DOCKET #: W3127

PROPOSED ZONING: NB

EXISTING ZONING: RS12

PETITIONER: Douglas Reid for property owned by Same

SCALE: 1" represents 200'

STAFF: Roberts

GMA: 3

ACRES: 0.19

NEAREST BLDG: 35' northwest

MAP(S): 624878
January 25, 2012

Douglas Reid
5164 N. Cherry Street
Winston-Salem, NC 27105

Re: Zoning Map Amendment W-3127

Dear Mr. Reid:

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,

[Signature]

A. Paul Norby, FAICP
Director of Planning

pc: City Secretary’s Office, P.O. Box 2511, Winston-Salem, NC 27102
**ACTION REQUEST FORM**

<table>
<thead>
<tr>
<th>DATE:</th>
<th>January 25, 2012</th>
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<tbody>
<tr>
<td>TO:</td>
<td>The Honorable Mayor and City Council</td>
</tr>
<tr>
<td>FROM:</td>
<td>A. Paul Norby, FAICP, Director of Planning</td>
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</tbody>
</table>

**COUNCIL ACTION REQUEST:**

Request for Public Hearing on Zoning map amendment of Douglas Reid

**SUMMARY OF INFORMATION:**

Zoning map amendment of Douglas Reid from RS12 to NB: property is located on the west side of North Cherry Street, southeast of Maysol Drive (Zoning Docket W-3127).

**PLANNING BOARD ACTION:**

<table>
<thead>
<tr>
<th>MOTION ON PETITION:</th>
<th>APPROVAL</th>
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<tbody>
<tr>
<td>FOR:</td>
<td>UNANIMOUS</td>
</tr>
<tr>
<td>AGAINST:</td>
<td>NONE</td>
</tr>
<tr>
<td>SITE PLAN ACTION:</td>
<td>NOT REQUIRED</td>
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</table>
CITY ORDINANCE - GENERAL USE

Zoning Petition of Douglas Reid, Docket W-3127

AN ORDINANCE AMENDING THE WINSTON-SALEM CITY ZONING ORDINANCE AND THE OFFICIAL ZONING MAP OF THE CITY OF WINSTON-SALEM, N.C.

_________________________________________________________

BE IT ORDAINED by the City Council of the City of Winston-Salem as follows:

Section 1. The Winston-Salem City Zoning Ordinance and the Official Zoning Map of the City of Winston-Salem, N.C. are hereby amended by changing from RS12 to NB the zoning classification of the following described property:

PIN #6828-40-2723

Section 2. This ordinance shall become effective upon adoption.
<table>
<thead>
<tr>
<th><strong>PETITION INFORMATION</strong></th>
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<tbody>
<tr>
<td><strong>Docket #</strong></td>
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<tr>
<td><strong>Staff</strong></td>
</tr>
<tr>
<td><strong>Petitioner(s)</strong></td>
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<tr>
<td><strong>Owner(s)</strong></td>
</tr>
<tr>
<td><strong>Subject Property</strong></td>
</tr>
<tr>
<td><strong>Address</strong></td>
</tr>
<tr>
<td><strong>Type of Request</strong></td>
</tr>
<tr>
<td><strong>Proposal</strong></td>
</tr>
<tr>
<td><strong>Neighborhood Contact/Meeting</strong></td>
</tr>
<tr>
<td><strong>Zoning District Purpose Statement</strong></td>
</tr>
<tr>
<td><strong>Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(R)</strong></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>GENERAL SITE INFORMATION</strong></th>
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</thead>
<tbody>
<tr>
<td><strong>Location</strong></td>
</tr>
<tr>
<td><strong>Jurisdiction</strong></td>
</tr>
<tr>
<td><strong>Ward(s)</strong></td>
</tr>
<tr>
<td><strong>Site Acreage</strong></td>
</tr>
<tr>
<td><strong>Current Land Use</strong></td>
</tr>
<tr>
<td><strong>Surrounding Property Zoning and Use</strong></td>
</tr>
<tr>
<td>----------------------------------------</td>
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**(R)(2) - Is/are the use(s) permitted under the proposed classification/request compatible with uses permitted on other properties in the vicinity?**

Due to the relatively small size of the subject property and the limited scale of uses and square footage allowed in the proposed NB District, the uses can be seen as being neighborhood serving.

**Physical Characteristics**
The site has a moderate slope downward to the southwest.

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

**Stormwater/Drainage**
No known issues.

**Watershed and Overlay Districts**
The site is not located within a water supply watershed.

**Analysis of General Site Information**
The site has no apparent constraints and appears to be suitable for development within the proposed NB District.

**SITE ACCESS AND TRANSPORTATION INFORMATION**

<table>
<thead>
<tr>
<th><strong>Street Name</strong></th>
<th><strong>Classification</strong></th>
<th><strong>Frontage</strong></th>
<th><strong>ADT Count</strong></th>
<th><strong>Capacity/LOS D</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>North Cherry Street</td>
<td>Minor Thoroughfare</td>
<td>91’</td>
<td>3,500</td>
<td>16,100</td>
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</table>

**Proposed Access Point(s)**
Because this is a General Use request with no site plan, the exact location of access points is unknown. The vehicular access to the site is currently from North Cherry Street.

**Planned Road Improvements**
The Comprehensive Transportation Plan recommends sidewalks along this section of North Cherry Street.

**Trip Generation - Existing/Proposed**

*Existing Zoning: RS12*

.19 acre / 12,000sf = 1 unit x 9.57 (SFR Trip Rate) = 10 Trips per Day

*Proposed Zoning: NB*

No trip generation is available for the proposed general use zoning which has no site plan.

**Sidewalks**
There are no sidewalks located in the general area.

**Transit**
Route 10 runs along North Cherry Street.

**Analysis of Site Access and Transportation Information**
Presently, the access to Cherry Street consists of a continuous driveway apron across the entire 90’ frontage. Staff would prefer this access be narrowed to conform with WSDOT standards. Otherwise the site has good access and staff does not anticipate any negative transportation impacts from this request.
<table>
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<tr>
<th><strong>Legacy GMA</strong></th>
<th>Growth Management Area 3 – Suburban Neighborhoods</th>
</tr>
</thead>
</table>
| **Relevant Legacy Recommendations** | • *Legacy* calls for existing neighborhoods to be preserved, revitalized, and protected from inappropriate commercial and industrial encroachment.  
• Promote economic development that is compatible with existing residential neighborhoods and other business developments. |
| **Relevant Area Plan(s)** | *North Suburban Area Plan (2005)* |
| **Area Plan Recommendations** | • The Area Plan recommends Low-Density Residential. Low-density residential development has a density of zero to five units per acre and consists mostly of single-family units. |
| **Other Applicable Plans and Planning Issues** | Comments from the Inspections Division: If there is a change of use (or if no use has been established in the structure), permits will be required to establish the use. |
| **Addressing** | There are no address number or street naming concerns. |
| **Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(R)** | *(R)(3) - Have changing conditions substantially affected the area in the petition?*  
No  
*(R)(4) - Is the requested action in conformance with *Legacy*?*  
See comments below |
| **Analysis of Conformity to Plans and Planning Issues** | The request is to rezone the site from RS12 to NB. The site is currently improved with a modest sized building which has a long history of commercial use although it has lost its nonconforming status.  
Properties such as this one typically fall into one of two categories. Either the commercial activity is formally recognized and approved through the rezoning process or the nonconforming use status is lost and the site eventually transitions into a conforming i.e. residential or undeveloped state.  
Considering the location of this site along a minor thoroughfare and the small scale, neighborhood serving nature of the NB District request, Planning staff could envision how this site could fall into the former category and be reestablished under current ordinance requirements. However, in order to more carefully evaluate how the access, parking and landscaping requirements will be met on this relatively small site, staff believes a special use zoning (with accompanying site plan) is more appropriate. Also, according to aerial photography, said existing structure may encroach onto the adjacent lot to the northwest. The option to convert the subject rezoning from a general use to a special use request has been discussed with the petitioner who has chosen to continue with the current general use request. |
RELEVANT ZONING HISTORIES

There has been no recent rezoning activity in the vicinity of the subject property. However, in 1976 there were two separate Zoning Board of Adjustment requests for the subject property to convert the nonconforming grocery store to a sandwich shop and both requests were denied.

<table>
<thead>
<tr>
<th>Positive Aspects of Proposal</th>
<th>Negative Aspects of Proposal</th>
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<tbody>
<tr>
<td>The NB District is considered neighborhood serving.</td>
<td>The request would establish commercial zoning in close proximity to single family homes.</td>
</tr>
<tr>
<td></td>
<td>The request is not consistent with the area plan.</td>
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<td></td>
<td>Without a site plan, it’s difficult to determine how improvements to the site would take place.</td>
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STAFF RECOMMENDATION: Denial

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-3127
JANUARY 12, 2012

Gary Roberts presented the staff report.

PUBLIC HEARING

FOR:

Doug Reid, 5164 N. Cherry Street, Winston-Salem, NC 27105
- This property adjoins my residence where I've lived all my life.
- It's been a neighborhood business since I can remember.
- I didn't realize that if the building sat empty for a year you lost your zoning status.
- The fellow who ran this for 30 years had a stroke. We hoped he was going to get better and come back. Over a year later it became obvious he was never going to be able to come back and do that.
- By the time I got around to trying to lease it out to somebody I found out it had reverted back to the previous residential.
- Basically what I'm after is getting the zoning to let me lease it. I've had a lot of requests from people in the neighborhood who want to lease it for various things. It's basically useless as it is.

AGAINST: None

WORK SESSION

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

1. Clarence Lambe asked if the Zoning Board of Adjustment can make a determination to go back to legal non-conforming? Gary Roberts: Not if the year has expired.

2. Wesley Curtis: I guess not wanting to go special use was not knowing what he wanted to use it for. Gary Roberts: The petitioner considered going special use but the cost of that seemed prohibitive to him.

3. Clarence Lambe: What are the most intense uses allowed in NB? Gary Roberts: A restaurant or bar-type use.
4. Allan Younger: Do you know what the most recent use was? Gary Roberts: I understand it was a bar called Jack's Place. Allan Younger: When was the property last used? The petitioner answered from the audience saying it was about four to five years ago.

5. Wesley Curtis: Situations like this where there's been a business here for years and where the guy lives next door to me are situations where you'd like to help if you could. I understand staff's position about allowing it to be a business, but there are a lot of issues which should have been resolved while it was running. At this opportunity it would be great to fix. I understand the cost of a site plan being prohibitive, but if we approve this he wouldn't have to come back for any reason.

6. Clarence Lambe: He's now going to have to get a Certificate of Occupancy for this new use. Gary Roberts: The building would have to be brought up to code. They will have to get the driveway narrowed down and curb and gutter installed.

7. Paul Mullican: I would think this would help the neighborhood. Otherwise what's going to happen to the building. He's probably going to let the thing sit there. I look at this as a betterment for the community because of what he would have to do to fix it up to get a Certificate of Occupancy.

8. Clarence Lambe: I'm just surprised there's no one here opposing a general use rezoning to NB.

9. Arnold King: Well, he lives next door and the neighbors know who owns it and it's been a business for years.

10. Lynne Mitchell: When you've got the petition in here you've obviously got your neighbors on board.

11. Wesley Curtis: Normally I wouldn't go this direction but the business has been here forever. The guy who owns it has been there forever. He's just looking to continue it being there. All the neighbors around him support it. With no opposition before us, I'm going to support the motion.

MOTION: Clarence Lambe moved approval of the zoning map amendment.
SECOND: Paul Mullican
VOTE:
   FOR: Wesley Curtis, Arnold King, Clarence Lambe, Lynne Mitchell, Paul Mullican, Allan Younger
   AGAINST: None
   EXCUSED: None

A. Paul Norby, FAICP
Director of Planning
USES ALLOWED WITH A PERMIT FROM THE ZONING OFFICER (Z)
Adult Day Care Home
Child Day Care, Small Home
Church or Religious Institution, Neighborhood
Family Group Home A
Police or Fire Station
Recreation Facility, Public
Residential Building, Single Family
Swimming Pool, Private

USES ALLOWED WITH REVIEW BY THE PLANNING BOARD (P)
Church or Religious Institution, Community
Golf Course
Library, Public
Limited Campus Uses
Planned Residential Development
School, Private
School, Public
Utilities

USES ALLOWED WITH SPECIAL USE PERMIT FROM ZONING BOARD OF ADJUSTMENT (A)
Bed and Breakfast
Child Day Care, Large Home
Habilitation Facility A
Landfill, Land Clearing/Inert Debris
Manufactured Home, Class A
Park and Shuttle Lot

USES ALLOWED WITH SPECIAL USE PERMIT FROM ELECTED BODY (E)
Access Easement, Private Off-Site
Parking, Off-Site, for Multifamily or Institutional Uses
PROPOSED NB USES ALLOWED
City of Winston-Salem Jurisdiction Only

USES ALLOWED WITH A PERMIT FROM THE ZONING OFFICER (Z)
Adult Day Care Home
Arts and Crafts Studio
Child Care, Drop-In
Child Day Care, Small Home
Church or Religious Institution, Neighborhood
Combined Use
Convenience Store
Food or Drug Store
Government Offices, Neighborhood Organization, or Post Office
Library, Public
Motor Vehicle, Repair and Maintenance
Museum or Art Gallery
Offices
Police or Fire Station
Recreation Facility, Public
Residential Building, Single Family
Restaurant (without drive-through service)
Retail Store
Services A
Veterinary Services

USES ALLOWED WITH REVIEW BY THE PLANNING BOARD (P)
Adult Day Care Center
Child Day Care, Large Home
Limited Campus Uses
Utilities

USES ALLOWED WITH SPECIAL USE PERMIT FROM ZONING BOARD OF ADJUSTMENT (A)
Banking and Financial Services
Bed and Breakfast
Borrow Site
Child Care, Sick Children
Child Day Care Center
Dirt Storage
Landfill, Land Clearing/Inert Debris
Park and Shuttle Lot

USES ALLOWED WITH SPECIAL USE PERMIT FROM ELECTED BODY (E)
Access Easement, Private Off-Site
The proposed general use zoning map amendment from RS12 (Residential, Single Family; 12000 sf minimum lot size) to NB (Neighborhood Business District) is reasonable and in the public interest because the NB District is considered neighborhood serving and the site has no apparent constraints and appears to be suitable for development within the proposed NB District.
DENIAL

STATEMENT OF CONSISTENCY WITH COMPREHENSIVE PLAN

W-3127

(DOUGLAS REID)

The proposed general use zoning map amendment from RS12 (Residential, Single Family; 12000 sf minimum lot size) to NB (Neighborhood Business District) is not reasonable or in the public interest because:

1. The request would establish commercial zoning in close proximity to single family homes;

2. The request is not consistent with the North Suburban Area Plan (NSAP); and

3. Without the site plan, it is difficult to determine how improvements on the site will take place.
Request for Rezoning

5132 North Cherry St. (Formerly Jacks Place)

In order to re-open 5132 North Cherry St. the city is requiring it be rezoned. I own the building but do not intend to operate the business personally, IT is for Rent. So therefore I can’t say what type business might go in there. I’ve had people inquire about opening a General Store, Fresh Seafood Market, Thrift shop, Church, Internet Cafe, Bar, Private Club, Smoke Shop, etc... If you would like to see this community business open again please print your Name, Address and Sign below.

Thanks,

Doug Reid
5164 North Cherry St.
W.S. N.C. 27105
Cell # 336-970-0874

1. Maebelle Reid 5168 N Cherry St. Maebelle Reid
2. Nancy Speth 5164 N Cherry St Nancy Speth
3. Alice Thompson 5109 N Cherry St Alice Thompson
4. Karon Edmonds 5110 Horne Dr. K. Edmonds
5. Louis Mackin 5171 Horne Dr. Louis Mackin
6. Madeline Richardson 5041 Cherry St Madeline Richardson
7. Mark Thompson 5072 Cherry St Mark Thompson
8. Sandra Anderson Lomax 5010 Cherry St. Sandra L. Lomax
9. Roslyn Davis Roslyn Davis
10. Nathaniel Davis Nathaniel Davis
11. Kenny Summers 5021 N Cherry St Kenny Summers
12. Sandra Summer 5021 N Cherry St Sandra Summer
13. Kimberly P. Penn
14. Fletcher C 5171 Cherryview Fletcher Penn
15. Summitt E. Church 136 Cherry View
16. CARLOS COWINES 2742 Bosswood CT APT A
17. Shamani Gaddage 144 Cherry View LIN W.S.N.C 27105
18. Hope Barber 2364 University Pkwy W.S.N.C 27105
19. Josh Barber 5425 university pkwy W.S. N.C. 27105
20. Tanisha Frakes 400 Forest Hill Ave W.S. N.C 27105
21. Marilyn Cleek 513 Cherry St W.S.W.C 27105
22. Michael Miller 5181 Horn DR. W.S. N.C. 27105
23. Brian Hampton 122 Mayfair DR. W.S. N.C. 27105
24. Bernice Pitts 120 Mayfair DR W.S. N.C. 27105
25. FRANCES PAGE 5211 SUNRISE TERR. Page
27. C.F. Norcum 5200 Sunrise Terrace C.F. Norcum
28. Sue Dixon 1305 Sunrise Terrace Joan Dixon
29. Carolyn Allen 5200 Sunrise Terrace Carolyn Allen
30. Virginia Allen/Virginia Allen 5170 Sunrise Terrace