DOCKET #: W2980

PROPOSED ZONING:  
Special Use Permit

EXISTING ZONING:  
RS-9

PETITIONER:  
Deacon Properties for property owned by Same

SCALE:  
1" represents 300'

STAFF:  
Roberts

GMA:  
2

ACRES:  
0.26

NEAREST BLDG:  
50'

MAP(S):  
642854

Printed: 5/13/2008
June 25, 2008

Deacon Properties
P. O. Box 1708
Dunn, NC  28335

RE:   SPECIAL USE PERMIT W-2980

Dear Sirs:

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
     John E. Beeson, 503 High Street, Winston-Salem, NC  27101
ACTION REQUEST FORM

DATE:       June 25, 2008
TO:         The Honorable Mayor and City Council
FROM:       A. Paul Norby, FAICP, Director of Planning

BOARD ACTION REQUEST:

Request for Public Hearing on Special Use Permit of Deacon Properties

SUMMARY OF INFORMATION:

Special Use Permit request of Deacon Properties for access to a GI zoned property through a residential zoning district: property is located on the east side of Hicks Street, north of Lowery Street (Zoning Docket W-2980).

PLANNING BOARD ACTION:

MOTION ON PETITION: DENIAL
FOR: JERRY CLARK, WESLEY CURTIS, CAROL EICKMEYER, ARTHUR KING, LYNNE MITCHELL
AGAINST: ARNOLD KING, CLARENCE LAMBE, BRENDA SMITH
EXCUSED: PAUL MULLICAN
SITE PLAN ACTION: CONFORMS TO THE REQUIREMENTS OF THE UDO
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 to a GI zoned property through a residential zoning district in accordance with Section 6-1.5 of the Zoning Ordinance of the Unified Development Ordinances to Deacon Properties to be established on the following described property:

BEGINNING at the southwestern corner of Tax Lot 33, Block 3268, as recorded in Deed Book 2547, Page 1676; Thence North 65°02′03″ East 148.81 feet to the southeastern corner of Tax Lot 33, Block 3268; Thence along a new line South 25°13′46″ East 75.00 feet; Thence along a new line South 65°02′03″ West 148.70; Thence along the eastern right-of–way of Hicks Street North 25°18′49″ West 75.00 feet to the point and place of BEGINNING. Being Tax Block 3268 and a portion of Tax Lot 106 containing 0.26 acres more or less.

Section 3. This Ordinance is adopted after approval of the site plan entitled Machine and Welding Supply Company and identified as Attachment "A" of the Special Use Permit issued by the City Council the _______ day of __________________, to Deacon Properties
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 *Machine and Welding Supply Company*. 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 Deacon Properties, (Zoning Docket W-2980). 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 to a GI zoned property through a residential zoning district, 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 WSDOT driveway permit.
  b. Developer shall obtain Zoning Permit from the Inspections Division.

• **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS:**
  a. Developer shall install all requirements of the WSDOT driveway permit.
  b. Any damage to City maintained streets, sidewalks, or curb shall be replaced or repaired to the requirements of the Public Works Department.
**CITY-COUNTY PLANNING BOARD**
**STAFF REPORT**

### PETITION INFORMATION

<table>
<thead>
<tr>
<th>Docket #</th>
<th>W-2980</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff</td>
<td>Gary Roberts Jr., AICP</td>
</tr>
<tr>
<td>Petitioner(s)</td>
<td>Deacon Properties</td>
</tr>
<tr>
<td>Owner(s)</td>
<td>Same</td>
</tr>
<tr>
<td>Subject Property</td>
<td>Portion of PIN# 6845-26-7080</td>
</tr>
<tr>
<td>Type of Request</td>
<td>Special Use Permit to access GI zoned property through a residential zoning district (RS-9).</td>
</tr>
</tbody>
</table>

### GENERAL SITE INFORMATION

<table>
<thead>
<tr>
<th>Location</th>
<th>East side of Hicks Street, north of Lowery Street</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jurisdiction</td>
<td>City of Winston-Salem</td>
</tr>
<tr>
<td>Ward(s)</td>
<td>East</td>
</tr>
<tr>
<td>Site Acreage</td>
<td>± 0.26</td>
</tr>
<tr>
<td>Current Land Use</td>
<td>Site is undeveloped</td>
</tr>
</tbody>
</table>

#### 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 residential</td>
</tr>
<tr>
<td>East</td>
<td>GI</td>
<td>Industrial uses</td>
</tr>
<tr>
<td>South</td>
<td>GI</td>
<td>Industrial uses</td>
</tr>
<tr>
<td>West</td>
<td>RS-9</td>
<td>Single family residential</td>
</tr>
</tbody>
</table>

#### Physical Characteristics

- The site is primarily covered with mature vegetation and has a moderate slope downward to the east.
- Public water and sewer are available to the site.
- No known issues.
- The site is not located within a water supply watershed.
- The site appears to possess no development constraints which would hinder the installation of the proposed industrial access drive.

### 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>Hicks Street</td>
<td>Local Street</td>
<td>75′</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td><strong>Proposed Access Point(s)</strong></td>
<td>See comments below in the Analysis of Site Access and Transportation Issues section.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----------------------------</td>
<td>--------------------------------------------------------------------------------------------------</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Trip Generation - Existing/Proposed</strong></td>
<td>The installation of a new driveway onto Hicks Street will not in itself generate more traffic; however, it should be anticipated that some of the existing traffic on Lowery Street will be redirected onto Hicks Street.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Sidewalks</strong></td>
<td>No sidewalks are located within the general area.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Transit</strong></td>
<td>Not available.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Analysis of Site Access and Transportation Information</strong></td>
<td>The proposed industrial access drive on property zoned RS-9 necessitates a Special Use Permit. See comments under the Other Applicable Plans and Planning Issues section below.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| **Generalized Recommended Conditions** | **BRIEF DESCRIPTION OF CONDITION(S):**  
- Obtain WSDOT driveway permit. |
| **CONFORMITY TO PLANS AND PLANNING ISSUES** | **Legacy GMA**  
Growth Management Area 2, Urban Neighborhoods |
| **Relevant Legacy Recommendations** | Legacy recommends the promotion of economic development which is compatible with existing residential neighborhoods and other business developments. |
| **Relevant Area Plan(s)** | **East/Northeast Area Plan (2008)** |
| **Relevant Area Plan(s) Recommendations** | **Industrial:** This Plan recommends the consolidation of industrial uses at existing locations... Reuse of existing buildings and redevelopment of vacant or underutilized sites is recommended instead of rezoning additional land for industrial use. New and redeveloped industrial uses should be designed in a manner which makes them compatible with nearby residential uses.  
One small residential area is recommended for possible industrial expansion, a small neighborhood inside the Lowery Business Park. This area is currently zoned for single-family residential use and is recognized as providing affordable housing opportunities in the Planning Area. However, because of the area’s location and surrounding conditions, it should be allowed to be rezoned for industrial use if developed comprehensively and developed in conformance with the Industrial Expansion Guidelines (see Appendix E within the plan). The view from Business 40 should be given special consideration for the redevelopment of the area. No piece-meal zoning should be approved. |
| **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. *(No)* Legacy recommends the promotion of economic development which is compatible with existing residential neighborhoods and other business developments. In regard to specific properties, Legacy
The East/Northeast Area Plan recommends the subject property and the surrounding residential properties be rezoned for industrial use if developed comprehensively and developed in conformance with the Industrial Expansion Guidelines. Although this is a Special Use Permit rather than a rezoning, staff believes the same principle applies in terms of avoiding a land use decision that could have a negative impact on the adjoining residential property.

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 are proposed)*

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. *(No)* **Extending truck traffic further into the adjacent residential street may pose a greater safety risk for children in the area, particularly due to the lack of sidewalks.**

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. *(No)* **Legacy recommends the promotion of economic development which is compatible with existing residential neighborhoods and other business developments.**
specific properties, Legacy defers to the applicable Area Plans. The East/Northeast Area Plan recommends the subject property and the surrounding residential properties be rezoned for industrial use if developed comprehensively and developed in conformance with the Industrial Expansion Guidelines. Although this is a Special Use Permit rather than a rezoning, staff believes the same principle applies in terms of avoiding a land use decision that could have a negative impact on the adjoining residential property.

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

<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>W-2924</td>
<td>SUP for an Asphalt or Concrete Plant in GI</td>
<td>Approved 5-7-07</td>
<td>350’ east</td>
<td>4.11</td>
<td>Approval</td>
</tr>
</tbody>
</table>

Analysis of Conformity to Plans and Planning Issues

In regard to specific properties, Legacy defers to the applicable Area Plans. The recently adopted East/Northeast Area Plan recommends the subject property and the surrounding residential properties be rezoned for industrial use if developed comprehensively and developed in conformance with the Industrial Expansion Guidelines. Although this is not a rezoning action, the subject request is inconsistent with this recommendation in that it represents a piece meal, single lot approach to industrial expansion.

Planning staff suggests that if an additional way of accessing the adjacent GI zoned property is desired, it should be from Lowery Street.

RELEVANT ZONING HISTORIES

<table>
<thead>
<tr>
<th>Case</th>
<th>Request</th>
<th>Decision &amp; Date</th>
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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></td>
<td>40 feet</td>
<td>No buildings are proposed</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>UDO Sections Relevant to Subject Request</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Chapter B, Article II, Section 2-1.2(H) RS-9 District</td>
<td></td>
</tr>
<tr>
<td>Chapter B, Article VI, Section 6-1.5 Special Use Permits Authorized by the Elected Body</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Complies with Chapter B, Article VII, Section 7-5.3</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) Legacy policies:</td>
<td>See comments above</td>
</tr>
<tr>
<td>(B) Environmental Ord.</td>
<td>NA</td>
</tr>
<tr>
<td>(C) Subdivision Regulations</td>
<td>NA</td>
</tr>
</tbody>
</table>
The site plan needs to show the existing driveway across the street in order to verify there will be a positive offset. It is anticipated that a revised site plan will be submitted which complies with the requirements of the UDO.

**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>Proposal would provide an additional access point to an existing industrial site.</td>
<td>The request does not meet the required findings for a Special Use Permit in that it is not consistent with the recommendations of Legacy or the East/Northeast Area Plan.</td>
</tr>
<tr>
<td></td>
<td>Request would allow for the installation of an industrial access drive across the street from single family homes.</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.

**PRIOR TO THE ISSUANCE OF GRADING PERMITS:**
- a. Developer shall obtain WSDOT driveway permit.
- b. Developer shall obtain Zoning Permit from the Inspections Division.

**PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS:**
- a. Developer shall install all requirements of the WSDOT driveway permit.
- b. Any damage to City maintained streets, sidewalks, or curb shall be replaced or repaired to the requirements of the Public Works Department.

**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.

Gary Roberts and Marco Andrade presented the staff report.

**PUBLIC HEARING**

**FOR:**

John E. Beeson, 503 High Street, Winston-Salem, NC 27101
- Machine and Welding is no longer using the back building for the storage of supplies and would like to sell it.
- It's not clear why the zoning lines were drawn the way they are.
• We need to encourage small businesses and not run them out of our County. They cannot afford to go to industrial parks and they need places like this to locate.
• For security purposes, Machine and Welding cannot share the existing driveway with a different business.
• Because of topography and restrictions such as stormwater, there would be difficulty in putting a driveway any place else.

AGAINST: None

WORK SESSION

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

1. Mr. Beeson does not believe adding another driveway in a different location would be feasible. Staff encourages him to look at other options.

2. Lynne Mitchell discussed the need for housing for those who make minimum wage. There is a need to protect neighborhoods like these that provide affordable housing.

3. Carol Eickmeyer: We just adopted the area plan. We should give it at least six months before altering it or going against it's recommendations.

4. Wesley Curtis: One of the things we talked about in discussion about the area plan was the preservation of some of these neighborhoods. A lot of people were involved in creating the area plan and we should honor what they said and preserve this area.

5. Brenda Smith: I don't think putting the driveway through a parcel that's part of the industrial site is going to undo the intent of the area plan or not protect that part of the neighborhood.

6. Clarence Lambe: I think there's too much emphasis on the area plan as if they were granular. They are not. Requiring 100% assemblage before allowing development is crazy.

7. Jerry Clark: I wonder what the effect of this parcel being initially developed on this site had on the houses here. I'm sure it had some effect. If the homeowners decide they don't want to look at the new industrial development, they move and start leasing their houses. I just don't believe the petitioner can't come up with a better scheme than what I'm hearing.

8. Lynne Mitchell: I think it's a huge impact on the neighborhood and an inconvenience to the business.
9. Arnold King: I don't have a problem with the driveway. There's also no one here in opposition.

10. Arthur King: There ought to be a way to move the driveway further south or divide the existing driveway off Lowery Street to serve both properties.

11. Paul Mullican: I apologize for being late today but had an emergency I had to tend to. Since I wasn't here for all the discussion, I will refrain from voting on this case.

MOTION: Lynne Mitchell moved denial of Special Use Permit.
SECOND: Carol Eickmeyer
VOTE:
   FOR: Jerry Clark, Wesley Curtis, Carol Eickmeyer, Arthur King, Lynne Mitchell
   AGAINST: Arnold King, Clarence Lambe, Brenda Smith
   EXCUSED: Paul Mullican

SITE PLAN MOTION: Lynne Mitchell certified that the site plan meets all code requirements and recommends staff conditions, including the two conditions added at the meeting which were to obtain a zoning permit and to repair any damage of the public streets.
SECOND: Jerry Clark
VOTE:
   FOR: Jerry Clark, Wesley Curtis, Carol Eickmeyer, Arnold King, Arthur King, Clarence Lambe, Lynne Mitchell, Brenda Smith
   AGAINST: None
   EXCUSED: Paul Mullican

A. Paul Norby, FAICP
Director of Planning