



(Continued from the
12-09-99 CCPB Mtg.)

DOCKET #: F1281

PROPOSED ZONING:
HB-S (Convenience Store
and other Business
Uses - TWO PHASE)

EXISTING ZONING:
RS9

PETITIONER:
J.C. Faw for property owned
by Milton G. Kiger, Dorothy
V. Kiger, and Mark S. Jones

SCALE: 1" represents 200'

STAFF: L. Weston

GMA: 4A

ACRE(S): 1.02

MAP(S): 612898

February 23, 2000

J.C. Faw for property owned by others
Hwy 421 N.
P. O. Box 410
Wilkesboro, NC 28697

RE: ZONING MAP AMENDMENT F-1281

Dear Mr. Faw:

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
Barry Bush, 211 Middlebrook Drive, Wilkesboro, NC 28697
Martha Ayers, 949 Bethania-Rural Hall Road, Rural Hall, NC 27045
Jerry Shelton, 941 Bethania-Rural Hall Road, Rural Hall, NC 27045

FORSYTH COUNTY
BOARD OF COMMISSIONERS

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

SUBJECT:-

Zoning map amendment of J.C. Faw for property owned by Milton G. Kiger, Dorothy V. Kiger, and Mark S. Jones

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:-

SUMMARY OF INFORMATION:-

Zoning map amendment of J.C. Faw for property owned by Milton G. Kiger, Dorothy V. Kiger, and Mark S. Jones from RS-9 to HB-S (Convenience Store; Food or Drug Store; Furniture and Home Furnishings Store; General Merchandise Store; Hardware Store; Implement Sales and Services; Nursery, Lawn and Garden Supply Store, Retail; Restaurant (without drive-through service); Restaurant (with drive-through service); Retail Store, Specialty or Miscellaneous; Banking and Financial Services; Medical or Dental Laboratory; Medical and Surgical Offices; Offices, Miscellaneous; Professional Office; and Services, Personal): property is located on the southeast corner of Bethania-Rural Hall Road/NC 65 and Angus Street (Zoning Docket F-1281).

After consideration, the Planning Board recommended denial of the rezoning petition and certified that the site plan meets all code requirement. If the petition is approved, staff recommendations should apply.

ATTACHMENTS:- YES NO

SIGNATURE: _____ **DATE:** _____

COUNTY ORDINANCE - SPECIAL USE

Zoning Petition of J.C. Faw for property owned by Milton G. Kiger, Dorothy V. Kiger, and Mark S. Jones, Docket F-1281

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 HB-S (Convenience Store; Food or Drug Store; Furniture and Home Furnishings Store; General Merchandise Store; Hardware Store; Implement Sales and Services; Nursery, Lawn and Garden Supply Store, Retail; Restaurant (without drive-through service); Restaurant (with drive-through service); Retail Store, Specialty or Miscellaneous; Banking and Financial Services; Medical or Dental Laboratory; Medical and Surgical Offices; Offices, Miscellaneous; Professional Office; and Services, Personal) the zoning classification of the following described property:

Beginning at a point at the intersection of the eastern right-of-way of Bethania-Rural Hall Road (NC 65) and the southern right-of-way of Angus Street; thence with the southern right-of-way of Angus Street, south 88° 57' 40" east 201.80 feet to the northwest corner of Lot 87 of Tax Block 4939; thence with Lot 87, south 1° 03' 50" west 200.10 feet to the line of Lot 202 of Tax Block 4942; thence with the lines of Lot 202 and 203 of Tax Block 4942, north 88° 58' 10" west 241.20 feet to the eastern right-of-way of Bethania-Rural Hall Road; thence with the eastern right-of-way of Bethania-Rural Hall Road, north 12° 12' east 204 feet to the place of beginning and containing 1.02 acres more or less.

The above described property lying in Rural Hall, Bethania Township, Forsyth County, North Carolina is Lots 1, 2, 3, 4, 5, 6, 7, 8, 86 of Tax Block 4939 or Oak View Development as recorded in Plat Book 13, Page 145.

Section 2. This Ordinance is adopted after approval of the site plan entitled J. C. Faw, and identified as Attachment A of the Special Use District Permit issued by the Forsyth County Board of Commissioners the _____ day of _____, 19____ to J.C. Faw for property owned by Milton G. Kiger, Dorothy V. Kiger, and Mark S. Jones.

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 J. C. Faw. 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 J.C. Faw for property owned by Milton G. Kiger, Dorothy V. Kiger, and Mark S. Jones (Zoning Docket F-1281). 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 HB-S (Convenience Store; Food or Drug Store; Furniture and Home Furnishings Store; General Merchandise Store; Hardware Store; Implement Sales and Services; Nursery, Lawn and Garden Supply Store, Retail; Restaurant (without drive-through service); Restaurant (with drive-through service); Retail Store, Specialty or Miscellaneous; Banking and Financial Services; Medical or Dental Laboratory; Medical and Surgical Offices; Offices, Miscellaneous; Professional Office; and Services, Personal), approved by the Forsyth County Board of Commissioners the ____ day of _____, 19 ____" and signed, provided the property is developed in accordance with requirements of the HB-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 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.

- **PRIOR TO THE ISSUANCE OF BUILDING PERMITS**
 - a. Developer shall dedicate forty (40) feet from centerline along the entire frontage of the property on Bethania-Rural Hall Road/NC 65 as new right-of-way in fee simple to the North Carolina Department of Transportation (NCDOT).

- **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS**
 - a. All required storm water management devices shall be installed.
 - b. Developer shall widen Bethania-Rural Hall Road/NC 65 thirty (30) feet from centerline with curb and gutter along the entire frontage to the specifications of the NCDOT. This widening is intended to match the programmed widening of this road by the NCDOT.
 - c. The proposed connector drive to the south into the existing GB zoned area owned by this same petitioner shall be constructed to the property line as shown on the site plan. This connector road will be required to be connected into that GB zoned site when that property is developed. The NCDOT may not allow another driveway cut on Bethania-Rural Hall Road/NC 65 into that GB zoned land to the south. That site may have to share this development's driveway on this road.

- **OTHER REQUIREMENTS**
 - a. Ground signage shall be limited to one (1) freestanding monument sign with a maximum height of five (5) feet and a maximum copy area of thirty-six (36) square feet.

ZONING STAFF REPORT

DOCKET # F-1281

STAFF: Larry F. Weston

Petitioner(s): J. C. Faw

Ownership: Milton G. Kiger, Dorothy W. Kiger, and Mark S. Jones

CONTINUANCE HISTORY

This petition was initially before the Planning Board at its December 9, 1999, meeting. It was continued to February 10, 2000, to allow time for preparation of a site plan and resubmission as a special use district petition.

REQUEST

From: RS-9 Residential Single Family District; minimum lot size 9,000 sf
To: HB-S Highway Business District (Convenience Store; Food or Drug Store; Furniture and Home Furnishings Store; General Merchandise Store; Hardware Store; Implement Sales and Services; Nursery, Lawn and Garden Supply Store, Retail; Restaurant (without drive-through service); Restaurant (with drive-through service); Retail Store, Specialty or Miscellaneous; Banking and Financial Services; Medical or Dental Laboratory; Medical and Surgical Offices; Offices, Miscellaneous; Professional Office; and Services, Personal)

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

Acreage: 1.02 acres

LOCATION

Street: Southeast corner of NC 65 and Angus Street.

Jurisdiction: Rural Hall (Forsyth County zoning jurisdiction).

PROPERTY SITE/IMMEDIATE AREA

Existing Structures on Site: An existing single family residential structure occupies the northern portion of the site. The remainder of the site is vacant.

Adjacent Uses:

North - Single family uses located on RS-9 zoned land.

East - Single family uses located on RS-9 zoned land.

South - A vacant convenience store zoned GB.

West - Single family uses located on RS-9 zoned land, across NC 65.

GENERAL AREA

Character/Maintenance: The subject site and properties to the north, east, and west are residential; south of the site near US 52 and Forum Parkway has a business and industrial character.

Development Pace: Slow.

TRANSPORTATION

Direct Access to Site: Bethania/Rural Hall Road (NC 65) and Angus Street.

Street Classification: NC 65 is a major thoroughfare; Angus Street is not classified.

Average Daily Traffic Count/Estimated Capacity at Level of Service D (Vehicles per Day):
16,000/20,000 north of US 52. No counts available for Angus Street.

Planned Road Improvements: None.

Transportation Needs Requests:

Bethania-Rural Hall Road widened to multi-lanes: Town's #5 priority.

Bethania-Rural Hall Road bridge over US 52 widened: Town's #1 priority.

Forum Parkway Connector from dead-end to University Parkway/Broad Street: Town's #3 priority.

Transit: None.

Bike Route: None.

HISTORY

Relevant Zoning Cases:

1. F-1241; LB-S to HB-S; approved November 9, 1998; east side of Broad Street between Kiger Street and Park Street in Rural Hall (approximately one mile northwest of current site); 2.15 acres; Planning Board and staff recommended approval.
2. F-1138; RS-9 to LB-S; approved January 22, 1996; same site as #1; 2.15 acres; Planning Board recommended approval of the petition with an amended number of uses for the property; Planning staff recommended denial of the petition.
3. F-867; R-6 to O-2-S (Offices); approved November 23, 1987; southwest corner of Broad Street and Court Street in Rural Hall; 0.3 acre; Planning Board and staff recommended approval.
4. F-322; I-3 and R-5 to I-2; approved October 15, 1973; south of current site on NC 65; 19.05 acres; Planning Board and staff recommended approval.

CONFORMITY TO PLANS

GMP Area (*Vision 2005*): Area 3: Urban.

Relevant Comprehensive Plan Recommendation(s): Development of activity nodes at planned locations; separation and buffering of commercial, office, and industrial uses from residential areas; preservation of stable neighborhood areas.

Area Plan/Development Guide: None.

INCORPORATED JURISDICTION COMMENTS

The Town of Rural Hall has been notified of this proposed rezoning. No comments have been offered to date.

ANALYSIS

The request is to rezone 1.02 acres from RS-9 to HB-S (Multiple Business Uses). The uses proposed are extensive, and include Furniture and Home Furnishings Store; General Merchandise Store; Hardware Store; Nursery, Lawn and Garden Supply Store, Retail; Retail Store, Specialty or Miscellaneous; Building Contractors, General; Wholesale Trade A; and Food or Drug Store. It also includes more limited uses such as Professional Offices; Offices, Miscellaneous, and Service, Personal. However the site plan identifies a single 3,860 sf structure and gas pumps and canopy to be developed on the site.

The site lies on the edge of a low density residential neighborhood. The residential structure on the site is currently occupied. Surrounding uses to the north, east, and west are single family residential in character, and could be impacted by more intense business activity. The General Business (GB) property to the south contains a former convenience store, and was approved in 1973.

The present proposal represents a further extension of commercial activity into a residential neighborhood, and could set a precedent for additional stripping of commercial sites along NC 65. Past Angus street there is no logical stopping point for such incursion. The GB zoned property that adjoins the site to the south is vacant – the convenience store/gasoline sales station which occupied the site has been closed. This abandoned site next door offers exactly the same opportunity for development that is sought for this site, without further encroachment into the neighborhood.

Staff is concerned that the current proposal may be an unnecessary addition to the array of retail services already provided in the immediate area. There are currently two large shopping centers within several hundred feet of the site. Given the extent of general use Highway Business (HB) zoning in this vicinity, the zoning of another acre from residential to business appears to be excessive.

Staff has suggested that non-residential zoning district and uses that would be more compatible with surrounding residences, and which could provide a transition from the higher intensity commercial activities south of the site, would be more appropriate if continued use of the site as single family residential property was not feasible. Most uses in the range of uses proposed, and the specific use that is illustrated by the proposed site plan, do not fit that definition.

This request, if approved, could have a negative impact on the area by permitting high intensity business activity with insufficient protections for current area residents. These potential impacts on adjoining residential properties could involve invasive lighting and noise (particularly late at night), unwanted litter from convenience store or other retail, and significant additional traffic -- often at late hours -- on Angus Street. Angus Street is a residential street utilized by the small neighborhood east and north of the site, and has not been designed or expected to handle commercial traffic.

FINDINGS

1. The petition is not consistent with the separation and buffering objectives of *Vision 2005*.
2. The general business Highway Business petition permits a broad range of intense retail activities and does not allow for imposition of conditions that would protect the surrounding low density residential neighborhood.
3. A less intense non-residential zoning district and transitional uses that buffer the surrounding neighborhood from the adjoining General Use Business zoning would be a more appropriate request.

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 a stormwater management study submitted for review by the Public Works Department of the City of Winston-Salem. If required, an engineered stormwater management plan shall be submitted and approved by the Public Works Department of the City of Winston-Salem.
- **PRIOR TO THE ISSUANCE OF BUILDING PERMITS**
 - a. Developer shall dedicate forty (40) feet from centerline along the entire frontage of the property on Bethania-Rural Hall Road/NC 65 as new right-of-way in fee simple to the North Carolina Department of Transportation (NCDOT).

- **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS**
 - a. All required storm water management devices shall be installed.
 - b. Developer shall widen Bethania-Rural Hall Road/NC 65 thirty (30) feet from centerline with curb and gutter along the entire frontage to the specifications of the NCDOT. This widening is intended to match the programmed widening of this road by the NCDOT.
 - c. The proposed connector drive to the south into the existing GB zoned area owned by this same petitioner shall be constructed to the property line as shown on the site plan. This connector road will be required to be connected into that GB zoned site when that property is developed. The NCDOT may not allow another driveway cut on Bethania-Rural Hall Road/NC 65 into that GB zoned land to the south. That site may have to share this development's driveway on this road.

- **OTHER REQUIREMENTS**
 - a. Ground signage shall be limited to one (1) freestanding monument sign with a maximum height of five (5) feet and a maximum copy area of thirty-six (36) square feet.

Larry Weston presented the staff report.

PUBLIC HEARING

FOR:

Martha Ayers, 949 Bethania-Rural Hall Road, Rural Hall, NC 27045

There are a lot of businesses along Angus Street. Hwy 65 is going to be widened. It's currently a three-lane road.

There is an industrial park two miles from here. There is a mill close by.

The house is old. It has asbestos siding on it and rotting window panes. Due to recent family losses, the house contains a lot of memories for my fiancé. We want to get rid of it and start again.

I don't see where moving a convenience store 200 yards would make that big a difference.

I no longer feel safe here. When my boyfriend goes out of town drag racing, I ask the Sheriff's office to check on me.

The only concern I've heard is from the lady behind this property who requested a fence.

Barry Bush, 211 Middlebrook Dr, Wilkesboro, NC 28697

I work for Mr. Faw. Distributed list of properties he owns in this area.

Mr. Faw has been in business a long time. He knows that what makes sense today may not make sense tomorrow. That's why he included so many uses. Our immediate goal is to have a convenience store here.

Mr. Faw has agreed to donate 10' of right-of-way.

AGAINST:

Jerry Shelton, 941 Bethania-Rural Hall Road, Rural Hall, NC 27045

I live next door to this site, just north of it.

I'm opposed to this. These are established homes. I feel a convenience store would be out of character with the neighborhood.

My bedroom is at the front of my house, so this would be right outside my window.

The businesses are out Angus Street near Duke Power, significantly east of this site. This area is strictly residential.

WORK SESSION

During discussion by the Planning Board, the following point was made:

It looks like this could be combined with the Eckerds site to provide a much better plan.

MOTION: Jack Stewart moved denial of the zoning map amendment and certifies that the site plan meets all code requirements. Staff conditions should apply.

SECOND: Kem Schroeder

VOTE:

FOR: Avant, Johnson, Powell, Schroeder, Stewart, Williams

AGAINST: None

EXCUSED: None

According to information furnished by the Office of the Tax Assessor, the subject property was in the name of Milton G. Kiger, Dorothy V. Kiger, and Mark S. Jones as of January 7, 2000.

A. Paul Norby, AICP
Director of Planning