehousing; Recreation Facility, Public; Academic Biomedical Research Facility; Dirt Storage; Manufacturing A; Manufacturing B; Borrow Site; Utilities; Motor Vehicle Storage

RECEIVED
JUL 14 2008



F-1500

Preliminary Site Plan

For
Hubbard Realty of Winston-Salem
1598 Westbrook Plaza Drive
Winston-Salem, NC 27103
Phone: 336-723-0303
Fax: 336-725-2400

McGuire Construction Co., Inc.
4007A Country Club Road
Winston-Salem, NC 27104
Phone: 336-768-1922
Fax: 336-768-1963

FIELD WORK BY FC MC DH	CHECKED BY: JEB
PIN: 5892-74-3484	Deed Reference: Deed Book 1641, Page 1137
TOWNSHIP: Clemmonsville	CITY: Winston-Salem
STATE: N.C.	DATE: 06-02-2008
JOB NUMBER: 08100.005	DRAWN BY: daw/tbc/jbc

1 of 1

BEESON ENGINEERING INC.
SURVEYORS PLANNERS
603 HIGH STREET
WINSTON-SALEM, NC 27101
TELEPHONE: (336) 748-0071 FAX: (336) 748-0470
email: jbeeson@beesonengineering.com

Site Plan File Copy