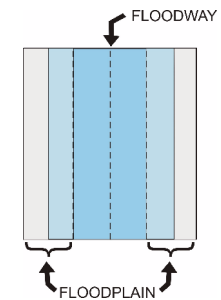


DOCKET #: F1472
 (remanded by the
 County Commissioners)

PROPOSED ZONING:
 LI

EXISTING ZONING:
 RS9

PETITIONER:
 Tetra Investment Group
 Twelve LLC for property
 owned by Same



SCALE: 1" represents 400'

STAFF: King

GMA: 3

ACRE(S): 3.9

**NEAREST
 BLDG:** 20' west

MAP(S): 606830

F

March 21, 2007

Tetra Investment Group Twelve LLC
c/o Ryan Bednar
315 East Chatham Street, Suite 200
Cary, NC 27511

RE: ZONING MAP AMENDMENT F-1472

Dear Sirs:

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 Jane Cole, 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: Jane Cole, County Manager's Office
Steve Causey, 4720 Kester Mill Road, Winston-Salem, NC 27106
Don Nielsen, 100 N. Cherry St., Winston-Salem, NC 27101
Robert Disher, 2470 West Clemmons Rd., Winston-Salem, NC 27127

FORSYTH COUNTY

BOARD OF COMMISSIONERS

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

SUBJECT:-

- A. Public Hearing on Zoning Map Amendment of Tetra Investment Group Twelve, LLC from RS-9 to LI: property is located on the south side of Clemmonsville Road, west of Griffith Road (Zoning Docket F-1472)

- B. Ordinance amending the Forsyth County Zoning Ordinance and Official Zoning Map of the County of Forsyth, North Carolina.

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:-

SUMMARY OF INFORMATION:-

See attached staff report.

After consideration, the Planning Board recommended Approval of the rezoning petition.

ATTACHMENTS:- YES NO

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

COUNTY ORDINANCE - GENERAL USE

Zoning Petition of Tetra Investment Group Twelve, LLC,
Docket F-1472

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 the zoning classification of the
following described property:

Tax Block 3889, Tax Lots 34H and 34K

Section 2. This ordinance shall become effective upon adoption.

**CITY-COUNTY PLANNING BOARD
STAFF REPORT**

PETITION INFORMATION	
Docket #	F-1472
Staff	Aaron King
Petitioner(s)	Tetra Investment Group Twelve, LLC
Owner(s)	Same
Subject Property	Tax Lots 34H and 34K, Tax Block 3889
Continuance History	This request was originally heard by the Planning Board at the October 12, 2006 meeting. At that time the requested zoning district was GI. The petition was revised to LI, which the Planning Board approved (7-0) at the November 9, 2006 meeting. The case was then heard by the Forsyth County Board of County Commissioners at their December 18, 2006 meeting. At that meeting, the case was remanded back to the Planning Board. The petitioners have requested the case go forward as the LI request that the Planning Board considered in November.
Type of Request	General use rezoning request from RS-9 to LI.
Proposal	The petitioner is requesting to amend the Official Zoning Maps for the subject property from RS-9 (Residential Single Family; 9,000 sf. lot size) to LI (Limited Industrial). NOTE: Both general and special use district zoning were discussed with the petitioner(s) who decided to pursue the rezoning as presented. With a General use, all uses in the District must be considered.
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 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)? The subject property is located within GMA 3. LI zoning is more appropriate at this location than GI, due to its list of more restrictive uses.
GENERAL SITE INFORMATION	
Location	South side of Clemmonsville Road, west of Griffith Road
Jurisdiction	Forsyth County
Site Acreage	Approximately ± 3.9 acres
Current Land Use	Undeveloped land

Surrounding Property Zoning and Use	Direction	Zoning District		Use
	North	RS-9 and GI		Single family homes and industrial building
	East	GI		Industrial buildings
	South	GI		Undeveloped land
	West	RS-9		Single family home
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 request is compatible with the GI property to the east and south.			
Physical Characteristics	The site slopes down from the north and south (+/- 734 ft.) toward the middle of the property (+/- 718 ft.). A tributary of Salem Creek runs east/west through the middle of the property. The National Wetlands Inventory Map (Winston-Salem West Quad Sheet) identifies the pond on the site as a PUSCh (Palustrine, Unconsolidated Shore, Seasonally Flooded, Diked/Impounded wetland).			
Proximity to Water and Sewer	The subject property has access to public water and public sanitary sewer.			
Stormwater/ Drainage	No known issues.			
Watershed and Overlay Districts	The subject property is not located within a water supply watershed.			
Analysis of General Site Information	The subject request contains 3.9 acres located on the south side of Clemmons ville Road. The site is relatively flat and contains a pond that has been drained. The request poses no site development issues.			
SITE ACCESS AND TRANSPORTATION INFORMATION				
Street Name	Classification	Frontage	ADT Count	Capacity/LOS D
Clemmons ville Road	Major Thoroughfare	+/- 159 feet	12,000	16,100
Proposed Access Point(s)	Since this is a general use request, a site plan is not included which legally restricts where the access point must be. Hence the exact location of access points is unknown. The subject property does have public road frontage on Clemmons ville Road as well as frontage onto an approved subdivision street crossing the subject property into the GI property to the south. A February, 2006 approved subdivision plan for this property and the GI zoned property to the south shows a public street coming up from the south through this property and connecting with West Clemmons ville Road.			
Planned Road Improvements	The Thoroughfare Plan recommends that Clemmons ville Road be constructed as a three lane cross section with sidewalks and curb and gutter.			

Trip Generation - Existing/Proposed	<p><u>Existing Zoning: RS-9</u> $3.9 \times 43,560 / 9,000 = 18 \text{ units} \times 9.57 \text{ (SFR Trip Rate)} = 70 \text{ Trips per Day}$</p> <p><u>Proposed Zoning: LI</u> No trip generation numbers are available for general use LI zoning.</p>
Sidewalks	None existing
Transit	No
Traffic Impact Study (TIS)	Not required
Analysis of Site Access and Transportation Information	Since this is a general use request, it is difficult for staff to evaluate the transportation impacts associated with this request. The subject property, along with GI zoned property to the south, received preliminary subdivision approval from the Planning Board on February 9, 2006. The subdivision plan shows a public road running north-south through the subject property and into the industrial subdivision.
CONFORMITY TO PLANS AND PLANNING ISSUES	
Legacy GMA	GMA 3 (Suburban Neighborhoods)
Relevant Legacy Recommendations	<ul style="list-style-type: none"> Legacy recommends promoting economic development which is compatible with existing residential neighborhoods and adjoining business developments. It recommends protecting residential areas from inappropriate commercial and industrial encroachment.
Relevant Area Plan(s)	The subject property is not located within the boundaries of a development guide or area plan.
Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(S)	(S)(3) - Have changing conditions substantially affected the area in the petition?
	No
	(S)(4) - Is the requested action in conformance with Legacy?
Yes	
Analysis of Conformity to Plans and Planning Issues	The subject request is consistent with Legacy's recommendation for promoting economic development. When this request was originally submitted for GI zoning, staff was concerned about the intensity of many of the uses in the GI district and therefore recommended LI zoning. As mentioned in the LI purpose statement above, the 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." Staff takes note of the property located between the subject property and Clemmonsville Road. If it is not incorporated into the larger Salem Creek Industrial Park design, it basically becomes an island of property zoned RS-9 that is surrounded on three sides by industrial zoning. However, the LI zoning would require a Type IV bufferyard between any development on a building lot and RS-9 zoned property.

RELEVANT ZONING HISTORIES						
Case	Request	Decision & Date	Direction from Site	Acreage	Recommendation	
					Staff	CCPB
F-1236	Special Use Permit to cross RS-9 property	Approved July 13, 1998	East	2.66	Approval	Approval
UDO Sections Relevant to Subject Request		<ul style="list-style-type: none"> Section 2-1.4(A) LI District 				
Complies with Chapter B, Article VII, Section 7-5.3		(A) Legacy policies:		Yes		
		(B) Environmental Ord.		NA		
		(C) Subdivision Regulations		NA		
CONCLUSIONS TO ASSIST WITH RECOMMENDATION						
Positive Aspects of Proposal				Negative Aspects of Proposal		
The request would allow for the expansion of a future industrial park.				As general use zoning, the request gives no assurances as to how adjacent residents will be protected from potential negative impacts such as noise, lighting, etc.		
The request is consistent with <i>Legacy's</i> recommendation for promoting economic development.				Approval of the request would create a pocket of RS-9 property surrounded by industrial zoning.		

STAFF RECOMMENDATION: APPROVAL

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.**

PUBLIC HEARING - October 12, 2006

FOR: None

AGAINST: None

WORK SESSION

MOTION: Clarence Lambe moved continuance of the zoning map amendment to November 9, 2006.

SECOND: Paul Mullican

VOTE:

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

AGAINST: None

EXCUSED: None

PUBLIC HEARING - November 9, 2006

Aaron King presented the staff report.

FOR:

Steve Causey, Allied Design, 4720 Kester Mill Road, Winston-Salem, NC 27103

- I apologize for last month's submission for GI. The theory was it would be consistent with adjacent zoning and part of the subdivision. After talking with staff, we can appreciate the concerns and gladly change the request to LI.
- The configuration and size of the property and the streams and storm water retention pond restrict the use of most of this lot anyway. I think we can only yield about 1 or 2 half-acre lots in that area as it's subdivided anyway.
- I understand that some of the adjoining property owners are here today. We did meet with them after the rezoning request submittal. As we understand it, their primary concerns were the intense use of the subdivision in general and the nature of the use of the subject property and surrounding property, most specifically the road because it's the public right-of-way that will adjoin their property rather than the particular uses on this property. The subdivision road was approved in February of this year.
- The petitioner is here today in case you have questions of him.
- In response to a question from a Board member, Mr. Causey explained where they are in planning the project, how the number of lots would be reduced to one or two, and where the public right-of-way would be located.

Ryan Bednar, 315 E. Chatham Street, Cary, NC 27511

- I'm here representing the developer and would be glad to answer any questions the Board members may have.

AGAINST:

Robert Disher, 2470 W. Clemmons Road, Winston-Salem, NC 27127

- My wife and I have resided here for about 20 years and this property has not been used during that time.
- Our property is west of this. There is a deeded easement which runs right along their property. There's a creek in the back that runs across.
- We're not against development and business. Our concern is that this will create a hardship for us. We will have business on three sides around us.
- There's a curve in the road here and every year we call several times a year for a wreck. Trucks use this as an alternative for Hwy 158. We're concerned about the traffic.
- I wish the owners had spent a little more time with us beforehand. It would have helped us tremendously in our future plans. Our plans were to sell this house when we got older.

- If they start developing this, there will be a significant amount of noise, dust, and traffic. It will really limit the market for our home.

Bailey Cobbs, 109 Bridgewood Lane, Advance, NC 27006

- We live across the street from the subject property.
- We moved from our house and began renting it out.
- When we put it on the market, we had no serious interest in purchasing it because of the many zoning changes in the surrounding area. Who wants to live next to a plant or distribution center?
- We sold the house to our daughter for her second home.
- Please require them to purchase our property for at least \$145,000 to allow us to not be financially damaged by the current and future zoning decisions.
- Because of all the spot zoning around us, our house will be worth less.
- Please put yourself in our position.
- Our property is the cornerstone of our financial strength.

WORK SESSION

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

1. This is a general use request, but Ronnie Grubbs stated that a buffer would not be required unless something was developed on that lot adjoining the Disher's property. That is currently planned to be vacant property.
2. The Board discussed access to the site. The street will have to be there and the Disher's will have dust and noise regardless of what is eventually built here.

MOTION: Carol Eickmeyer moved approval of the zoning map amendment, certified that the site plan meets all code requirements and recommends staff conditions.

SECOND: Arthur King

VOTE:

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

AGAINST: None

EXCUSED: Brenda Smith

This case was heard by the County Commissioners on December 18, 2006, and remanded back to the Planning Board for further consideration.

PUBLIC HEARING - March 8, 2007

David Reed reviewed the history of this case. The County Commissioners have remanded this case back to the Planning Board. No changes have been made from the proposal heard by the Planning Board in November..

FOR:

Steve Causey, Allied Design, 4720 Kester Mill Road, Winston-Salem, NC 27106

- Not sure what the Commissioners expected from the Planning Board in remanding this back.

Ryan Bednar, 315 E. Chatham St., Suite 200, Cary, NC 27511

- Subsequent to the zoning being remanded, he has had contact with the County Commissioners and has tried to work through some of the issues that they have.
- He has an offer on the table for a buffer for the neighbors. It is still open. The neighbors have not accepted it at this time.

Don Nielsen, 100 N. Cherry St., Winston-Salem, NC 27101

- Stated that there was confusion about the road issue and confusion about the possibility of the road being moved. The petitioner had explained numerous times why the road can't be moved due to topographical reasons and the use of the lots. That was one of the real issues with some of the Commissioners.
- Stated that this is the same proposal that the Planning Board had approved unanimously before with staff's support.

AGAINST:

Robert Disher, 2470 West Clemmons Rd., Winston-Salem, NC 27127

- He and his wife have lived at this property for twenty-six years.
- Has concerns about the road and feels that the Commissioner's also have concerns about the road. The road is very close to his house.

Mr. Causey showed a site plan and explained the plan.

Arnold King asked about how the water run-off would affect Mr. Disher's property?

Mr. Causey stated that from the street itself it would be routed to a storm water retention pond. The size and dimensions and shape of that pond severely restrict what can be done with that lot anyway. The design of that pond has been approved via the storm water management office and is in fact in place. The drainage from the street itself is actually routed through this pond, so the drainage from the paving and curb and gutter will not go on to the Disher's property. If you are speaking of the drainage up stream of his property, the development is not affecting that. There will be the roadway shoulder slope down that drains back onto his property, but that will be a few thousand square feet of grassed area at most.

Mr. Causey stated that the right-of-way is not yet platted; it has not been dedicated and can not be dedicated until the roads are either built or bonded; just for clarification.

WORK SESSION

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

1. If they deny the petition as a rezoning, the petitioner can still build the road, they just won't have the lots to sell. Is that correct? David Reed stated that they actually have the right to build, and they are building it right now.
2. Whether the property is GI or LI the issue with trucks and road will still be the same.
3. Has the elevation of the road at the garage to his property line ever been determined? Mr. Causey stated that from the creek proper at the existing grade in the bottom of the creek to the finished road there is probably ten to twelve feet. The area at the back of his garage is probably at the six foot range. The front of his garage may be more towards eight feet.
4. The only decision involved in this general use rezoning is whether it should be zoned residential or LI.
5. Board members expressed confusion about what they could do about the case as it was remanded, given that it has not changed from the request heard and recommended in November.
6. Arnold King stated that the petitioner has offered to buffer it, the Planning Board just cannot make it part of its consideration, unless it comes back special use. Staff added that the petitioner would have to change the subdivision plan in combination with coming back with a special use to enable that private property to be between the right-of-way and the RS-9.
7. The developer's dedication of additional right-of-way did not create the inability to generate a buffer. Had they not dedicated additional right-of-way, could they have gotten a buffer in there?

Glynis Jordan stated that if that sliver had remained as RS-9, we would be in the same exact position that we are in today because the LI or the GI would be against the right-of-way which then is against the RS-9.

8. Is the UDO not set up to eliminate right-of-ways adjacent to property lines so that you don't run into this? Paul Norby stated that there is no standard currently in the UDO about that, and furthermore in most cases, it is desirable to place a street right-of-way adjacent to a property line to allow future access from that other property.

MOTION: Clarence Lambe moved approval of the zoning map amendment.

SECOND: Paul Mullican

VOTE:

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

AGAINST: Brenda Smith

According to information furnished by the Office of the Tax Assessor on September 8, 2006, the subject property was in the name of Tetra Invest Group Twelve LLC.

CCPB FURTHER DISCUSSION:

The Planning Board agreed that they would like to request that when future cases are remanded back, the purpose or desire of that action to remand be more clearly stated by the elected body. Because the petition the Planning Board had previously recommended approval of in November was not revised by the petitioner after the County Commissioners remanded it back in December, and the adjacent property owners were still opposed, the Planning Board was confused as to what was the purpose of the remanding, and how they could be of assistance.

A. Paul Norby, FAICP
Director of Planning