

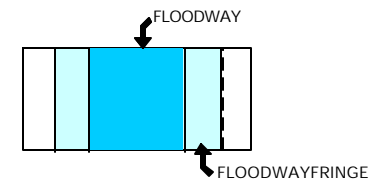
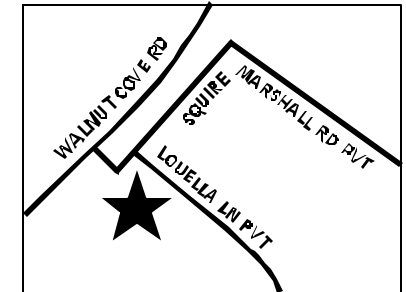
DOCKET #: F1372

PROPOSED ZONING:
LI-S (Landfill,
Construction and Demolition)

EXISTING ZONING:
RS40

PETITIONER:
William F. Joyce and
Rebecca H. Joyce

Location Map:



SCALE: 1" represents 600'

STAFF: Roberts

GMA: 5

ACRE(S): 82.2

MAP(S): 654906, 654902,
660902



October 23, 2002

William F. Joyce, Jr. and
Rebecca H. Joyce
8107 Squire Marshall Road
Walnut Cove, NC 27052

RE: ZONING MAP AMENDMENT F-1372

Dear Mr. Joyce & Ms. Joyce:

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
Stephen G. Calaway, 1330 Ashley Square, Winston-Salem, NC 27103
James & Carol Clark, P. O. Box 483, Walnut Cove, NC 27052
Leonard B. Smith, 7651 Salem Chapel Road, Walnut Cove, NC 27052
Ollie S. Fulcher, 8178 Walnut Cove Road, Walnut Cove, NC 27052
Betty O. Wilson, 4069 Louella Lane, Walnut Cove, NC 27052
Barb Shelton, 4055 Louella Lane, Walnut Cove, NC 27052
Scott Shelton, 4055 Louella Lane, Walnut Cove, NC 27052
Gary & Linda Keeter, 8211 Squire Marshall Road, Walnut Cove, NC 27052
Will Oakley, 621 Rabbit Run Lane, Walnut Cove, NC 27052
Robbie Roberson, 4031 Louella Lane, Walnut Cove, NC 27052

FORSYTH COUNTY
BOARD OF COMMISSIONERS

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

SUBJECT:-

Zoning map amendment of William F. Joyce, Jr. and Rebecca H. Joyce

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:-

SUMMARY OF INFORMATION:-

Zoning map amendment of William F. Joyce, Jr. and Rebecca H. Joyce from RS-40 to LI-S (Landfill, Construction and Demolition): property is located on southeast side of Walnut Cove Road and the Southern Railroad at the southern terminus of Squire Marshall Road (Zoning Docket F-1372).

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

ATTACHMENTS:- YES NO

SIGNATURE: _____ **DATE:** _____

COUNTY ORDINANCE - SPECIAL USE

Zoning Petition of William F. Joyce, Jr. and Rebecca H. Joyce, Docket F-1372

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-40 to LI-S (Landfill, Construction and Demolition) the zoning classification of the following described property:

Tax Block 5169, Tax Lots 7A, 7C, 7J, 7K, 7L, 7M, 7N, and 116

Section 2. This Ordinance is adopted after approval of the site plan entitled William F. Joyce, Jr. and Rebecca H. Joyce, 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 F. Joyce, Jr. and Rebecca H. Joyce.

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 F. Joyce, Jr. and Rebecca H. Joyce. 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 F. Joyce, Jr. and Rebecca H. Joyce (Zoning Docket F-1372). 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 (Landfill, Construction and Demolition), 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:

C PRIOR TO THE ISSUANCE OF GRADING PERMITS

- a. Limits of grading along the 100 foot buffer and the floodway fringe of Grubbs Road Lake shall be flagged in the field.
- b. Developer shall flag the drip line of all trees located in between the 100 foot buffer yard and the limits of grading in the western portion of the site.
- c. Developer shall obtain water quality approval for stream disturbances from the Department of Environment and Natural Resources, if required, by the Erosion Control Officer.

C PRIOR TO THE ISSUANCE OF BUILDING PERMITS

- a. Developer shall dedicate a forty (40) foot greenway easement to the City of Winston-Salem along both shorelines of Grubbs Road Lake.

C PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS

- a. Developer shall install road improvements on Walnut Cove Road, Squire Marshall Road, and the Railroad crossing as required by the North Carolina Department of Transportation.
- b. Developer shall file in the Office of the Register of Deeds a reclamation plan for the reuse of the site in accordance with UDO Section 2-5.36.

C OTHER REQUIREMENTS

- a. Signage shall be limited to one (1) monument sign with a maximum height of five (5) feet and a maximum area of eighteen (18) feet.
- b. Developer shall use Large Variety Trees as defined in UDO Section 3-4.10, where Type IV bufferyard plantings are required.
- c. Developer to preserve all existing trees within the 100 foot bufferyard and surrounding areas not proposed for grading activity.
- d. The required six (6) foot high chain length fence shall be installed at the toe of the fill slope inside of the 100 foot bufferyard and shall be green vinyl coated in all areas visible from the Walnut Cove Road and Squire Marshall Road.
- e. No fill or grading activity to take place on the portion of the site east of Grubbs Road Lake.
- f. Developer shall obtain State approval for the C and D Landfill within thirty (30) months (2 1/2 years) after the date of rezoning or the zoning classification will revert back to the previous RS-40 designation.

ZONING STAFF REPORT

DOCKET # F-1372

STAFF: Gary Roberts

Petitioner(s): William F. Joyce, Jr. and Rebecca H. Joyce

Ownership: Same

REQUEST

From: RS-40, Residential Single Family District

To: LI-S Limited Industrial District (Landfill, Construction and Demolition)

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

Acreage: 82.2 acres

LOCATION

Street: Southeast side of Walnut Cove Road and the Southern Railroad at the southern terminus of Squire Marshall Road.

Jurisdiction: Forsyth County.

SITE PLAN

Proposed Use: Construction and Demolition Landfill.

Parking: Required: 4 spaces; Proposed: 5 spaces.

Bufferyard Requirements: 100 foot Type IV bufferyard adjacent to RS-40.

Vehicular Use Landscaping Standards Requirements: UDO standards apply.

PROPERTY SITE/IMMEDIATE AREA

Existing Structures on Site: Single family residential building and associated accessory and farm buildings.

Adjacent Uses:

North - Single family residential zoned RS-40 and AG.

East - Single family residential zoned RS-40.

South - Undeveloped land zoned RS-40.

West - Single family residential zoned RS-40 and AG.

GENERAL AREA

Character/Maintenance: Semi rural area containing scattered large lot single family residential

and agricultural uses in good maintenance.
Development Pace: Slow.

PHYSICAL FEATURES/ENVIRONMENTAL REVIEW

Impact on Existing Features: Removal of former farm house and associated accessory buildings along with substantial grading and filling to accommodate the proposed landfill operation.

Topography: There is an approximate change in elevation on the subject property of 139' (from an approximate elevation of 839' in the northwest down to an approximate elevation of 700' at the lake in the eastern portion of the site). The proposed landfill will result in a final elevation of 900' in the center of the site, tapering back to the pre-development elevations at the edges. Such a proposal will result in some areas of the site receiving over 130' of fill material.

Streams: Lick Creek, flowing through the site as Grubbs Road Lake, is located on the site. Grubbs Road Lake was created in 1970 as a flood control structure.

Vegetation/habitat: There are some areas of existing vegetation and some previously cleared areas. The proposed action would result in the majority of the site being cleared and filled.

Floodplains: Floodway and floodway fringe associated with Lick Creek and Grubbs Road Lake on the subject property. No fill is proposed within the floodway fringe area of the stream or lake.

Wetlands: The Walkertown Quad shows a lacustrine, limnetic, unconsolidated bottom, permanently flooded, dammed/impounded wetland (L1UBHh) on the subject property.

Natural Heritage Sites: The subject property is directly north (and downstream) of the Grubbs Road Lake Wetland site (site #9 in the Forsyth County Natural Heritage Inventory). This 60-acre site is a large alluvial flat that extends more than one-half (½) mile along Lick Creek beginning at the south end of Grubbs Road Lake. Since the development site is downstream of this Natural Heritage site, there is no direct environmental threat. Indirect threats include loss of habitat animals utilizing the wetland and aesthetic impacts from the wetland area looking north.

Farmland Preservation Sites: The subject property is located ½ mile south of a property that participates in the Forsyth County Farmland Preservation program. There should be no impacts to the site as a result of the proposed development.

Will development of the site affect environmental resources beyond the site? Possibly. The subject property will be cleared for the construction and demolition landfill. The site will be filled over time. Great care should be exercised to ensure that adequate erosion control measures remain in place throughout the "construction" period. Further, the developer must be sure to limit fill from the floodway/floodway fringe area surrounding Grubbs Road Lake.

Watershed: Site is not within the boundaries of a water supply watershed.

Compliance with Federal/State requirements for wetland/stream protection: Yes.

Comments: The developer must be diligent in maintaining adequate erosion control measures adjacent to the stream/lake/wetland area.

TRANSPORTATION

Direct Access to Site: Walnut Cove Road; Squire Marshall Road.

Street Classification: Walnut Cove Road - major thoroughfare; Squire Marshall Road - private road.

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

Walnut Cove Road between Dennis Road and Mabe Road = 3,500/11,100

Trip Generation/Existing Zoning: RS-40.

$82.2 \times 43,560 / 40,000 = 89$ units $\times 9.57 = 851$ Trips per Day.

Trip Generation/Proposed Zoning: LI-S.

(No Trip Rate available for requested use. It is estimated by the site plan preparer that 50-80 trucks will haul debris to the site on a daily basis.)

HISTORY

Relevant Zoning Cases:

1. F-1311; RS-40 to HB-S (Fuel Dealer; General Merchandise Store; Motor Vehicle, Repair and Maintenance; and Storage Services, Retail); approved July 10, 2000; northwest side of Walnut Cove Road north of Dennis Road, $\pm 3,400$ feet southwest of current site; 1.87 acres; Planning Board recommended approval, staff recommended denial. Note: The County Attorney issued an opinion that this case constituted an illegal spot zone.
2. F-1288; AG to RS-40; approved April 24, 2000; northeast and southwest side of Salem Chapel Road, west of Walnut Cove Road; 69.41 acres; Planning Board and staff recommended denial.
3. PBR 97-62; LCID in RS-40; approved by Planning Board on November 13, 1997; west of Walnut Cove Road and south of Squire Marshall Road, portion of current site; 1.99 acres.
4. F-976; R-6 to B-3-S (Welding or other metal working); approved September 24, 1990; south side of Grubbs Road between Walnut Cove Road and Pine Hall Road, $\pm 3,000$ feet south of current site; 0.75 acre. Planning Board and staff recommended denial. Note: The County Attorney issued an opinion that this case constituted an illegal spot zone.

CONFORMITY TO PLANS

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

Relevant Comprehensive Plan Recommendation(s): The goal for the Rural Area is preservation of farmland, open space, and rural character. One of the recommendations in *Legacy* to achieve this goal is that rezonings to more intense districts be discouraged.

Area Plan/Development Guide: The site is not within the boundaries of a development guide or area plan.

GREENWAY/RECREATION/OPEN SPACE REVIEW

Greenway/Trail Name: Lick Creek.

Easement Requested: 40 feet.

Side of Creek: Both sides.

Comments/Status of Trail: There are no proposals in the Greenway Plan to build a trail at this location at this time. However, recommendations in the plan call for greenway easements along all creeks with identified flood plains. Where trails are not built these easements become part of the community's open space corridor system providing environmental benefits including wildlife habitats.

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 request is to rezone 82.2 acres located along the southeast side of both Walnut Cove Road and the Southern Railroad at the southern terminus of Squire Marshall Road from RS-40 to LI-S. The purpose of the request is to allow the operation of a construction and demolition landfill. The site is predominately cleared yet includes a former farm house with accessory buildings and some remaining mature trees. The property has significant topographic changes and includes a portion along both sides of Grubbs Road Lake and its associated floodplain.

The surrounding area is generally rural in character with scattered single family residential and agricultural uses. The adjacent zoning is entirely RS-40 with some AG further to the north. Walnut Cove Road/US 311 carries approximately 3,500 vehicles per day and the Norfolk Southern Railroad runs parallel to and between the northern edge of the site and Walnut Cove Road.

In 1997 the Planning Board approved a Land Clearing/Inert Debris Landfill, (LCID), on a 1.99 acre portion of the site. LCIDs differ from C&D landfills in that only material associated with land clearing along with concrete, brick, gravel, untreated/unpainted wood etc. are allowed. C&D landfills are a more intense use and accept all material associated with the construction and demolition processes. Both a high level of truck traffic and noise are associated with this use which is currently allowed in GI, LI, GB, and HB in the County with Planning Board Review.

In February of 2002 the petitioners filed a UDO text amendment which would have allowed C&D landfills in the RS districts with Planning Board Review. After extensive discussions and considerations by the Planning Board, the Board recommended an amendment which would have allowed C&D landfills in the RS-40 district with a Special Use Permit by the Elected Body. This approach provided a high authority approval level yet avoided the possibility of setting up such intensive zoning districts in remote and rural areas of the County. The proposal however was denied by the County Commissioners on August 12, 2002.

Currently there is only one C&D landfill within Forsyth County. It is located within the city

limits of Winston-Salem and is owned by the Utilities Commission. It is anticipated that this facility will be to capacity by 2015 to 2020. New C&D landfills must meet various criteria regarding soils, groundwater etc. and are permitted and monitored by the North Carolina Department of Environment and Natural Resources (DENR). While a visual and audible nuisance to the immediate vicinity, C&D landfills reduce the potential for illegal dumping and lengthen the life of the more costly sanitary landfills. The site plan preparer estimates that the lifespan of the proposed landfill will be between 15-20 years with approximately 50-80 trucks entering the site per day. To reduce the fiscal and environmental costs of hauling debris over extended distances, C&D landfills should ideally be located relatively close to the source of the fill material. However land costs and availability make this a difficult goal to achieve.

The site is not within the boundaries of a development guide or area plan. However it is located within the Rural Area as described in *Legacy* where rezonings to more intense districts are discouraged. The County Attorney has issued an opinion that if approved the subject request could be viewed by the Courts as illegal spot zoning. Staff's policy is to recommend denial in such cases.

FINDINGS

1. *Legacy* discourages intense zoning districts within the Rural Growth Management Area.
2. The site is not within the boundaries of a development guide or area plan.
3. C&D landfills are an intense use and accept all material associated with the construction and demolition processes.
4. The County Attorney has issued an opinion that if approved the subject request could be viewed by the Courts as illegal spot zoning.

STAFF RECOMMENDATION

Zoning: **DENIAL**.

Site Plan: Staff certifies that **the site plan meets all code requirements**, and recommends the following conditions:

C PRIOR TO THE ISSUANCE OF GRADING PERMITS

- a. Limits of grading along the 100 foot buffer and the floodway fringe of Grubbs Road Lake shall be flagged in the field.
- b. Developer shall flag the drip line of all trees located in between the 100 foot buffer yard and the limits of grading in the western portion of the site.
- c. Developer shall obtain water quality approval for stream disturbances from the Department of Environment and Natural Resources, if required, by the Erosion Control Officer.

C PRIOR TO THE ISSUANCE OF BUILDING PERMITS

- a. Developer shall dedicate a forty (40) foot greenway easement to the City of Winston-Salem along both shorelines of Grubbs Road Lake.

C PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS

- a. Developer shall install road improvements on Walnut Cove Road, Squire Marshall Road, and the railroad crossing as required by the North Carolina Department of Transportation.
- b. Developer shall file in the Office of the Register of Deeds a reclamation plan for the reuse of the site in accordance with UDO Section 2-5.36.

C OTHER REQUIREMENTS

- a. Signage shall be limited to one (1) monument sign with a maximum height of five (5) feet and a maximum area of eighteen (18) feet.
- b. Developer shall use Large Variety Trees as defined in UDO Section 3-4.10, where type IV bufferyard plantings are required.
- c. Developer to preserve all existing trees within the 100 foot bufferyard and surrounding areas not proposed for grading activity.
- d. The required six (6) foot high chain length fence shall be installed at the toe of the fill slope inside of the 100 foot bufferyard and shall be green vinyl coated in all areas visible from the Walnut Cove Road and Squire Marshall Road.
- e. No fill or grading activity to take place on the portion of the site east of Grubbs Road Lake.
- f. Developer shall obtain State approval for the C&D Landfill within thirty (30) months (2 1/2 years) after the date of rezoning or the zoning classification will revert back to the previous RS-40 designation.

Gary Roberts presented the staff report.

PUBLIC HEARING

FOR:

Steve Calaway, 1330 Ashley Square, Winston-Salem, NC 27103

We were here several times for a text amendment to deal with this subject.

While discussing the text amendment, I made the point that a zoning request might be considered a spot zone. We were told here and at the commissioners that it would not be a spot zone. In my mind, that surely influenced the outcome of the vote.

We have a catch 22. I will have forever in my memory the garbage scow from NY that traveled all over the world. That was refuse. I think the same principal applies to construction refuse. If you have fluorescent light bulbs, treated lumber, painted lumber and any of the other hundred of things that come out of a house, a storage building, a jail, a hospital, or anything that's torn down for improvements, it has to go to a construction and demolition landfill. I think the barge case proves to us

that no one wants it. We can't give it to South America or anyone else. It's cost prohibitive to take it forever away from the site. We simply have to deal with it on a local basis. The City ordinance has C&D landfills permitted in several of the zones. We tried that in the county and it didn't work.

You cannot put C&D landfills in a conventional industrial park. It's cost prohibitive.

I think you need rugged terrain to take advantage of the dips in the land.

I think you need a special use zoning case which lets you put any kind of control on it which you and our government wishes - setbacks, side yards, deceleration lanes, greenways, buffers from the creeks, etc.

C&D Landfill: essentially inert stuff; has to go through two-part approval process by DENR; have to provide five-year operation plan, reclamation plan, and quarterly inspections for ground water, runoff, operational aspects. It takes a long time, a big site, and a remote site.

Every time there is a development, there is more opposition to anything happening around them.

AGAINST:

Gary & Linda Keeter, 8211 Squire Marshall Road, Walnut Cove, NC 27052

Led a presentation of opposition to this rezoning request.

We are the seventh generation to live on my wife's family farm.

In response to a request for those in opposition to the request for rezoning to stand, approximately 45 people stood.

We request denial of the Joyce's rezoning request. We also request that the current permit for LCID permit be rescinded.

Linda Keeter, 8211 Squire Marshall Road, Walnut Cove, NC 27052

Noted that many neighbors have received bad treatment from Mr. Joyce.

Robbie Roberson, 4031 Louella Lane, Walnut Cove, NC 27052

We have 11.5 acres which border the site. My well is 150 feet from the dump site. I'm concerned about water contamination.

I'm also concerned about the contamination to my livestock.

While one man is making money on his property, I'll be losing approximately \$65,000 in property value.

Will Oakley, 621 Rabbit Run Lane, Walnut Cove, NC 27052

Unacceptable traffic conditions and repeated inappropriate dumping violations are only the beginning of issues we will face if this zoning is approved. My father's residence is only 600 feet from the existing landfill.

Barbara Shelton, 4055 Louella Lane, Walnut Cove, NC 27052

This remote area just happens to be outside my back yard. This is the only way we have to access our property. It is a railroad crossing. It's also where our children get

picked up and delivered every day from school. There's already a lot of traffic at this intersection. If you allow this landfill to be expanded, it's going to bring in so much more traffic.

Our neighborhood children play in this area. Why should we have to fear for the safety of our children in our own neighborhood?

I have great concern about our well water which is less than 150' from a stream that runs through the landfill.

Ollie S. Fulcher, 8178 Walnut Cove Road, Walnut Cove, NC 27052

My concerns are the additional traffic, noise, and dust.

Scott Shelton, 4055 Louella Lane, Walnut Cove, NC 27052

According to the site plan, the Joyce home will be removed to make room for the additional landfill. If Mr. Joyce no longer lives here, he has no personal interest, so if it's such a good idea, why's he moving off the property. Secondly, with 50-80 dump trucks crossing the railroad tracks, there's a train wreck waiting to happen. How can you zone property LI-S when it's partially underwater according to the map?

Submitted petition of those in opposition to the request.

WORK SESSION

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

1. John Bost asked Jim Bryan of the Forsyth County Public Health Department to address the fears addressed by the neighbors and the ability of the County to monitor sites like this.
2. Mr. Bryan indicated that the authority given to the County by the State is very limited. The State has tremendous overview of these sites. Mr Joyce has had some violations at the site, but they have all been corrected.
3. The community does need some type of facility on the northern half of the county for managing C&D type waste.
4. Sometimes the concerns are not exactly what they seem. For example, about a year and a half ago, County staff observed a lot of sediment going into the lake. They were called out there because of a report claiming sediment from Bill Joyce's landfill was entering the lake. It had nothing to do with Bill Joyce's landfill. It was coming from Mr. Warren's tree farm. A lot of the trees he cleared from his farm and pushed over in a gully, had been cleared with no erosion control done. All that material went into the lake.
5. Jim Bryan - The site plan is what it is. It was looked at carefully by staff and they've made their recommendation. To prevent illegal dumping, we're going to have to have some kind of facility that can manage that kind of material. Otherwise we send it to adjacent counties as illegal dump sites, as well as in

Forsyth County. So, something's got to be done with the waste. Whether it goes here or some other facility, I can't say. I was just telling David - I can't be for or against this thing. I just have to hope that at some point in time we'll find ways to manage the waste properly.

6. John Bost - if in fact, violations were not a matter of record, is this an appropriate site? Jim Bryan - it is as appropriate as any. I don't know where you would put one without similar opposition. Jerry Clark - is it possible to have another access into this site? Jim Bryan - I don't believe so.
7. Jimmy Norwood - we're going to have to look at recycling. Jim Bryan - unfortunately the more recycling you do, the longer a site like this would exist.

MOTION: Arnold King moved denial of the zoning map amendment, certified that the site plan meets all code requirements and recommends staff conditions.

SECOND: Jimmy Norwood

VOTE:

FOR: Avant, Clark, Doyle, Folan, King, Norwood

AGAINST: Bost

EXCUSED: None

According to information furnished by the Office of the Tax Assessor, the subject property was in the name of William F. Joyce, Jr. and Rebecca H. Joyce as of September 5, 2002.

A. Paul Norby, AICP
Director of Planning