DOCKET #: W3070
(continued from 6/10/2010)

PROPOSED ZONING:
Special Use Permit for access

EXISTING ZONING:
RS9

PETITIONER:
Roy L. Burger for property owned by Same

SCALE: 1" represents 400'
STAFF: Reed
GMA: 3
ACRES: 11.43
NEAREST BLDG: 75' south
MAP(S): 594862
July 14, 2010

Roy L. Burger, Sr.
121 Circle Drive
Swansboro, NC  28584

RE: SPECIAL USE PERMIT W-3070

Dear Mr. Burger:

The attached report of the Planning Board to the City Council is sent to you at the request of the Council Members. You will be notified by the City Secretary’s Office of the date on which the Council will hear this petition.

Sincerely,

A. Paul Norby, FAICP
Director of Planning

pc: City Secretary’s Office, P.O. Box 2511, Winston-Salem, NC  27102
Charles P. Truby, 4400 Tyning Street, High Point, NC  27265
# ACTION REQUEST FORM

<table>
<thead>
<tr>
<th><strong>DATE:</strong></th>
<th>July 14, 2010</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>TO:</strong></td>
<td>The Honorable Mayor and City Council</td>
</tr>
<tr>
<td><strong>FROM:</strong></td>
<td>A. Paul Norby, FAICP, Director of Planning</td>
</tr>
</tbody>
</table>

## BOARD ACTION REQUEST:

Request for Public Hearing on Special Use Permit by Roy L. Burger Sr.

## SUMMARY OF INFORMATION:

Special Use Permit by Roy L. Burger Sr. for access across RS-9 zoned land to RM-8-S zoned land: property is located on the east side of Meadowlark Drive, south of Robinhood Road (Zoning Docket W-3070).

## PLANNING BOARD ACTION:

<table>
<thead>
<tr>
<th><strong>MOTION ON PETITION:</strong></th>
<th>APPROVAL</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FOR:</strong></td>
<td>UNANIMOUS</td>
</tr>
<tr>
<td><strong>AGAINST:</strong></td>
<td>NONE</td>
</tr>
<tr>
<td><strong>SITE PLAN ACTION:</strong></td>
<td>CONFORMS TO THE REQUIREMENTS OF THE UDO</td>
</tr>
</tbody>
</table>
BE IT ORDAINED by the City Council of the City of Winston-Salem as follows:

Section 1. The City Council hereby makes an affirmative finding as follows, based upon the material and competent evidence presented at the public hearing:

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved;
2. That the use meets all required conditions and specifications;
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and,
4. That the location and character of the use, if developed according to the application and plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with Legacy.

Section 2. The Winston-Salem City Council hereby issues a special use permit for access across RS-9 zoned land to RM-8-S zoned land in accordance with Section 6-1.5 of the Zoning Ordinance of the Unified Development Ordinances to Roy L. Burger Sr. to be established on the following described property:

PIN #s 5896-74-0970, 5896-74-3659, and 5896-64-9907

Section 3. This Ordinance is adopted after approval of the site plan entitled Villas at Robinhood and identified as Attachment "A" of the Special Use Permit issued by the City Council the ______ day of __________________, to Roy L. Burger Sr.

Section 4. The City Council hereby directs the issuance of a Special Use Permit pursuant to Section 6-1.5 of the Zoning Ordinance of the Unified Development Ordinances for a development to be known as Villas at Robinhood. Said Special Use Permit and site plan with associated documents are attached hereto and incorporated herein.

Section 5. This Ordinance shall be effective from and after its adoption.
The City Council of the City of Winston-Salem issues a Special Use Permit for the site shown on the site plan map included in this zoning petition of Roy L. Burger Sr., (Zoning Docket W-3070). The site shall be developed in accordance with the plan approved by the Council and bearing the inscription: "Attachment A, Special Use Permit for access across RS-9 zoned land to RM-8-S zoned land, approved by the Winston-Salem City Council the _____ day of _____________________, 20____" and signed, provided the property is developed in accordance with requirements of Section 6-1.5 of the Zoning Ordinance of the Unified Development Ordinances, and other applicable laws, and the following additional conditions be met:

• **PRIOR TO THE ISSUANCE OF GRADING PERMITS:**
  a. Developer shall obtain a driveway permit from NCDOT; additional improvements may be required prior to issuance of driveway permit.

• **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS:**
  a. All required improvements of the NCDOT driveway permit shall be completed.

• **OTHER REQUIREMENTS:**
  a. The internal vehicular connection between the subject property and the adjacent property to the east (F-1497) shall not be gated or closed.
### CITY-COUNTY PLANNING BOARD
#### STAFF REPORT

## PETITION INFORMATION

<table>
<thead>
<tr>
<th>Docket #</th>
<th>W-3070</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff</td>
<td>Gary Roberts Jr. AICP</td>
</tr>
<tr>
<td>Petitioner(s)</td>
<td>Roy L. Burger Sr.</td>
</tr>
<tr>
<td>Owner(s)</td>
<td>Same</td>
</tr>
<tr>
<td>Subject Property</td>
<td>PIN #s 5896-74-0970, 5896-74-3659, and 5896-64-9907</td>
</tr>
<tr>
<td>Address</td>
<td>1105 &amp; 1155 Meadowlark Drive</td>
</tr>
<tr>
<td>Type of Request</td>
<td>Special Use Permit for access across RS-9 zoned land to RM-8-S zoned land.</td>
</tr>
<tr>
<td>Continuance History</td>
<td>The request was continued from the June 10, 2010 Planning Board meeting to the July 8 Planning Board meeting.</td>
</tr>
</tbody>
</table>

## Zoning District

**Purpose Statement**
The RS-9 District is primarily intended to accommodate relatively high density single family detached dwellings in urban areas. This district is intended for application in GMAs 2 and 3 and may be suitable in Metro Activity Centers where public facilities, including public water and sewer, public roads, parks, and other governmental support services, are available.

## Neighborhood Contact/Meeting
The petitioner has stated that there has been no contact with the neighbors regarding this request.

## GENERAL SITE INFORMATION

<table>
<thead>
<tr>
<th>Location</th>
<th>East side of Meadowlark Drive, south of Robinhood Road</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jurisdiction</td>
<td>City of Winston-Salem</td>
</tr>
<tr>
<td>Ward(s)</td>
<td>West</td>
</tr>
<tr>
<td>Site Acreage</td>
<td>± 11.43 acres</td>
</tr>
</tbody>
</table>

**Current Land Use**
The site is primarily undeveloped with the exception of two single family homes which are proposed for removal to accommodate the proposed single family subdivision, PBR 2010-05.

### Surrounding Property Zoning and Use

<table>
<thead>
<tr>
<th>Direction</th>
<th>Zoning District</th>
<th>Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>RS-9</td>
<td>Single family homes</td>
</tr>
<tr>
<td>East</td>
<td>RM-8-S</td>
<td>Multifamily residential (under construction)</td>
</tr>
<tr>
<td>South</td>
<td>RS-9</td>
<td>Single family homes</td>
</tr>
<tr>
<td>West</td>
<td>RS-9 &amp; MU-S</td>
<td>Undeveloped property</td>
</tr>
</tbody>
</table>

**Physical Characteristics**
The majority of the site is heavily wooded and has a moderate to steep slope downward to the north.

**Proximity to Water and Sewer**
Public water and sewer are available.

**Stormwater/Drainage**
No known issues. A stormwater study will be required as a condition of the proposed subdivision on the subject property (PBR 2010-05).

**Watershed and Overlay Districts**
The site is not within a water supply watershed.
Analysis of General Site Information

The site appears to have no development constraints and is suitable for providing access.

<table>
<thead>
<tr>
<th>SITE ACCESS AND TRANSPORTATION INFORMATION</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Street Name</strong></td>
</tr>
<tr>
<td>------------------</td>
</tr>
<tr>
<td>Meadowlark Drive</td>
</tr>
<tr>
<td>King Rusty’s Lane</td>
</tr>
</tbody>
</table>

**Proposed Access Point(s)**
The site plan shows an access onto Meadowlark Drive and a connection to a private stub street within an adjacent multifamily development to the east (see the Conformity to Plans and Planning Issues section below).

**Planned Road Improvements**
The Comprehensive Transportation Plan recommends a three lane cross section with widened outside lanes and sidewalks for Meadowlark Road.

**Trip Generation - Existing/Proposed**
The installation of a new private street will not generate additional traffic, but will disperse traffic through greater connectivity.

**Sidewalks**
Sidewalks are proposed along one side of the proposed private street.

**Transit**
Route 12 at the intersection of Country Club Road and Peace Haven Road is located approximately 1.6 miles to the southeast.

**Connectivity**
The proposed secondary connection into the adjacent RM-8-S zoned site will provide good connectivity to the general area.

Analysis of Site Access and Transportation Information

In 2008, a rezoning request for 224 multifamily units was approved directly east of the subject property (F-1497). The site plan for this development included a private street stub into the subject property. The proposed site plan, which also corresponds to PBR 2010-05, connects to that stub which would in turn permit cross access between single family zoning and multifamily zoning. Special Use Permits, authorized by the Elected Body, are required in situations where private street connections are requested between single and multifamily zoning. In contrast to a more legislative rezoning action, Special Use Permits are quasi judicial actions which require certain Findings of Fact to be found in order to grant approval (See the Other Applicable Plans and Planning Issues section below).

Although the streets within both developments are private, the request would facilitate greater connectivity between Meadowlark Drive and Robinhood Road for the internal residents. This would lessen the impact to the existing signalized intersection of these two thoroughfares northwest of the site.

CONFORMITY TO PLANS AND PLANNING ISSUES

**Legacy GMA**
Growth Management Area 3, Suburban Neighborhoods

**Relevant Legacy Recommendations**
- **Street Design**: New streets in residential areas must be designed to accommodate all users. Greater connectivity between residential streets would distribute the total traffic, ease congestion and make movement easier for all modes of transportation.
<table>
<thead>
<tr>
<th>Relevant Area Plan(s)</th>
<th>The site is not within the boundaries of an area plan or development guide.</th>
</tr>
</thead>
</table>
| Other Applicable Plans and Planning Issues | For Special Use Permits (SUP) requiring approval by the Elected Body, certain findings have to be met. Findings of the Planning Board accompanying a favorable recommendation shall include: **Planning Board Findings:** 1. The development is in conformity with *Legacy*. *(Yes)* 2. Water and sewer service are available in adequate capacity. *(Yes)* 3. Where buildings greater than thirty-five (35) feet in height are proposed within the City of Winston-Salem limits, there is adequate access for aerial fire-fighting equipment. *(No buildings 35’ are proposed on the Special Use Permit property)* 4. Streets and highways, both within and in the vicinity of the development, are of such design and traffic-carrying capacity that the development will not create a traffic hazard. *(Yes)* 5. General layout and design of the development meet all requirements of this Ordinance. *(Yes)* 6. Adequate, safe and convenient provision is made for vehicular and pedestrian movement on the site with particular attention paid to the needs of public safety equipment and personnel (fire, police, etc) and service vehicles and personnel (sanitation, postal delivery, etc). *(Yes)* 7. The Planning Board may recommend to the Elected Body conditions as identified in Section 6-1.3(A)(1) for the issuance of the special use permit to reduce impacts associated with the project. *(See “SITE-SPECIFIC RECOMMENDED CONDITIONS OF APPROVAL” section below)*  

The Elected Body shall issue a special use permit only when the Elected Body makes an affirmative finding as follows: **Elected Body Findings:** 1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved. *(Yes)* 2. That the use meets all required conditions and specifications. *(Yes)* 3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and, *(Yes)* 4. That the location and character of the use, if developed according to the application and plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with *Legacy*. *(Yes)*
<table>
<thead>
<tr>
<th>Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(R)</th>
<th>(R)(3) - Have changing conditions substantially affected the area in the petition?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, see comments regarding adjacent multifamily rezoning below.</td>
<td></td>
</tr>
<tr>
<td>(R)(4) - Is the requested action in conformance with Legacy?</td>
<td></td>
</tr>
<tr>
<td>Yes</td>
<td></td>
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</table>

**Analysis of Conformity to Plans and Planning Issues**

Planning staff suggests that the request complies with the required Special Use Permit Findings as noted above, and recommends approval.

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## RELEVANT ZONING HISTORIES

<table>
<thead>
<tr>
<th>Case</th>
<th>Request</th>
<th>Decision &amp; Date</th>
<th>Direction from Site</th>
<th>Acreage</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>F-1497</td>
<td>RS-9 to RM-8-S</td>
<td>Approved 5-12-08</td>
<td>Directly east</td>
<td>28.16</td>
<td>Approval</td>
</tr>
<tr>
<td>F-1392</td>
<td>RS-9 to MU-S</td>
<td>Approved 11-10-03</td>
<td>Directly southwest</td>
<td>795</td>
<td>Approval</td>
</tr>
</tbody>
</table>

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## SITE PLAN COMPLIANCE WITH UDO REQUIREMENTS

<table>
<thead>
<tr>
<th>Building Height</th>
<th>Maximum</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Impervious Coverage</td>
<td>Maximum</td>
<td>Proposed</td>
</tr>
<tr>
<td>NA</td>
<td>----</td>
<td></td>
</tr>
</tbody>
</table>

**UDO Sections Relevant to Subject Request**

- Chapter B, Article II, Section 2-1.2 (H) RS-9 District
- Chapter B, Article II, Section 2-5.2 Access Easement Use Conditions

**Complies with Chapter B, Article VII, Section 7-5.3**

- (A) Legacy policies: Yes
- (B) Environmental Ord. NA
- (C) Subdivision Regulations NA

**Analysis of Site Plan Compliance with UDO Requirements**

The UDO requirements for the Special Use Permit site plan have been met.

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## CONCLUSIONS TO ASSIST WITH RECOMMENDATION

<table>
<thead>
<tr>
<th>Positive Aspects of Proposal</th>
<th>Negative Aspects of Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Request meets all SUP Findings and provides good street connectivity.</td>
<td>The interconnectivity could encourage cut-through traffic through the private streets.</td>
</tr>
<tr>
<td>Request is consistent with Legacy which encourages greater connectivity.</td>
<td></td>
</tr>
</tbody>
</table>
The following proposed conditions are from interdepartmental review comments and are proposed in order to meet codes or established standards, or to reduce negative off-site impacts.

- **PRIOR TO THE ISSUANCE OF GRADING PERMITS:**
  a. Developer shall obtain a driveway permit from NCDOT; additional improvements may be required prior to issuance of driveway permit.

- **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS:**
  a. All required improvements of the NCDOT driveway permit shall be completed.

- **OTHER REQUIREMENTS:**
  a. The internal vehicular connection between the subject property and the adjacent property to the east (F-1497) shall not be gated or closed.

**STAFF SPECIAL USE PERMIT RECOMMENDATION:** Approval

**NOTE:** These are staff comments only; final recommendations on projects are made by the City-County Planning Board, with final decisions being made by the appropriate Elected Body, who may approve, deny, table or request modification for any project. **THE APPLICANT OR REPRESENTATIVE IS STRONGLY ENCOURAGED TO ATTEND THE PUBLIC HEARINGS WHERE THE CASE WILL BE CONSIDERED BY THE PLANNING BOARD AND THE ELECTED BODY.**
CITY-COUNTY PLANNING BOARD
PUBLIC HEARING
MINUTES FOR W-3070
JULY 8, 2010

PUBLIC HEARING

FOR: None

AGAINST: None

WORK SESSION

MOTION: Paul Mullican moved approval of the special use permit, certified that the site plan meets all code requirements and recommends staff conditions.
SECON: Arthur King
VOTE:
   FOR: Wesley Curtis, Arnold King, Arthur King, Clarence Lambe, Darryl Little, Barry Lyons, Lynne Mitchell, Paul Mullican
   AGAINST: None
   EXCUSED: None

A. Paul Norby, FAICP
Director of Planning