



DOCKET #: F1345

PROPOSED ZONING:
LI-S (Multiple
Industrial Uses)

EXISTING ZONING:
RS9

PETITIONER:
B & M Pipe Contractors
for property owned
by Ripple Oil Company, Inc.

SCALE: 1" represents 200'

STAFF: McGee

GMA: 3

ACRE(S): 2.19

MAP(S): 636822



August 22, 2001

B & M Pipe Contractors, Inc.
5051 Follansbee Road
Winston-Salem, NC 27127

RE: ZONING MAP AMENDMENT F-1345

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, AICP
Director of Planning

Attachment

pc: Jane Cole, County Manager's Office
T. Dan Womble, 3802 Clemmons Road, Clemmons, NC 27012
Dottie Freeman, 5052 South Main Street, Box 2D, Winston-Salem, NC 27107
Mary Niday, 114 Fishel Road, Winston-Salem, NC 27107
Diann Sykes, 120 Fishel Road, Winston-Salem, NC 27107
Mr. & Mrs. Douglas L. Spach, 108 Fishel Road, Winston-Salem, NC 27107
Mary Bumgarner, 5210 South Main Street, Winston-Salem, NC 27107
Robert Hutchinson, 123 Fishel Road, Winston-Salem, NC 27107
Herman Leamon, 124 Fishel Road, Winston-Salem, NC 27107

FORSYTH COUNTY
BOARD OF COMMISSIONERS

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

SUBJECT:-

Zoning map amendment of B & M Pipe Contractors and Ripple Oil Company, Inc. for property owned by Ripple Oil Company, Inc.

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:-

SUMMARY OF INFORMATION:-

Zoning map amendment of B & M Pipe Contractors and Ripple Oil Company, Inc. for property owned by Ripple Oil Company, Inc. from RS-9 to LI-S (Building Contractor, Heavy): property is located on the southwest corner of South Main Street and Fishel Road (Zoning Docket F-1345).

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

ATTACHMENTS:- YES NO

SIGNATURE: _____ **DATE:** _____

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COUNTY ORDINANCE - SPECIAL USE

Zoning Petition of B & M Pipe Contractors and
Ripple Oil Company, Inc. for property owned by
Ripple Oil Company, Inc., Docket F-1345

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 (Building Contractor, Heavy) the zoning classification of the following described property:

Tax Block 2710, Tax Lots 16, 17, and 104

Section 2. This Ordinance is adopted after approval of the site plan entitled B and M Pipe, and identified as Attachment A of the Special Use District Permit issued by the Forsyth County Board of Commissioners the _____ day of _____, 20____ to B & M Pipe Contractors and Ripple Oil Company, Inc. for property owned by Ripple Oil Company, 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 B and M Pipe. 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 B & M Pipe Contractors and Ripple Oil Company, Inc. for property owned by Ripple Oil Company, Inc. (Zoning Docket F-1345). 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 (Building Contractor, Heavy), 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 ISSUANCE OF GRADING PERMITS**
 - a. Developer shall have a storm water management study submitted for review by the Public Works Department of the City of Winston-Salem. If required, an engineered storm water management plan shall be submitted and approved by the Public Works Department of the City of Winston-Salem.
 - b. Developer shall obtain erosion control, grading and zoning permits from the Inspections Division of the City of Winston-Salem.

- **OTHER REQUIREMENTS**
 - a. Development may have one sign of the monument type with a maximum height of five (5) feet and a maximum copy area of 36 square feet.

ZONING STAFF REPORT

DOCKET # F-1345

STAFF: Tony McGee

Petitioner(s): B & M Pipe Contractors and Ripple Oil Company, Inc.

Ownership: Ripple Oil Company, Inc.

REQUEST

From: RS-9 Residential Single Family District; minimum lot size 9,000 sf

To: LI-S Limited Industrial District (Heavy Contractor)

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

Acreage: 2.19 acres

LOCATION

Street: Southwest corner of South Main Street and Fishel Road.

Jurisdiction: Forsyth County.

SITE PLAN

Proposed Use: Heavy contractor.

Square Footage: 1,796 sf existing structure; plus an additional 2,400 sf proposed future expansion.

Building Height: One commercial story

Parking: Required: 11; proposed: 14.

Bufferyard Requirements: Type IV required adjacent to residential property to the south and west. Existing vegetation proposed to be used to meet requirement.

Vehicular Use Landscaping Standards Requirements: UDO standards apply.

PROPERTY SITE/IMMEDIATE AREA

Existing Structures on Site: Commercial structure; formerly used as gas station.

Adjacent Uses:

North - Property zoned RS-9 used as church facility.

East - Residential land, primarily vacant and zoned RS-9.

South - Residential land, primarily vacant and zoned RS-9.

West - Single family homes zoned RS-9.

GENERAL AREA

Character/Maintenance: Moderate to well maintained single family houses and a church.
Development Pace: Slow.

PHYSICAL FEATURES/ENVIRONMENTAL REVIEW

Impact on Existing Features: Existing vegetation to be removed.

Topography: GIS maps indicate approximately 25' grade change downward toward the southwest on this property.

Streams: None.

Floodplains: None.

Wetlands: The site drains toward a permanently flooded palustrine wetland (farm pond) that is diked or otherwise impounded and has an unconsolidated bottom (marshy wetland area) is located approximately 600 feet southwest of this project on McKinley Drive.

TRANSPORTATION

Direct Access to Site: South Main Street; Fishel Road.

Street Classification: Both are minor thoroughfares.

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

South Main Street between Davidson Co. line and Jones Road = NC/13,000.

Jones Road between South Main Street and Davidson Co. Line = NC/NC.

Fishel Road between US 52 and South Main Street = NC/11,500.

Trip Generation/Existing Zoning: RS-9.

$2.19 \times 43,560/9,000 = 10 \text{ units} \times 9.57 \text{ (SFR Trip Rate)} = 101 \text{ trips per day}$

Trip Generation/Proposed Zoning: LI-S

$1,796 + 2,400 = 4,196/1,000 = 4.196 \times 6.97 \text{ (General Light Industrial Trip Rate)} = 29 \text{ trips per day}$

Sidewalks: None.

Transit: None.

HISTORY

Relevant Zoning Cases:

1. F-1302; GI-S to GI-S; approved June 12, 2000; northeast corner of County Line Road and Main Street, approximately one-half mile south of current site; 18.44 acres; Planning Board and staff recommended approval.
2. F-1298; LI & RS-9 to LI-S; approved May 22, 2000; southwest side of Main Street south of Barnes Road, approximately one-half mile north of current site; 21.72 acres; Planning Board and staff recommended approval.

3. F-1249; LI to GI-S; approved March 8, 1999; east side of South Main Street and the north side of County Line Road along the Forsyth/Davidson County Line, approximately one-half mile south of current site; 18.44 acres; Planning Board and staff recommended approval.

CONFORMITY TO PLANS

GMP Area (*Legacy*): Suburban.

Relevant Comprehensive Plan Recommendation(s): The overall goal in the Economic Vitality chapter of *Legacy* is to attract environmentally sensitive new businesses and expand existing large and small businesses to provide a broad range of employment opportunities and a high quality of life for people living and working in Forsyth County. One of the policies in that chapter that is relevant to the petitioner's request is to promote economic development which is compatible with existing residential neighborhoods and other business developments.

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

ANALYSIS

A portion of the site is occupied by a commercial structure that has nonconforming status. The nonconforming business has affidavits that document commercial use as a gasoline station extending back to 1956. In 1993 a Special Use Permit was approved to convert the nonconforming use to nonconforming Offices and Services (Vacuum Cleaner Sales and Service). The permit was granted for three years. This permit was subsequently renewed by the Board in 1996 for an additional five year period, this permit expires in August 2001. On November 15, 2001 a request for a change of non-conforming use to Outdoor Display Retail (Auto Sales/Service) was denied because this use was seen to be not in harmony with the area and having the risk of devaluing adjacent property. If the current approved use (Vacuum Cleaner Sales) is abandoned for 1 year during the 5 year period of approval the non-conforming status is lost. The nonconforming status of the site will expire in August 2002 if the current permit is not extended by the Board of Adjustment.

The Board of Adjustment may only authorize the conversion of a nonconforming use to another use which is of equal or lesser intensity than the original nonconforming use. The current rezoning petition was submitted in order to allow an intensification of uses at the site (Heavy Contractor).

The requested zoning would significantly increase the intensity of uses on the site by both increasing the truck traffic and noise and by clearing and developing additional land. There are several vacant LI zoned sites comprising roughly 25 acres within one half mile north of the subject site. Staff recommends the existing LI property be developed before additional land is zoned to LI. Staff is of the opinion that approval of this petition would create negative impacts

on the surrounding area and establish an inappropriate precedent for future strip commercial development along Main Street. The existing nonconforming use on the property does not significantly impact the surrounding uses and staff recommends the site not be intensified by rezoning it to LI-S.

FINDINGS

1. The site is currently zoned RS-9.
2. A portion of the site is occupied by a commercial structure that has nonconforming status (offices and services).
3. The Board of Adjustment may only authorize the conversion of a nonconforming use to another use which is of equal or lesser intensity than the original nonconforming use.
4. The current rezoning petition was submitted in order to allow an intensification of uses at the site.
5. There are several vacant LI zoned sites within one-half mile of the subject site.
6. Staff believes that approval of this petition would create negative impacts on the surrounding area and establish an inappropriate precedent for commercial zoning in the area.

STAFF RECOMMENDATION

Zoning: **DENIAL**.

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

- **PRIOR TO ISSUANCE OF GRADING PERMITS**
 - a. Developer shall have a storm water management study submitted for review by the Public Works Department of the City of Winston-Salem. If required, an engineered storm water management plan shall be submitted and approved by the Public Works Department of the City of Winston-Salem.
 - b. Developer shall obtain erosion control, grading and zoning permits from the Inspections Division of the City of Winston-Salem.
- **OTHER REQUIREMENTS**
 - a. Development may have one sign of the monument type with a maximum height of five (5) feet and a maximum copy area of 36 square feet.

Tony McGee presented the staff report. The Board determined that, if the petition is continued to a later meeting, each side be given 12 minutes to address the Board at that meeting regarding the petition and changes made to the request made during the interim.

PUBLIC HEARING

FOR: None

AGAINST:

Dottie Freeman, 5052 South Main Street, Box 2D, Winston-Salem, NC 27107

We have enough traffic on this road.

We get no consideration from the traffic commission about reducing the speed.

We have trucking companies at each end of the road.

Garbage trucks come through here.

We have a tremendous lot of trucks and traffic here.

We would like you to reject this pipe company because it's only going to make things worse.

There are a lot of wrecks here because Fishel and Jones roads do not line up.

Mary Niday, 114 Fishel Road, Winston-Salem, NC 27107

We've all been here many years and are getting older. We don't need the problems this will create. It will be a nuisance to all of us. We wouldn't reject some nice business, but we object to this use.

Diann Sykes, 120 Fishel Road, Winston-Salem, NC 27107

I don't agree with having the heavy equipment at this site.

We do have heavy traffic and wrecks.

Mr. & Mrs. Douglas L. Spach, 108 Fishel Road, Winston-Salem, NC 27107

I would rather leave it like it is.

An office or business that's pretty quiet would be okay.

Mary Bumgarner, 5210 South Main Street, Winston-Salem, NC 27107

Topography-wise, this site is almost at the crest of a hill.

This is a residential area, not industrial.

This would definitely hurt my property value and you cannot get to my house without seeing this site.

I don't see any gain for the community. I do see a lot of loss.

Robert Hutchinson, 123 Fishel Road, Winston-Salem, NC 27107

I'm opposed to this.

It will devalue my home.

Herman Leamon, 124 Fishel Road, Winston-Salem, NC 27107

I'm concerned about my neighbor waking up to find bulldozers right outside his window.

I disapprove of this company going in here.

WORK SESSION

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

1. I don't feel the petitioners have been responsible by assuming the case would be continued and not notifying the opponents of their request for continuance.
2. There isn't much the petitioner could say that would encourage us to vote for this. The petitioner will have a chance at the Board of Commissioners' meeting to express their opinion.

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

SECOND: Arnold King

VOTE:

FOR: Avant, Clark, King, Norwood, Powell, Snelgrove

AGAINST: None

EXCUSED: None

SITE PLAN MOTION: Kerry Avant certified that the site plan meets all requirements and recommends staff conditions apply.

SECOND: Jerry Clark

VOTE:

FOR: Avant, Clark, King, Norwood, Powell, Snelgrove

AGAINST: None

EXCUSED: None

According to information furnished by the Office of the Tax Assessor, the subject property was in the name of Ripple Oil Company, Inc. as of July 9, 2001.

A. Paul Norby, AICP
Director of Planning