



DOCKET #: F1308

PROPOSED ZONING:
IP-S (Nursing Care Institution)

EXISTING ZONING:
RS20 and RS30

PETITIONER:
James & Ann Lowe,
& Vienna Village, Inc.

SCALE: 1" represents 400'

STAFF: D. Reed

GMA: 5

ACRE(S): 17.71

MAP(S): 582870

June 14, 2000

James & Ann Lowe
and Vienna Village, Inc.
6601 Yadkinville Road
Pfafftown, NC 27040

RE: ZONING MAP AMENDMENT F-1308

Dear Mr. & Mrs. Lowe:

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
D. Barrett Burge, 2599 Reynolda Road, Winston-Salem, NC 27106
Donald R. Styers, 7540 Pine Trails Road, Pfafftown, NC 27040
Terry Simmons, 7500 Pine Trails Road, Pfafftown, NC 27040
John W. Craft, Jr., 7530 Pine Trails Road, Pfafftown, NC 27040

FORSYTH COUNTY
BOARD OF COMMISSIONERS

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

SUBJECT:-

Zoning map amendment of James & Ann Lowe and Vienna Village, Inc.

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:-

SUMMARY OF INFORMATION:-

Zoning map amendment of James & Ann Lowe and Vienna Village, Inc. from RS-20 and RS-30 to IP-S (Nursing Care Institution): property is located on the southeast side of Yadkinville Road southwest of Pine Trails Road (Zoning Docket F-1308).

After consideration, the Planning Board recommended approval of the rezoning petition and certified that the site plan meets all code requirements.

ATTACHMENTS:- YES NO

SIGNATURE: _____ **DATE:** _____

COUNTY ORDINANCE - SPECIAL USE

Zoning Petition of James & Ann Lowe and Vienna Village, Inc., Docket F-1308

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-20 and RS-30 to IP-S (Nursing Care Institution) the zoning classification of the following described property:

Beginning at a point, said point being the western most corner of Lot 22Y, Tax Block 4615; thence north 46° east ±, 484± feet to a point; thence north 42° east ±, 179± feet to a point; thence north 38° east ±, 106± feet to a point; thence south 38° east ±, 210± feet to a point; thence south 38° west ±, 50± feet to a point; thence south 42° west ±, 65± feet to a point; thence south 48° east ±, 889± feet to a point; thence south 03° east ±, 367± feet to a point; thence north 78° west ±, 831± feet to a point; thence continue westerly along said line a distance of 250± feet to a point; thence north 03° east ±, 279± feet to a point; thence north 56° west ±, 59± feet to a point; thence south 03° west ±, 29± feet to a point; thence north 47° west ±, 237± feet to a point to the point of beginning.

Containing 771,797 square feet or 17.71 acres, more or less. The above described tract is a compilation of deeds and maps of record. Tax Lots 22G, 22P, 22V, and 22Y, Block 4615 and Tax Lots 1, 2, 3, 4, 5, and 6, Block 4615C.

Section 2. This Ordinance is adopted after approval of the site plan entitled Vienna Village, and identified as Attachment A of the Special Use District Permit issued by the Forsyth County Board of Commissioners the _____ day of _____, 19____ to James & Ann Lowe and Vienna Village, 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 Vienna Village. 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 James & Ann Lowe and Vienna Village, Inc. (Zoning Docket F-1308). 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 IP-S (Nursing Care Institution), 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 IP-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. This property lies within the Yadkin River WS-IV State Regulated Watershed. Developer shall obtain a Watershed permit from the Erosion Control Officer.

- **PRIOR TO THE ISSUANCE OF BUILDING PERMITS**
 - a. Site shall be approved by the North Carolina Department of Environment and Natural Resources for the installation of the sand filter system.

ZONING STAFF REPORT

DOCKET # F-1308

STAFF: David Reed

Petitioner(s): James & Ann Lowe and Vienna Village, Inc.

Ownership: Same

CONTINUANCE HISTORY

The petition was continued from the May 11, 2000, Planning Board meeting to allow for the appropriate legal advertising of the petition.

REQUEST

From: RS-20 Residential Single Family District; minimum lot size 20,000 sf and RS-30 Residential Single Family District; minimum lot size 30,000 sf

To: IP-S Institutional and Public District (Nursing Care Institution)

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

NOTE: This is a general use zoning petition; therefore, ALL uses permitted in the above requested district should be considered.

Acreage: 17.7 acres

LOCATION

Street: Southeast side of Yadkinville Road/SR 1525; south of Glenn Ferry Road.

Jurisdiction: Forsyth County.

SITE PLAN

Proposed Use: Nursing Care Institution.

Square Footage: The only proposed structure is a small utility shed which is accessory to the sand filter septic system.

Bufferyard Requirements: A type II bufferyard is required adjacent to any RS zoning districts.

PROPERTY SITE/IMMEDIATE AREA

Existing Structures on Site: The portion of the site zoned RS-30 is developed with single family retirement dwellings. The RS-20 portion of the site is vacant.

Adjacent Uses:

- Northwest - Vienna Village nursing home zoned IP.
- Northeast - Wooded area zoned RS-20 and single family homes zoned RS-30.
- Southeast - Vacant wooded land and single family homes zoned RS-30.
- Southwest - Vacant wooded land and single family homes zoned RS-30.

GENERAL AREA

Character/Maintenance: Well maintained single family homes and retirement housing.

Development Pace: Slow.

PHYSICAL FEATURES/ENVIRONMENTAL REVIEW

Impact on Existing Features: Minor.

Topography: Site slopes down to the southeast.

Vegetation/habitat: Site is partially wooded.

Water supply watershed: Yadkin River WS IV Protected Area

Compliance with Watershed Protection Regulations: Allowable development under the low density option is 2 du/ac or 24% built-upon area. Special intense development allocation with up to 70% built upon area with no storm water management controls required could be requested.

TRANSPORTATION

Direct Access to Site: Yadkinville Road.

Street Classification: Minor thoroughfare.

Average Daily Traffic Count/Estimated Capacity at Level of Service D (Vehicles per Day):
2,700/10,500

Trip Generation/Existing Zoning: 8 units x 2.15(trip rate) = 17 avg. trips/day

Trip Generation/Proposed Zoning: 8 units x 2.15 (trip rate) = 17 avg. trips/day

Planned Road Improvements: None.

Sight Distance: Good.

Sidewalks: Sidewalks exist on the project sites along Yadkinville Road.

Transit: Transit is not available at this time.

HISTORY

Relevant Zoning Cases:

1. F-1240; RS-30 to RS-20; approved September 28, 1998; southeast side of Yadkinville Road southwest of Pine Trails Road; 0.47 acre; Planning Board and staff recommended approval.

2. F-1232; RS-30 and LB-S (Nursery, Lawn and Garden Supply Store, Retail) to LB-S (Nursery, Lawn and Garden Supply Store, Retail); approved June 22, 1998; northeast corner of Yadkinville Road and Vienna-Dozier Road (northeast of current site); 5.24 acres; Planning Board and staff recommended approval.

CONFORMITY TO PLANS

GMP Area (*Vision 2005*): Area 5: Rural.

Relevant Comprehensive Plan Recommendation(s): Limited provision of new roads, sewer and other facilities and services; limited residential and commercial development; retention of farming activities; preservation of the natural environment.

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

ANALYSIS

The subject property is part of the Vienna Village retirement community but is zoned RS-20 and RS-30. The retirement home itself which is across Yadkinville Road from the subject site is zoned IP. Part of the subject site is developed with single family retirement dwellings which are interconnected by sidewalks. The remainder of the site is currently vacant and is identified on the site plan as the location for a proposed sand filter septic system.

The sand filter septic system treats the wastewater and discharges it into a stream. Permits for such a system are issued by the Water Quality Division of the State Department of Environment and Natural Resources (DENR). Each system has a flow limit which is monitored either daily or weekly and regular inspections are made by DENR. Before such a system is approved, a public notice is made and if there is significant response to the public notice, a public hearing is held. It typically takes six months to one year to obtain such a permit.

The nursing home was established many years ago when nursing homes were a permitted use in the R-6 zoning district. Most of the rural land in the county was zoned R-6 prior to the adoption of the UDO. The single family retirement dwellings have been incorporated into the retirement community over time. All of the property in the petition is owned by Vienna Village, Inc. and James & Ann Lowe, who manage Vienna Village.

No additional development is proposed on the property with the exception of the sand filter septic system. The septic system appears to be so located and buffered as to minimize impacts on adjacent properties. The pump station and sand filter lie approximately 250' from the nearest adjacent property to the north. Within the setback area are existing mature trees and a tributary of Mill Creek. In addition, the existing vegetation must be supplemented to create a minimum type II bufferyard where gaps or open areas may currently exist.

Staff believes the IP-S zoning is appropriate for the area and recommends approval of the rezoning.

FINDINGS

1. The subject property is part of the Vienna Village retirement community but is zoned RS-20 and RS-30. The retirement home itself which is across Yadkinville Road from the subject site is zoned IP.
2. The only proposed development on the site is a sandfilter septic system which treats the wastewater and discharges it into a stream. Permits for such a system are issued by the Water Quality Division of the Department of Environment and Natural Resources (DENR).
3. Before such a system is approved a public notice is made and if there is significant response to the public notice, a public hearing is held.
4. The nursing home was established many years ago when nursing homes were a permitted use in the R-6 zoning district.
5. Staff believes the IP-S zoning is appropriate for the existing development and recommends approval of the rezoning.

STAFF RECOMMENDATION

Zoning: **APPROVAL**.

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

- **PRIOR TO THE ISSUANCE OF GRADING PERMITS**
 - a. This property lies within the Yadkin River WS-IV State Regulated Watershed. Developer shall obtain a Watershed permit from the Erosion Control Officer.
- **PRIOR TO THE ISSUANCE OF BUILDING PERMITS**
 - a. Site shall be approved by the North Carolina Department of Environment and Natural Resources for the installation of the sand filter system.

[For information purposes only: The draft Legacy plan identifies the site as being in the Rural Area planning area designated on Legacy's growth management map. The policies for this planning area include limited provision of new roads, sewer and other facilities and services; limited residential and commercial development; retention of farming activities; preservation of the natural environment, and clustering of residential development that does occur.]

PUBLIC HEARING - May 11, 2000

FOR: None

AGAINST: None

WORK SESSION

MOTION: Norman Williams moved continuance of the zoning map amendment and site plan to June 8, 2000.

SECOND: Steve Johnson.

VOTE:

FOR: Bost, Johnson, King, Powell, Schroeder, Snelgrove, Williams

AGAINST: None

EXCUSED: None

PUBLIC HEARING - June 8, 2000

David Reed presented the staff report.

FOR:

Barry Burge, 2499 Reynolda Road, Winston-Salem, NC 27106

Distributed handout which was distributed to neighbors at the neighborhood meeting.

This nursing home predates zoning in Forsyth County.

This is one of the finest facilities in the county.

The soil in this area is not as viable as other parts of the county. As a result, our septic system is showing strain. Reviewing the options, this seems to be the best option.

The new system will be smaller than the old one. It will not handle more than the old system did. We don't intend to increase our number of residents.

One concern expressed by residents was odor. Sand filter allows the water to be retreated several times before being released into the soil. It does not go into the creeks or water systems.

Our engineer assures us that odor will not be discernable for more than 30 feet and will smell musty.

We have located this in the center of the property. We have provided a buffer of about five acres.

We will not be disturbing any trees that we don't have to disturb. The lines will run along the same paths.

What happens next? We have 65 beds in the facility with no intention of growth.

This is a special use district petition and we can only do what is shown on the site plan without coming back through this process.

My client and his predecessor have been in business for 35 years; they have an excellent reputation.

Mr. & Mrs. Lowe live adjacent to the facility across Yadkinville Hwy.

Should our current system fail, we do have some unpleasant circumstances. We are trying to prevent this.

Mr. Johnson asked if there are other sand filter systems operating in the vicinity? Mr.

Burge and Mr. Lowe indicated that there was one at Vienna School and there were no odor problems there.

AGAINST:

Donald R. Styers, 7540 Pine Trails Road, Pfafftown, NC 27040

My lot backs up to this.

I oppose this sand filter because it's my understanding that they will be treating the water with a lot of chemicals. I'm extremely sensitive to chemical smells and am concerned about their use this close to my home.

There's another gentlemen right near here who has emphysema. This will be bad for him too.

Terry Simmons, 7500 Pine Trails Road, Pfafftown, NC 27040

We've lived here three years and worked hard to get our dream house. Now we are concerned about losing our serenity for the sake of big business.

Treated wastewater will not be clean enough to drink, so it shouldn't be put into the creek. The new system can handle more wastewater than the old system, even if they don't want to use it for more at this time.

The ground would not percolate.

This is a State-approved system; that doesn't mean it's not going to fail.

This system has a chance of polluting the creek which ultimately goes to the Yadkin River.

This is a beautiful residential area which needs to be kept that way.

John W. Craft, Jr., 7530 Pine Trails Road, Pfafftown, NC 27040

Submitted petition of opposition to this request.

Practically everyone on Pine Trails Road is opposed and many are here today to express their opposition.

We are concerned about odor and water quality. There are wells very close to this site.

The land is flat in the middle and tapers down on the edges.

There are also wells further downstream which will be impacted.

The chemicals they are using will not be standard household chemicals.

Who would pay for the cost of the pollution? Would the County?

This nursing home has already expanded twice. They had problems with septic systems on their lot which is why they moved across the street near our homes.

WORK SESSION

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

1. Ms. Schroeder asked about the need for this system. Mr. Burge indicated there has not been a total failure. Indications have been received from the Health Department that it is likely to fail soon. Chemicals are not used in this process.

2. Mr. Johnson asked what other options were considered. Mr. Burge indicated the alternatives were very short-term fixes. The consultant and DENR recommended this system as the best option. This discharge doesn't go into the streams. It seeps further and further down into the soil. Raw sewage stays in the tank across the street. This is only for waste water.
3. James Lowe, 6585 Yadkinville Road, Pfafftown, NC 27040. This system has been designed by an engineer to State engineering standards. The State recommended a sand filter system so that cleaner discharge can go back into the ground. We are trying to get the same system we have now, but one that will work better.
4. Mr. Bost asked if they could put a restriction on this to not expand? Mr. Reed indicated that the nursing home was across the street and not part of this request and therefore could not have conditions applied to it.

MOTION: Arnold King moved approval of the zoning map amendment.

SECOND: Steve Johnson

VOTE:

FOR: Avant, Johnson, King, Rousseau, Snelgrove, Williams

AGAINST: Bost, Powell, Schroeder

EXCUSED: None

SITE PLAN MOTION: Arnold King certified that the site plan meets all code requirements and recommended staff conditions.

SECOND: Steve Johnson

VOTE:

FOR: Avant, Johnson, King, Rousseau, Snelgrove, Williams

AGAINST: Bost, Powell, Schroeder

EXCUSED: None

According to information furnished by the Office of the Tax Assessor, the subject property was in the name of James E. Lowe, Ann W. Lowe, and Vienna Village, Inc. as of April 5, 2000.

A. Paul Norby, AICP
Director of Planning