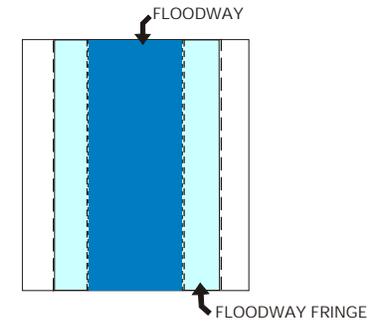


**DOCKET #:** F1384

**PROPOSED ZONING:**  
LB-S (Convenience Store)

**EXISTING ZONING:**  
YR

**PETITIONER:**  
William J. Smith  
and Thuy K. Smith



**SCALE:** 1" represents 200'

**STAFF:** Hall

**GMA:** 5

**ACRE(S):** 1.17

**MAP(S):** 576898



June 25, 2003

William J. Smith and Thuy K. Smith  
1459 Double Creek Drive  
Lewisville, NC 27023

RE: ZONING MAP AMENDMENT F-1384

Dear Mr. Smith & Ms. Smith:

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, AICP  
Director of Planning

Attachment

pc: Jane Cole, County Manager's Office



COUNTY ORDINANCE - SPECIAL USE

Zoning Petition of William J. Smith and Thuy K. Smith, Docket F-1384

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

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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 YR to LB-S (Convenience Store) the zoning classification of the following described property:

Tax Block 4733, Tax Lot 1G

Section 2. This Ordinance is adopted after approval of the site plan entitled William J. Smith and Thuy K. Smith, and identified as Attachment A of the Special Use District Permit issued by the Forsyth County Board of Commissioners the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ to William J. Smith and Thuy K. Smith.

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 William J. Smith and Thuy K. Smith. 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 William J. Smith and Thuy K. Smith (Zoning Docket F-1384). 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 (Convenience Store), 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 LB-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 GRADING PERMITS**
  - a. Developer shall have septic system approved by the Health Department.
- **PRIOR TO THE ISSUANCE OF BUILDING PERMITS**
  - a. Obtain a driveway permit from NCDOT; additional requirements may be required at that time. Setbacks will need to be coordinated with any NCDOT requirements.

## ZONING STAFF REPORT

**DOCKET #** F-1384  
**STAFF:** S. Chad Hall

Petitioner(s): William J. Smith and Thuy K. Smith  
Ownership: Same

### **REQUEST**

From: YR  
To: LB-S (Convenience Store)

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

Acreage: 1.17 acres

### **LOCATION:**

Street: Northeast corner of Reynolda Road and Donnaha Road  
Jurisdiction: Forsyth County

### **SITE PLAN**

Proposed Use: Convenience Store  
Square Footage: 1,600 square feet (sf)  
Building Height: One story  
Parking: Required: 8 spaces; Proposed: 13 spaces  
Bufferyard Requirements: Type IV abutting YR  
Vehicular Use Landscaping Standards Requirements: U.D.O. standards shall apply

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

Existing Structures on Site: Convenience store without gas pumps (to be demolished for new construction.)

#### Adjacent Uses:

North/Northeast – Sparse single-family residential zoned YR  
East- Some single family along Reynolda Road/Hwy 67 zoned YR  
South- Undeveloped wooded land zoned YR  
West- Undeveloped land zoned YR abutting the Yadkin River; Park is across the bridge in Yadkin County

## **GENERAL AREA**

Character/Maintenance: Sparse development of homes on YR zoned land.

Development Pace: Slow

## **PHYSICAL FEATURES/ENVIRONMENTAL REVIEW**

Impact on Existing Features: Existing rural-commercial structure to be demolished.

Topography: There is an approximate change in elevation on the subject property of 32' (from an approximate elevation of 772' in the south down to an approximate elevation of 740' along the tributary to the Yadkin River.

Streams: There is a tributary (perennial stream) to the Yadkin River that impacts the subject property along the northern site boundary.

Vegetation/habitat: There is some natural vegetation along the northern portion of the site, near the tributary.

Floodplains: The northern portion of the site contains some floodway and floodway fringe associated with the Yadkin River tributary.

Wetlands: None Vienna Quad

Natural Heritage Sites: The subject property is directly north of the Yadkin River Bluffs (Site #22 in the Inventory of Natural Heritage of Forsyth County, North Carolina). The Yadkin River Bluffs are a series of steep, northwest-facing rock outcrops along the river with Dry-Mesic Oak-Hickory and Mesic Mixed Hardwood forests occurring above and around the outcrops, with a mature Piedmont/Coastal Plain Alluvial forest between the outcrops and the Yadkin River. As a whole, this well studied site typifies an Inner Piedmont riverside ecosystem with high plant species diversity and some mountain species that are uncommon in the Piedmont. The site is in private ownership but the owner has registered the site as a voluntarily protected Natural Heritage Area.

Farmland Preservation Sites: There are no farmland Preservation sites on or near the subject property.

Environmental Resources Beyond The Site: The site plan preparer should provide additional information related to the existing amount of impervious surface on the site. While there appears to be a significant amount of impervious surface located near the Yadkin River and the Yadkin River tributary, the site does comply with the established impervious surface limitations. It does not appear that a lot of new impervious surface is being added to the site; rather, the site is being reconfigured. Additional information would be helpful in determining the level of new impact created by the redeveloped site. Regardless, any proposed improvements should strive to minimize the amount of impervious coverage and site the improvements in a way to maximize absorption of stormwater runoff.

Note: This site with proposed gas pumps and tanks is located approximately 500 feet from the Yadkin River and is ±5.5 miles upstream from the City-County Utility System's water intake.

Water Supply Watershed: The subject property is located within the Yadkin River (WS-IV) water supply watershed.

Compliance with Watershed Protection Regulations: Yes.  
Compliance with Federal/State requirements for wetland/stream protection: The subject property appears to comply with all Federal and State requirements for wetland and stream protection. It is the responsibility of the property owner/developer to ensure that any and all Federal and/or State permits, if necessary, are secured prior to beginning work.

## **TRANSPORTATION**

Direct Access to Site: Reynolda Road; Donnaha Road

Street Classification: Reynolda Road - Major Thoroughfare; Donnaha Road - Minor Thoroughfare

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

Reynolda Road between Donnaha Road and Ridge Road = 6,100/13,100

Donnaha Road between Reynolda Road and Spainhour Mill Road = 2,100/11,100

Trip Generation/Existing Zoning: YR

Existing non-conforming convenience store makes trip generation indeterminable.

Trip Generation/Proposed Zoning: LB-S

1,564/1,000 x 845.6 (convenience store with gas pumps) = 1,322 Trips per Day

Planned Road Improvements: None

Sight Distance: Good

Traffic Impact Study recommended: In some cases a TIS would be recommended for a convenience store with more than 7 fueling stations. However, because of the low street volume on the adjoining roads and excess capacity of said roads, a TIS was determined by WSDOT to be unnecessary.

Sidewalks: None existing.

Transit: None.

Bicycle Route: Route 21, Stokes County Connector, along Reynolda and Donnaha Roads.

## **HISTORY**

Relevant Zoning Cases:

1. F-1335; RS-40 to LB; approved April 9, 2001; north side of Reynolda Road/NC 67 west of Joyce Norman Road; 2.1 acres; Planning Board and staff recommended denial.
2. F-1321; RS-20 to HB-S Highway Business District (Building Contractors, General; General Merchandise Store; Services, Business A; and Services, Personal); denied November 27, 2000; southwest intersection of Transou Road and Reynolda Road; 1.67 acres; Planning Board and staff recommended denial.
3. F-1183; RS-20 to NB; approved May 11, 1998; southwest side of Reynolda Road/NC 67 between Montford Road and Tobaccoville Road; 0.97 acre; Planning Board and staff recommended approval.

## **CONFORMITY TO PLANS**

GMP Area (*Legacy*): Rural Area (GMA 5)

Relevant Comprehensive Plan Recommendation(s): The goals in *Legacy* for the Rural Area are to preserve farmlands and open space, encourage open space subdivisions, discourage rezoning to more intense districts, and limit public investment and the use of private package treatment plants.

Area Plan/Development Guide: Yadkin River Conservation Corridor (1989)

Relevant Development Guide Recommendation(s): No specific recommendations related to the subject property are offered. In general, intense commercial uses, such as convenience stores, are discouraged. However, it is important to keep in mind that this is the redevelopment of an existing convenience store, not the creation of a new one.

## **SPOT ZONE OPINION**

The County Attorney is of the opinion that the subject request, if approved, could be considered by the courts to be an illegal spot zone, based on current case law.

## **ANALYSIS**

The current request is to rezone 1.17 acres from YR to LB-S (Convenience Store). The site is located on the northeast corner of Reynolda Road and Donnaha Road. Development in this area of the YR District is both sparse and sporadic, which is typical with rural communities.

The subject property is located within Growth Management Area 5 (Rural) and, while zoned YR, houses a remnant of an older commercial use analogous to the “general/corner store”. The property is also located within the Yadkin River WS-IV State regulated water supply watershed. Frontage of the subject property is on both Reynolda Road/NC 67 and Donnaha Road. The property had gas pumps at one time, but these and their associated fuel storage tanks were removed in the early 1980’s and the site was remediated.

The subject property is directly north of the Yadkin River Bluffs (Site #22 in the Inventory of Natural Heritage of Forsyth County, North Carolina). The Yadkin River Bluffs are a series of steep, northwest-facing rock outcrops accompanied with specific specimen vegetation. As a whole, this well studied site typifies an Inner Piedmont riverside ecosystem with high plant species diversity and some mountain species that are uncommon in the Piedmont. The Yadkin River Bluffs site is in private ownership but the owner has registered the site as a voluntarily protected Natural Heritage Area.

Another concern is the prospect of re-introducing fuel storage tanks and pumps on a site so close to the Yadkin River, and just upstream from the water intake and new water treatment plant. Even if this were deemed a suitable site for such a use, there should be additional safeguards and redundant features to safeguard against any tank leakage or gasoline spills. The *Unified Development Ordinances* (UDO) has no regulations preventing the installation of tanks near a floodplain or in a water supply watershed. Two separate sets of regulations, the Fire Prevention Code and DENR regulations, dictate installation criteria such as setbacks and tank depths and also address spill protection measures, the type of tank(s) required, and inventory monitoring systems that would also help to detect any potential spills.

An opinion was requested of the County Attorney and the determination was made that this could be considered by the courts to be an illegal spot zone as LB (Limited Business). Although signage and other regulations differ, NB (Neighborhood Business) could serve as an appropriate zoning district for this location and, by virtue of the purpose of the NB District, would not elicit a spot zone opinion. The one-half mile spacing requirement between NB zoned lots would also minimize the probability of commercial stripping along this section of Reynolda Road. If properly sited and landscaped, an NB-S district is considered by staff to be an acceptable addition to the very low intensity nature of activity in this still rural community and gateway into/out of Forsyth County. However, in order to consider Neighborhood Business zoning, the lot size would need to be trimmed to one acre.

The redevelopment of this particular property, regardless of zoning classification, needs to exploit two features. The site plan and conditions (if special use) need to allow a development design that is respectful of the rural setting that this site is in and, secondly, needs to serve as a complimentary element to the larger gateway threshold between Forsyth and Yadkin County. This gateway is comprised of the Yadkin River, the aforementioned bluffs, and to a large extent the character of this rural community. Permitting new development with careful design that is sensitive to its rural setting would help to mitigate any potentially negative impacts, such as light pollution from a large canopy area, and hopefully would contribute positively to the larger gateway area. The current site plan is deficient in addressing these two features.

Should this rezoning be approved, regardless of zoning district and regardless if the site plan embraces the character of the rural community and assists in overall gateway, this should not set precedent for any further commercial development in this area.

## **FINDINGS**

1. The subject property is located in the Rural Growth Management Area.
2. The subject property is directly north of the Yadkin River Bluffs and directly east of the Yadkin River.
3. The gas tanks were removed and the property was remediated in the early 1980's.

4. The current site plan is deficient in addressing the rural setting and the notion of this being a gateway to the river and to Forsyth County.
5. The County Attorney is of the opinion that the subject request, if approved, could be considered by the courts to be an illegal spot zone, based on current case law.

### **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 septic system approved by the Health Department.
- **PRIOR TO THE ISSUANCE OF BUILDING PERMITS**
  - a. Obtain a driveway permit from NCDOT; additional requirements may be required at that time. Setbacks will need to be coordinated with any NCDOT requirements.

Chad Hall presented the staff report.

### **PUBLIC HEARING**

FOR: None

AGAINST: None

### **WORK SESSION**

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

1. Philip Doyle: Could I have a copy of the Attorney's brief to read?
2. Arnold King: With all due respect to the County Attorney, would you recommend sprawl all along Reynolda Road until you get to this site so you can have this use? Chad Hall: The attorney did say that under NB, this would not be a spot zone; however, NB has a limit on signs of 4 square feet.
3. Philip Doyle: I appreciate the gateway stuff, but dealing with the picture of what's here now, I'd rather the more modern building.

4. Lavastian Glenn: Does staff feel the environmental threat is high with this being so close to the river? Paul Norby: Many situations provide opportunities for problems (tank leakage, delivery accidents, etc.). Since we have the choice of whether to rezone to allow this range of uses, we feel it isn't a good idea to put this so close to our main drinking supply.
5. Philip Doyle: We aren't the experts on underground permits; this is not our jurisdiction. Paul Norby: It is the local jurisdiction's responsibility to consider the impacts of zoning, including environmental impacts.

MOTION: Philip Doyle moved approval of the zoning map amendment.

SECOND: Arnold King

VOTE:

FOR: Bost, Doyle, King, Lambe

AGAINST: Clark, Eickmeyer, Folan, Glenn

According to information furnished on July 22, 2002 by the Office of the Tax Assessor, the subject property was in the name of William J. Smith and Thuy K. Smith.

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A. Paul Norby, AICP  
Director of Planning