DOCKET #: W3115

PROPOSED ZONING:
HB-L

EXISTING ZONING:
RM5

PETITIONER:
Elizabeth Myers
for property owned by Same

SCALE: 1" represents 200'
STAFF: Roberts
GMA: 2
ACRES: 0.38
NEAREST
BLDG: 50' south
MAP(S): 624850

Printed: 8/10/2011
September 21, 2011

Elizabeth Myers
164 Golden Bear Lane
Clemmons, NC 27012

RE: ZONING MAP AMENDMENT W-3115

Dear Ms. Myers:

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
    Beverly Myers, 9200 Center Grove Church Road, Clemmons, NC 27012
    Apryl Roland, 727 S. Broad Street, Winston-Salem, NC 27101
    Sarah Hill Carter, 305 Gregory Street, Winston-Salem, NC 27101
    Darryl Moody, 325 Gregory Street, Winston-Salem, NC 27101
    Jeff McIntosh, 129 Woodbriar Road, Winston-Salem, NC 27106
### ACTION REQUEST FORM

**DATE:**       September 21, 2011  
**TO:**         The Honorable Mayor and City Council  
**FROM:**       A. Paul Norby, FAICP, Director of Planning

### COUNCIL ACTION REQUEST:

Request for Public Hearing on zoning map amendment of Elizabeth Myers

### SUMMARY OF INFORMATION:

Zoning map amendment of Elizabeth Myers from RM5 to HB-L (Outdoor Display, Retail; Motorcycle Dealer; and Retail Store): property is located on the west side of Gregory Street, north of Wachovia Street (Zoning Docket W-3115).

### PLANNING BOARD ACTION:

**MOTION ON PETITION:** APPROVAL.  
**FOR:** UNANIMOUS  
**AGAINST:** NONE  
**SITE PLAN ACTION:** NOT REQUIRED
CITY ORDINANCE - SPECIAL USE LIMITED DISTRICT

Zoning Petition of Elizabeth Myers, Docket W-3115

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 RM5 to HB-L (Outdoor Display, Retail; Motorcycle Dealer; and Retail Store) the zoning classification of the following described property:

PIN #'s 6825-83-5197 and 6203

Section 2. This Ordinance is adopted after approval of the Special Use Limited District Permit issued by the City Council the _____ day of ________________, 20__ to Elizabeth Myers.

Section 3. The City Council hereby directs the issuance of a Special Use Limited District Permit pursuant to the Zoning Ordinance of the Unified Development Ordinances for a development to be known as Elizabeth R. Myers. Said Special Use Limited District Permit with conditions is attached hereto and incorporated herein.

Section 4. This Ordinance shall be effective from and after its adoption.
CITY - SPECIAL USE LIMITED DISTRICT PERMIT

SPECIAL USE LIMITED DISTRICT PERMIT

Issued by the City Council
of the City of Winston-Salem

The City Council of the City of Winston-Salem issues a Special Use Limited District Permit for the zoning petition of Elizabeth Myers, (Zoning Docket W-3115). The site shall be developed in accordance with the conditions approved by the Board and the following uses:
Outdoor Display, Retail; Motorcycle Dealer; and Retail Store, approved by the Winston-Salem City Council the _____ day of ______________________, 20____" and signed, provided the property is developed in accordance with requirements of the HB-L zoning district of the Zoning Ordinance of the Unified Development Ordinances, the Erosion Control Ordinance, and other applicable laws, and the following additional conditions be met:

• OTHER REQUIREMENTS:
  a. The subject property shall have no access onto Gregory Street.
  b. A 15’ Type II bufferyard will be planted along the Gregory Street right-of-way in the area between the fence and the right-of-way. Additionally, the existing driveway onto Gregory Street shall be removed and planted with the aforementioned bufferyard.
  c. The existing gravel driveway that connects to Gregory Street shall be removed for installation of the required bufferyard along the northern lot line. A variance shall not be granted to eliminate this requirement.
# CITY-COUNTY PLANNING BOARD
## STAFF REPORT

### PETITION INFORMATION

<table>
<thead>
<tr>
<th>Docket #</th>
<th>W-3115</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff</td>
<td>Gary Roberts, Jr. AICP</td>
</tr>
<tr>
<td>Petitioner(s)</td>
<td>Elizabeth Myers</td>
</tr>
<tr>
<td>Owner(s)</td>
<td>Same</td>
</tr>
<tr>
<td>Subject Property</td>
<td>PIN # 6825-83-5197 and 6203</td>
</tr>
<tr>
<td>Address</td>
<td>341 Gregory Street</td>
</tr>
<tr>
<td>Type of Request</td>
<td>Special Use Limited rezoning from RM5 to HB-L</td>
</tr>
<tr>
<td>Proposal</td>
<td>The petitioner is requesting to amend the Official Zoning Maps for the subject property from RM5 (Residential, Multifamily District; 5 units per acre maximum density) to HB-L (Highway Business- Special Use Limited District). The petitioner is requesting the following uses: • Outdoor Display, Retail; Motorcycle Dealer; and Retail Store</td>
</tr>
</tbody>
</table>

**NOTE:** General, special use limited, and special use district zoning were discussed with the petitioner(s) who decided to pursue the rezoning as presented.

<table>
<thead>
<tr>
<th>Neighborhood Contact/Meeting</th>
<th>The application indicates that at the time of filing, no neighborhood/community meeting had been held.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zoning District Purpose Statement</td>
<td>The HB District is primarily intended to accommodate retail service and distributive uses. The district is established to provide locations for establishments which require high visibility and good road access, or which cater primarily to passing motorists. However, the district is not intended to encourage or accommodate strip commercial development. Developments in this district generally have substantial front setbacks. This district is intended for application in GMAs (Growth Management Areas) 2 (Urban Neighborhoods), 3 (Suburban Neighborhoods), and 4 (Future Growth Area).</td>
</tr>
</tbody>
</table>

### Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(R)
(R)(1) - Is the proposal consistent with the purpose statement(s) of the requested zoning district(s)?

<table>
<thead>
<tr>
<th>Location</th>
<th>West side of Gregory Street, north of Wachovia Street.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jurisdiction</td>
<td>City of Winston-Salem</td>
</tr>
<tr>
<td>Ward(s)</td>
<td>South</td>
</tr>
<tr>
<td>Site Acreage</td>
<td>± .38 acre</td>
</tr>
<tr>
<td>Current Land Use</td>
<td>The site is currently developed with a one story, 840 sf structure built as a single family home and most recently used in conjunction with the Auto World used car sales operation.</td>
</tr>
<tr>
<td>Surrounding Property Zoning and Use</td>
<td>Direction</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>-----------</td>
</tr>
<tr>
<td></td>
<td>North</td>
</tr>
<tr>
<td></td>
<td>East</td>
</tr>
<tr>
<td></td>
<td>South</td>
</tr>
<tr>
<td></td>
<td>West</td>
</tr>
</tbody>
</table>

Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(R)

(R)(2) - Is/are the use(s) permitted under the proposed classification/request compatible with uses permitted on other properties in the vicinity?

The limited list of requested uses (i.e. Outdoor Display, Retail; Motorcycle Dealer; and Retail Store) is compatible with the existing and permitted uses on the adjacent HB zoned properties. Said uses are less compatible with the single family residential uses permitted on the properties to the north and across Gregory Street to the east.

Physical Characteristics

The developed site has a moderate slope downward to the west.

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 HB-L district.

### SITE ACCESS AND TRANSPORTATION INFORMATION

<table>
<thead>
<tr>
<th>Street Name</th>
<th>Classification</th>
<th>Frontage</th>
<th>ADT Count</th>
<th>Capacity/LOS D</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gregory Street</td>
<td>Local street</td>
<td>140’</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>

Proposed Access Point(s)

This request includes an access condition which states that the existing drive onto Gregory Street will remain and no additional access to the site from Gregory Street will be allowed. The site is also accessed through adjacent properties to Peters Creek Parkway.

Trip Generation - Existing/Proposed

Existing Zoning: RM5

.38 acre x 43,560 sf = 16,552 sf = 5 dwelling units (5,000 sf required for one single family dwelling and 11,000 sf required for one quadraplex) x 7.69 (Average of SFR and Townhouse Trip Rates) = 38 Trips per Day

Proposed Zoning: HB-L

No trip rate is available for the proposed zoning which has no site plan.

Sidewalks

Sidewalks are located along Peters Creek Parkway to the west of the subject property. No sidewalks are located along this section of Gregory Street.

Transit

Route 13 runs along Peters Creek Parkway to the west.
<table>
<thead>
<tr>
<th>Analysis of Site Access and Transportation Information</th>
<th>The request would allow commercial traffic to access a portion of Gregory Street which is predominately residential in character.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CONFORMITY TO PLANS AND PLANNING ISSUES</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Legacy GMA</strong></td>
<td>Growth Management Area 2 – Urban Neighborhoods</td>
</tr>
<tr>
<td><strong>Relevant Legacy Recommendations</strong></td>
<td>• Protect residential areas from inappropriate commercial and industrial encroachment.</td>
</tr>
<tr>
<td><strong>Relevant Area Plan(s)</strong></td>
<td>South Central Area Plan (2003)</td>
</tr>
<tr>
<td><strong>Area Plan Recommendations</strong></td>
<td>• There is no recommended land use change for this site.</td>
</tr>
<tr>
<td><strong>Addressing</strong></td>
<td>There are no addressing or street naming concerns.</td>
</tr>
<tr>
<td><strong>Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(R)</strong></td>
<td>(R)(3) - Have changing conditions substantially affected the area in the petition? No</td>
</tr>
<tr>
<td></td>
<td>(R)(4) - Is the requested action in conformance with Legacy? No</td>
</tr>
<tr>
<td><strong>Analysis of Conformity to Plans and Planning Issues</strong></td>
<td>The request is to rezone the subject property from RM5 to HB-L in order to allow for the expansion of an adjacent auto sales operation which fronts on Peters Creek Parkway. According to Forsyth County tax records, the petitioner who owns said adjacent auto sales operation, inherited the property in 2010. It had been purchased by the previous owner in 1995. The site contains a house with driveway access onto Gregory Street. Aerial photographs taken in 2000, show an expanded gravel parking area and cars parked on the site. Recently the owner applied for a name change (due to the inheritance) to their NC Division of Motor Vehicles auto sales license. This process involves verification by the local zoning department that the site is zoned appropriately for auto sales. At this time, the Inspections Division discovered the subject property was not zoned for auto sales. They were informed to cease using this site for said use and block off this portion of their site from the rest of the car sales operation. Hence the request for rezoning to a commercial district was initiated. This site is within the boundaries of the South Central Area Plan (SCAP) which recognized it as being used for commercial purposes in 2003 but did not recommend any zoning change. While the request does include a limited list of requested uses along with some access and buffering conditions, staff is concerned with the long term impact this request would have on the adjacent portion of the West Salem neighborhood. This neighborhood is currently impacted by its</td>
</tr>
</tbody>
</table>
proximity to Peters Creek Parkway and Business 40 and is vulnerable to commercial encroachment. From a topographical perspective, the subject property relates to the residences along Gregory Street rather than Peters Creek Parkway.

The subject request would replace a single family home on this street with intensive HB-L zoning. The proposed uses, commercial driveway access, potential for signage, lighting, noise etc. could negatively impact these residences and may discourage future residential repairs and reinvestment. Legacy recommends the protection of residential areas from inappropriate commercial encroachment.

The illegal extension of commercial activity on the site has included a commercial driveway onto Gregory Street and a dumpster in addition to the parking of cars. The proposed request would allow said commercial driveway to remain.

### RELEVANT ZONING HISTORIES

There are no recent rezoning cases in close proximity to the subject property.

### 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>The request would allow for the expansion of a business.</td>
<td>The request is not consistent with Legacy in regard to encroachment of commercial areas into residential neighborhoods.</td>
</tr>
<tr>
<td></td>
<td>The request is not consistent with the SCAP.</td>
</tr>
<tr>
<td></td>
<td>Expansion of auto sales is not complimentary to the adjacent residential neighborhood.</td>
</tr>
<tr>
<td></td>
<td>The request could establish a precedent for expansion of non residential development into this neighborhood.</td>
</tr>
</tbody>
</table>

### SITE-SPECIFIC RECOMMENDED CONDITIONS OF APPROVAL

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.

- **OTHER REQUIREMENTS:**
  a. The subject property shall have no access onto Gregory Street.
  b. A 15’ Type II bufferyard will be planted along the Gregory Street right-of-way in the area between the fence and the right-of-way. Additionally, the existing driveway onto Gregory Street shall be removed and planted with the aforementioned bufferyard.
  c. The existing gravel driveway that connects to Gregory Street shall be removed for installation of the required bufferyard along the northern lot line. A variance shall not be granted to eliminate this requirement.
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-3115
SEPTEMBER 8, 2011

Gary Roberts presented the staff report.

PUBLIC HEARING

FOR:

Beverly Myers, 9200 Center Grove Church Road, Clemmons, NC  27012
- The other lots which are within the fence have been zoned for business.
- Ms. Myers requests that the zoning for this lot be changed so that all the lots within the fence will be zoned the same.
- There will be no changes to the house.
- There will be no business in the house.
- The existing gate and fence along Gregory Street will remain. That gate will be the only entrance on Gregory Street.
- The area behind the house has been used for parking cars for the dealership and that was it.
- That will remain the only use.
- This business has been there for approximately 40 years.
- The fence was installed approximately 20 years ago. Since that time no one has lived in the house.
- The lot has always been kept clean and neat.
- It's a family operated business and we'll continue to take care of it for years to come.

AGAINST:

Apryl Roland, 727 S. Broad Street, Winston-Salem, NC  27101
- I'm speaking on behalf of the officers and the Board of the West Salem Neighborhood Association which represents over 1,000 homes and over 3,000 people.
- We oppose this rezoning on the following grounds.
- The petitioner may have attempted to contact those who live around this property, but the majority of the adjacent property owners are absentee owners.
- The Neighborhood Association is primarily composed of residents of West Salem and the Neighborhood Association should have been contacted by the petitioners and given an opportunity to participate in the rezoning process.
• According to NCDOT, both Apple and Gregory streets could become cul-de-sacs as part of the Business 40 renovations. This would significantly impact the connectivity of this part of the neighborhood. As a result, careful thought and planning should be used to determine the highest and best use for those impacted properties.
• The HB-L zoning requested by the petitioners could allow for the operation of a Rooming or Boarding House and could set a precedent with the amortization coming up in 2012 as determined by UDO-126.
• West Salem is currently overburdened with Rooming and Boarding Houses.

Sarah Hill Carter, 305 Gregory Street, Winston-Salem, NC 27101
• I've been living in this area for 32 years. When I moved there someone was living in this house.
• When I called the number listed on the letter I received, she indicated that the house may not stay there and might be demolished.
• I'm opposed to the rezoning of the subject property until I get further information about what's going to be going on around there.
• I'm also a member of the PCCI Community Initiative and we have adopted Peters Creek from the stadium to Link Street. We are trying to get more businesses along that corridor that would be constructive to the neighbors around there and not add to the car lots that are surrounding that area.
• I'm not sure they won't eventually come in the back from Gregory to fix cars because I'm thinking they already fix cars on that side.
• The neighbors around there are also concerned about it.
• This would do our neighborhood a disservice.

Darryl Moody, 325 Gregory Street, Winston-Salem, NC 27101
• I live directly behind the business.
• My main concern is making sure the back door is not an entranceway.
• We already have enough traffic in this area and don't need any more.
• Please keep this site residential.
• I think the entrance on Peters Creek Parkway is enough. Please don't allow other entrances.

Jeff McIntosh, 129 Woodbriar Road, Winston-Salem, NC 27106
• I'm a member of the Peters Creek Community Initiative.
• Peters Creek is being studied carefully by several departments in the City as it is the main connector between I-40 and Downtown.
• With all the changes coming up for Business 40, Peters Creek will receive a lot more traffic.
• A lot of things are being done to help calm traffic and beautify Peters Creek Parkway.
• There is a struggle to balance business development along the edges of West Salem while preserving the residential properties there.
• I've restored three houses to National Register standards in West Salem.
• West Salem is bordered by a lot of businesses but there's an awful lot of good housing stock in there.
• Rezoning this property would allow, over time, more intrusion into the residential area.
• Due to its close proximity to downtown, the West Salem area has a lot of potential for residential development, increased tax base, and work-force housing. The more business intrusion you get, the tougher that becomes.

WORK SESSION

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

1. In response to a question by the Board, staff indicated that they have not received any word of communication between the petitioner and neighbors.

2. While HB general use zoning would permit multiple uses, under this request the only uses allowed would be Outdoor Display, Retail; Motorcycle Dealer; and Retail Store. No other uses would be permitted without another rezoning request.

3. Chairman King asked Ms. Myers if the entrance off Gregory Street was being used. Ms. Myers replied that the gate was used only for the dumpster. Ms. Myers explained that the fence was installed to prevent traffic from using their parking lot as a short cut to Peters Creek Parkway.

4. Wesley Curtis stated that closing access from Gregory Street and providing a buffer along the back of the property might be a middle ground to accomplish what the petitioner is asking for and still mitigate some of the neighbors' concerns.

5. Brenda Smith noted that one of the conditions is the installation of a buffer yard.

6. Paul Norby stated that it would not be practical to have a condition saying that the gate could only serve the dumpster as that would put Inspections Division in a bad place in terms of being able to enforce it. If that gate was closed off there is no reason the buffer couldn't go all the way along the property.

7. Arnold King: It's been used for this purpose for 20 years, illegally perhaps, but it's been used for this purpose. If we close this gate off Gregory, which hasn't been used much, and provide a buffer along that entire part of the site we are giving the neighbors some relief.

8. Staff noted that the petitioner had stated that the house would remain, but there is no condition to require that. Staff also noted that the dumpster will probably have to move anyway since it has to be 50 feet from a residential zoning line.

9. The petitioner agreed to close off all access from Gregory Street.

10. Wesley Curtis: I understand and appreciate where staff is coming from, but if we leave it as it is the neighbors will just be looking at the cars. By rezoning it at least there will be a buffer which provides visual relief. With HB on one side and a gully on the other, I just don't see this site developing as residential.
11. Brenda Smith: To me the key is the physical features of the site with that gully to the north of the house, that's going to be a boundary. When you have the cars right next to the site the neighbors will actually gain by having that buffer between them and the car lot.


13. Lynne Mitchell: I just wished you had worked with and talked with the neighbors more. Staff affirmed that the person who dropped off the application was definitely advised to talk with the neighbors. In addition, that is stated on the application form.

14. Wesley Curtis: Just because we vote on this today doesn't mean that conversation can't happen.

MOTION: Paul Mullican moved approval of the zoning map amendment with conditions that driveway on Gregory Street be closed off and the buffer be installed along the length of the property line.
SECONED: Allan Younger
VOTE:
FOR: Wesley Curtis, Arnold King, Lynne Mitchell, Paul Mullican, Brenda Smith, 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
Library, Public
Police or Fire Station
Recreation Facility, Public
Residential Building, Duplex
Residential Building, Single Family
Residential Building, Twin Home
Swimming Pool, Private

USES ALLOWED WITH REVIEW BY THE PLANNING BOARD (P)
Church or Religious Institution, Community
Golf Course
Limited Campus Uses
Planned Residential Development
Residential Building, Multifamily
Residential Building, Townhouse
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
Park and Shuttle Lot
Transmission Tower

USES ALLOWED WITH SPECIAL USE PERMIT FROM ELECTED BODY (E)
Access Easement, Private Off-Site
Parking, Off-Site, for Multifamily or Institutional Uses
While the proposed zoning map amendment from RM5 (Residential, Multifamily District; 5 units per acre maximum density) to HB-L (Highway Business-Special Use Limited District) with its added conditions is not consistent with the Legacy Comprehensive Plan, and the South Central Area Plan, granting the request is reasonable and in the public interest because:

1. The request will allow for the expansion of a business; and

2. The site has no apparent constraints and appears to be suitable for development within the proposed HB-L District.
The proposed zoning map amendment from RM5 (Residential, Multifamily District; 5 units per acre maximum density) to HB-L (Highway Business-Special Use Limited District) with its added conditions is not consistent with the Legacy Comprehensive Plan, and the South Central Area Plan; therefore, granting the request is not reasonable and in the public interest.