



DOCKET #: W3040

PROPOSED ZONING:
LO-S

EXISTING ZONING:
RS9

PETITIONER:
New Gen Properties
LLC for property owned
by Same

SCALE: 1" represents 200'

STAFF: Roberts

GMA: 3

ACRES: 0.64

**NEAREST
BLDG:** 10' north

MAP(S): 612850, 612854



July 22, 2009

New Gen Properties, LLC
c/o Alexander Sand Smith
3331 Pennington Lane
Winston-Salem, NC 27106

RE: ZONING MAP AMENDMENT W-3040

Dear Mr. Smith:

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
Valerie Martin, 235 Harper Street, Winston-Salem, NC 27104
Elizabeth Martin, 442 Cliffdale Drive, Winston-Salem, NC 27104
Larry M. Martin, 442 Cliffdale Drive, Winston-Salem, NC 27104

ACTION REQUEST FORM

DATE: July 22, 2009
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 New Gen Properties, LLC

SUMMARY OF INFORMATION:

Zoning map amendment of New Gen Properties, LLC from RS-9 to LO-S (Professional Office; Offices, Miscellaneous; and Residential Building, Single Family): property is located on the northeast corner of Goodyear Drive and Harper Street (Zoning Docket W-3040).

PLANNING BOARD ACTION:

MOTION ON PETITION: APPROVAL
FOR: UNANIMOUS
AGAINST: NONE
SITE PLAN ACTION: CONFORMS TO THE REQUIREMENTS OF THE UDO

CITY ORDINANCE - SPECIAL USE

Zoning Petition of New Gen Properties, LLC, Docket W-3040

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 RS-9 to LO-S (Professional Office; Offices, Miscellaneous; and Residential Building, Single Family) the zoning classification of the following described property:

PIN #6815-33-0934

Section 2. This Ordinance is adopted after approval of the site plan entitled New Gen Properties, LLC and identified as Attachment "A" of the Special Use District Permit issued by the City Council the _____ day of _____, 20___ to New Gen Properties, LLC.

Section 3. The City Council 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 New Gen Properties, LLC. 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.

CITY - SPECIAL USE DISTRICT PERMIT

SPECIAL USE 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 District Permit for the site shown on the site plan map included in this zoning petition of New Gen Properties, LLC, (Zoning Docket W-3040). 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 LO-S (Professional Office; Offices, Miscellaneous; and Residential Building, Single Family), approved by the Winston-Salem City Council the _____ day of _____, 20____" and signed, provided the property is developed in accordance with requirements of the LO-S 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:

- **PRIOR TO THE ISSUANCE OF GRADING PERMITS:**
 - a. Developer shall cordon off all areas shown on the site plan as “undisturbed areas” or “existing vegetation/trees to remain.” These areas shall be retained and not disturbed. Vegetation in all these areas shall be protected from grading encroachment in accordance with UDO requirements.

- **PRIOR TO THE ISSUANCE OF BUILDING PERMITS:**
 - a. Developer shall obtain a driveway permit from City of Winston-Salem Public Works Department. Specific improvements to be determined at that time but will include:
 - Right-of-way dedication along Goodyear Drive;
 - Verification of adequate site distance from Public Works staff;
 - Removal of retaining wall on Harper Street; and
 - Widen Harper Street and Goodyear Drive 13’ from centerline with curb and gutter.
 - b. The residential character of the structure shall be maintained as it currently exists with the exception of the modifications proposed on the east side of the structure. Modifications for purposes other than general maintenance shall be prohibited to the front porch and carport which shall remain intact and unenclosed.
 - c. Developer shall repair any damage to city streets caused by construction of this project.

- **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS:**
 - a. All required improvements of the City of Winston-Salem driveway permit shall be completed.
 - b. The residential character of the structure shall be maintained as it currently exists with the exception of the modifications proposed on the east side of the structure. Modifications for purposes other than general maintenance shall be prohibited to the front porch and carport which shall remain intact and unenclosed.

**CITY-COUNTY PLANNING BOARD
STAFF REPORT**

| PETITION INFORMATION | | | |
|---|--|------------------------|---|
| Docket # | W-3040 | | |
| Staff | Gary Roberts, Jr. AICP | | |
| Petitioner(s) | New Gen Properties, LLC | | |
| Owner(s) | Same | | |
| Subject Property | PIN #6815-33-0934 | | |
| Address | 209 Harper Street | | |
| Type of Request | Special use rezoning | | |
| Proposal | <p>The petitioner is requesting to amend the Official Zoning Maps for the subject property from RS-9 (Residential, Single Family District; 9,000 sf minimum lot size) to LO-S (Limited Office District Special Use Zoning). The petitioner is requesting the following uses:</p> <ul style="list-style-type: none"> • Professional Office; Offices, Miscellaneous; and Medical or Surgical Offices; and Residential Building, Single Family | | |
| Zoning District Purpose Statement | <p>The LO District is primarily intended to accommodate moderately intense medical, professional, administrative, and government office uses on small to mid-sized sites, in a suburban setting. The district is typically located near the intersection of a collector street or thoroughfare in areas which are otherwise developed with residences. Standards are designed so this district may serve as a transition between residential districts and commercial districts. This district is intended for application in Growth Management Areas 2 and 3.</p> | | |
| Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(S) | <p>(S)(1) - Is the proposal consistent with the purpose statement(s) of the requested zoning district(s)?</p> <p>The request is consistent with the LO purpose statement in that the property is a small site in a suburban setting.</p> | | |
| GENERAL SITE INFORMATION | | | |
| Location | Northeast corner of Goodyear Drive and Harper Street | | |
| Jurisdiction | City of Winston-Salem | | |
| Ward(s) | Southwest | | |
| Site Acreage | Approximately ± 0.64 acre | | |
| Current Land Use | Unoccupied single family structure. | | |
| Surrounding Property Zoning and Use | Direction | Zoning District | Use |
| | North/Northeast | RS-9 & LO-S | Single family homes and modest scale office use |
| | East | RS-12 | Single family homes across Silas Creek Parkway |
| | South | LO | Office uses |
| | West | RS-9 | Single family homes |

| | | | | |
|---|--|-----------------|------------------|-----------------------|
| Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(S) | (S)(2) - Is/are the use(s) permitted under the proposed classification/request compatible with uses permitted on other properties in the vicinity? | | | |
| | The proposed office uses are compatible with the adjacent LO-S and LO zoned uses. Due to the proposed adaptive reuse of the modest sized residential structure and the proposed driveway and parking location, the proposed office uses are also compatible with the adjacent single family homes. | | | |
| Physical Characteristics | The site has some mature canopy trees and has a gentle slope downward to the southeast. | | | |
| Proximity to Water and Sewer | Public water and sewer are available. | | | |
| Stormwater/ Drainage | No known issues. | | | |
| Watershed and Overlay Districts | The site is not within a water supply watershed. | | | |
| Analysis of General Site Information | The site has no apparent constraints and is suitable for the proposed improvements. | | | |
| SITE ACCESS AND TRANSPORTATION INFORMATION | | | | |
| Street Name | Classification | Frontage | ADT Count | Capacity/LOS D |
| Goodyear Drive | Local Street | 347' | NA | NA |
| Harper Street | Local Street | 161' | NA | NA |
| Proposed Access Point(s) | The site plan illustrates the use of a new driveway onto the north side of Goodyear Drive. | | | |
| Trip Generation - Existing/Proposed | <u>Existing Zoning: RS-9</u> $0.64 \times 43,560\text{sf}/9,000 = 3 \text{ dwellings} \times 9.57 \text{ (SFR Trip Rate)} = 28 \text{ Trips per Day}$ <u>Proposed Zoning: LO-S</u> $1,469 / 1,000 \times 36.13 \text{ (Medical/Surgical Trip Rate)} = 53 \text{ Trips per Day}$ | | | |
| Sidewalks | There are no sidewalks located in the general area. | | | |
| Transit | Not available | | | |
| Analysis of Site Access and Transportation Information | There is insufficient site distance at Goodyear Drive where the proposed driveway is located. It is recommended that the developer dedicate right-of-way at the southeast corner of the property to mitigate the problem. | | | |
| CONFORMITY TO PLANS AND PLANNING ISSUES | | | | |
| Legacy GMA | Growth Management 3 – Suburban Neighborhoods Area | | | |
| Relevant Legacy Recommendations | <ul style="list-style-type: none"> • <i>Legacy</i> calls for existing neighborhoods to be preserved and revitalized and protected from inappropriate commercial and industrial encroachment. • <i>Legacy</i> also recommends inclusion of non-residential uses in a residential neighborhood if those uses primarily serve the neighborhood. | | | |

| | |
|---|---|
| Relevant Area Plan(s) | <i>Country Club/Jonestown Area Plan, 1985</i> |
| Area Plan Recommendations | <ul style="list-style-type: none"> • The <i>Country Club/Jonestown Area Plan</i> recommends low density residential for the subject property. • Buffering existing single-family residential areas from more intensive uses which are constructed on adjacent land. |
| Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(S) | (S)(3) - Have changing conditions substantially affected the area in the petition? |
| | The site directly northeast of the subject property was rezoned to LO-S in 1991. |
| | (S)(4) - Is the requested action in conformance with <i>Legacy</i>? |
| | See comments below |
| Analysis of Conformity to Plans and Planning Issues | <p>The current request is to rezone 0.64 acre from RS-9 to LO-S (Professional Office; Offices, Miscellaneous; and Medical or Surgical Offices). The site plan illustrates the adaptive reuse of the existing one-story home.</p> <p>The site is unique in that it is bordered by local streets on three sides yet is significantly impacted by Silas Creek Parkway. It also serves as a transitional property between Silas Creek Parkway and two LO districts and the RS-9 zoned neighborhood along Harper Street. The <i>Country Club/Jonestown Road Area Plan</i> recommends this site remain zoned for low-density single family residential. <i>Legacy</i> calls for existing neighborhoods to be preserved and revitalized and protected from inappropriate commercial and industrial encroachment. It also recommends inclusion of non-residential uses in a residential neighborhood if those uses primarily serve the neighborhood.</p> <p>The subject request marks the third rezoning petition on this site in the last 7 years. Planning staff believes the NO district (which would allow what is being proposed) would serve as a more appropriate transitional district than the proposed LO district. However, because the current request has a limited number of uses which could be considered neighborhood serving; preserves the existing 1,469 sf home; and locates the driveway and parking away from said adjacent homes, staff supports the request. Staff recommends a condition to maintain the existing character of the house on its north, west and south sides and that the front porch and carport remain in tact and unenclosed.</p> <p>The previous rezoning requests, which were of a larger scale, were not supported by staff primarily because they did not retain the structure nor preserve many of the existing mature trees on the site. Removal of these trees would expose residences along Harper Street to increased noise, glare, and visual exposure to and from Silas Creek Parkway. While the current site plan does not delineate said trees, it is hoped that the revised</p> |

plan will include their location and indicate which ones will be preserved. Staff has also recommended adjusting the required streetyard plantings to more effectively screen the proposed parking lot.

RELEVANT ZONING HISTORIES

| Case | Request | Decision & Date | Direction from Site | Acreage | Recommendation | |
|--------|-----------------------|----------------------|---------------------|---------|----------------|----------|
| | | | | | Staff | CCPB |
| W-2643 | RS-9 to LO-S | Denial 9-2-03 | Current site | 0.64 | Denial | Approval |
| W-2537 | RS-9 to LO-S | Withdrawn 7-15-02 | Current site | 0.64 | Denial | Approval |
| W-1719 | R-4 to R1-S (LO-S) | Approved 6-3-91 | Directly northeast | 0.52 | Approval | Approval |

SITE PLAN COMPLIANCE WITH UDO REQUIREMENTS

| | | | | |
|---|--|-----------------|------------------------------|--|
| Building Square Footage | Square Footage | | Placement on Site | |
| | 1,469 | | Central portion | |
| Parking | Required | Proposed | Layout | |
| | 7 spaces | 8 spaces | To the rear of the structure | |
| Building Height | Maximum | | Proposed | |
| | 40' | | One story | |
| Impervious Coverage | Maximum | | Proposed | |
| | 75% | | 29.4% | |
| UDO Sections Relevant to Subject Request | <ul style="list-style-type: none"> Chapter B, Article II, Section 2-1.3 (B) Limited Office District | | | |
| 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 revised site plan meets the requirements of the UDO. | | | |

CONCLUSIONS TO ASSIST WITH RECOMMENDATION

| Positive Aspects of Proposal | Negative Aspects of Proposal |
|---|---|
| The request would preserve the existing structure which is in scale with the surrounding single family homes. | Could set a precedent for additional rezonings along Harper Street. |
| Proposed driveway and parking lot will be located away from the single family homes. | |
| Limited number of office uses could be considered neighborhood serving. | |
| Request is consistent with <i>Legacy</i> . | |
| Request is less intense than previous requests. | |

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.

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STAFF 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.**

Gary Roberts presented the staff report.

PUBLIC HEARING

FOR: No one indicated their desire to speak, although the petitioner did speak later, after requested by the Planning Board.

AGAINST:

Valerie Martin, 235 Harper Street, Winston-Salem, NC 27104

- This is a neighborhood of residences.
- Submitted petition of those residents in the area who are opposed to this request.
- Most of those who signed the petition wanted to be here to express their opposition.
- We don't need more traffic in our neighborhood.
- There are already enough businesses here which result in various negative impacts: traffic problems, trash, people using our neighborhood as a cut through between Silas Creek to Country Club.
- This turn lane onto Goodyear is also the turn lane onto Business 40. It is the third lane on this section of Silas Creek Parkway and most people are already doing about 55 mph at this location.
- Promises from previous developers have fallen through. Based on that history, people don't have faith in promises from any developer.
- Harper Street is very narrow. The stop sign at Goodyear and Harper is continually ignored.
- Please deny this. There is plenty of vacant office space throughout this area.
- This developer would probably feel the way I do if someone wanted to put an office building in his neighborhood.
- This is not responsible stewardship for this neighborhood.

Elizabeth Martin, 442 Cliffdale Drive, Winston-Salem, NC 27104

- We have lived in this neighborhood for over 40 years.
- There are no through streets in this neighborhood - only Harper Street, Cliffdale Drive, and Vandalia Drive.
- Allowing a business will only increase traffic and the visibility of our homes to the outside world.
- We like our neighborhood the way it is. We want to keep it residential.
- There has been a run-off problem with the previous construction of the Park West office space.
- The footprint shown for the parking lot looks like it will contribute significantly to the water run-off.

- How can we be assured that there won't be further development?

Larry M. Martin, 442 Cliffdale Drive, Winston-Salem, NC 27104

- We're here as we have been for several other times.
- The City accidentally issued a building permit for the McLain property before anything was approved. At the Aldermen's meeting about that case, he said he was going to sue the City. The Board of Aldermen (this occurred prior to the name change to the City Council) said if we dropped our opposition there would not be any more commercial development on that street. Obviously the City didn't back that up.
- We want this to remain residential.
- This is a good neighborhood.
- There is even a new house which has been built on Cliffdale just a few houses away from us. It is not a dying neighborhood. The only reason it is in transition is because the Planning Board has allowed it to go that way on a couple of occasions.
- There are probably 50 homes in this area.
- People are very discouraged about coming back and fighting.
- The door has been cracked open by the doctor's office and Park West, but if you allow something like this to go in, it's going to fly wide open.
- Some realtors have bought some houses and empty lots and are planning apartment complexes for this area.

WORK SESSION

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

1. There is currently not a condition protecting the drip line for the trees being preserved.
2. After a question from the Planning Board, the petitioner spoke in support of the petition:

Sander Smith, 3331 Pennington Lane, Winston-Salem, NC 27106

- I've been a financial advisor for 20 years in this town.
- There are three people in our office.
- I have talked to people in this neighborhood face to face and gotten signatures on a petition of support.
- I called the Martins two weeks ago because I was aware that they had concerns from the last petition. I haven't heard from them since then.
- My goal is to maintain the structure as is. It's to move my business into there.
- We have maybe 2-3 clients per day come into our office. It's not going to be a high-intensity office with lots of traffic.
- I want to maintain the trees, the foliage, the character of the building. It's not my intention to upset the neighborhood. That's why I walked around and talked to people. I wanted to gauge the impact of it before I even moved ahead with this.
- I appreciate the history of this neighborhood. However, especially on the north side, it is declining. It is primarily rental properties. It's starting to get a little bit of crime there. Mr. Lonnie Fulp feels like he was robbed by one of his neighbors.
- It's my hope that this change will improve the value of the neighborhood. I could just put another rental property on there, but that won't help the neighborhood.

- My goal is to blend in, improve the property, and raise the value.
 - Submitted petition in support of opposition.
3. Staff did not attach a separate signage condition because of the new sign ordinance.
 4. This is a special use zoning, so only what is shown on the site plan can be done on this site without another review by this Board. This limits the structure, parking, square footage, trees and vegetation, etc. to what is shown here.
 5. The petitioner stated that the signage would be located just to the right of the driveway.
 6. The petitioner agreed to the deletion of the use "Medical or Surgical Offices".
 7. This will benefit the neighborhood more than a rental property. This use is likely to be the best use for this property.

MOTION: Wesley Curtis moved approval of the zoning map amendment, certified that the site plan meets all code requirements and recommends staff conditions with the deletion of the use "Medical or Surgical Offices."

SECOND: Clarence Lambe

VOTE:

FOR: Wesley Curtis, Arnold King, Arthur King, Clarence Lambe, Darryl Little, Lynne Mitchell, Paul Mullican, Brenda Smith

AGAINST: None

EXCUSED: None

A. Paul Norby, FAICP
Director of Planning

