



**DOCKET #:** W2662

**PROPOSED ZONING:**  
NB

**EXISTING ZONING:**  
RS9

**PETITIONER:**  
John Franklin Myers  
and Mary Dianne Myers

**SCALE:** 1" represents 200'

**STAFF:** Hall

**GMA:** 3

**ACRE(S):** 0.44

**MAP(S):** 618890



January 14, 2004

John Franklin Myers and  
Mary Dianne Myers  
5201 Hwy 67 East  
Boonville, NC 27011

RE: ZONING MAP AMENDMENT W-2662

Dear Mr. Myers & 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 City Council will hear this petition.

Sincerely,

A. Paul Norby, AICP  
Director of Planning

pc: City Secretary's Office, P.O. Box 2511, Winston-Salem, NC 27102  
Jack Stewart, 2008 Portia Lane, Kernersville, NC 27284  
John A. Richardson, III, 1531-A Westbrook Plaza Drive, Winston-Salem, NC 27103

**ACTION REQUEST FORM**

**DATE:** January 14, 2004  
**TO:** The Honorable Mayor and City Council  
**FROM:** A. Paul Norby, AICP, Director of Planning

**BOARD ACTION REQUEST:**

Request for Public Hearing on zoning map amendment of John Franklin Myers and Mary Dianne Myers from RS-9 to NB: property is located at the northwest corner of University Parkway and Sunburst Circle (Zoning Docket W-2662).

**SUMMARY OF INFORMATION:**

Zoning map amendment of John Franklin Myers and Mary Dianne Myers from RS-9 to NB: property is located at the northwest corner of University Parkway and Sunburst Circle (Zoning Docket W-2662).

**PLANNING BOARD ACTION:**

**MOTION ON PETITION:** APPROVAL  
**FOR:** BOST, GLENN, KING, LAMBE, MULLICAN  
**AGAINST:** CLARK, EICKMEYER, NORWOOD  
**SITE PLAN ACTION:** NOT REQUIRED

CITY ORDINANCE - GENERAL USE

Zoning Petition of John Franklin Myers and Mary Dianne Myers, Docket W-2662

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

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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 NB the zoning classification of the following described property:

Tax Block 2043, Tax Lots 1-6

Section 2. This ordinance shall become effective upon adoption.

**ZONING STAFF REPORT**

**DOCKET #** W-2662  
**STAFF:** S. Chad Hall

Petitioner(s): John Franklin Myers and Mary Dianne Myers  
Ownership: Same

**REQUEST**

From: RS-9 Residential Single Family District; minimum lot size 9,000 sf  
To: NB Neighborhood Business

Both general and special use district zoning were discussed with the applicant(s) who decided to pursue the zoning as requested.

NOTE: This is a general use zoning petition; therefore, ALL uses permitted in the above requested district should be considered.

Acreage: 0.43 acre

**LOCATION**

Street: Northwest corner of University Parkway and Sunburst Circle.  
Jurisdiction: City of Winston-Salem.  
Ward: Northeast.

**PROPERTY SITE/IMMEDIATE AREA**

Existing Structures on Site: There are no structures on the subject property.

Adjacent Uses:

- North- Developed residential zoned RS-9
- Northeast- Car wash and dance studio zoned HB
- East- First Citizen’s Bank zoned HB
- South- BB&T Bank zoned LO
- Southwest- Developed residential zoned RS-9
- West- Sparse residential development zoned RS-9

**GENERAL AREA**

Character/Maintenance: A mixture of generally well-maintained highway business, multifamily residential, and single-family residential uses.

Development Pace: Moderate to rapid.

## **HISTORY**

Relevant Zoning Cases:

1. W-2577; RS-9 to LO-S (Professional Office; and Offices, Miscellaneous); approved October 7, 2002; west side of University Parkway south of Ziglar Road; 1.48 acres; Planning Board and staff recommended approval.
2. W-2448; RS-9 and HB to LO; approved February 5, 2001; south side of Sunburst Circle and northwest corner of University Parkway and Hanes Mill Road; 1.3 acres; Planning Board recommended approval, staff recommended denial.

## **PHYSICAL FEATURES/ENVIRONMENTAL REVIEW**

Impact on Existing Features: Because this is a general use request, the impact of this proposal on existing features cannot be determined at this time.

Topography: The subject property experiences a slight elevation change of about 7 feet, from about 905 feet in the northeast corner of the site down to about 898 feet in the southwest corner of the site.

Streams: No streams are on or near the subject property.

Vegetation/habitat: The current topographic maps indicate the existence of some vegetation on the subject property. However, a recent site visit indicates that all the existing vegetation has been removed.

Floodplains: None.

Wetlands: None – *Rural Hall Quad*

Environmental Resources Beyond The Site: Because this is a general use request, the impacts to environmental resources beyond the site cannot be determined at this time.

Water Supply Watershed: The subject property is not located in a water supply watershed.

## **TRANSPORTATION**

Direct Access to Site: University Parkway; Sunburst Circle; Hanes Mill Road

Street Classification: University Parkway – Major Thoroughfare; Sunburst Circle – Local Road; Hanes Mill Road – Major Thoroughfare

Average Daily Traffic Count/Estimated Capacity at Level of Service D (Vehicles per Day):

University Parkway between Hanes Mill Road and Stanleyville Road = 21,000/32,200

Hanes Mill Road between University Parkway and Germanton Road = 6,300/30,100

Planned Road Improvements: None

Sight Distance: Good

Traffic Impact Study recommended: No

Sidewalks: None existing

Transit: Routes 10 and 44 along University Parkway and Hanes Mill Road

Bicycle Route: None

## **CONFORMITY TO PLANS**

GMP Area (*Legacy*): Suburban Neighborhoods (GMA 3)

Relevant Comprehensive Plan Recommendation(s): The North Summit Square Metro Activity Center was identified in *Legacy* at the intersection of University Parkway and US 52 south of the petitioner's site. However, no detailed work has been done to date to identify either the commercial core area or the exact outer boundaries of this major mixed-use development. *Legacy* supports neighborhood serving business and office uses. Sensitive conversion of existing homes, or new structures with compatible scale and design as well as attention to the details such as parking and screening can make these non-residential uses good neighbors.

Area Plan/Development Guide: None – is within the *North Suburban Small Area Plan* study area, which is still in progress, with no land use recommendations generated at this time.

## **ANALYSIS**

The current request is to rezone 0.43 acre of land from RS-9 to NB. The property is located on the northwest corner of University Parkway and Sunburst Circle. A variety of zoning districts coexist in the area, including LO to the south of the subject property, RS-9 to the west and including the subject property, RS-9 immediately north with RM-18 a half block further away, and one tier of HB zoning across University Parkway to the east with RS-9 and RM-18 just beyond that tier.

The site is located in the Suburban Neighborhoods Growth Management Area (GMA 3) and is located to the north of the general location for a Metro Activity Center (MAC). The subject property is also within the *North Suburban Small Area Plan* study area, which is in the process of being developed, with no land use recommendations at this time.

The purpose statement of the NB district reads that it “is primarily intended to accommodate very low intensity office, retail, and personal service uses close to or within residential areas. The district is established to provide convenient locations for businesses that serve the everyday household needs of nearby residents without disrupting the character of the neighborhood. The district is not intended to accommodate retail uses that attract customers from outside the neighborhood or which primarily cater to motorists”.

Indeed, a small neighborhood exists in a pocket to the west of the subject property. With general use zoning, however, there is no assurance that the property will be developed in character with the neighborhood. The UDO provides a wide variation of site planning possibilities, and the uses allowed in NB include convenience store, food or drug store, restaurant (without drive-through service), and banking and financial services, just to name a few.

Additionally, the site is located along a major thoroughfare adjacent to, primarily, highway-oriented businesses that cater to the passer-by. With that trend in place, it is likely that any business here will not serve just the everyday household needs of nearby residents, but will also

attract business from transient motorists. This outlook opposes the purpose statement as well. Furthermore, with the proposed MAC location to the south, Planning staff has tried to prevent any additional encroachment of any commercial zoning to the north and on the west side of University Parkway.

The residential neighborhood to the west of the subject property is comprised of relatively small and moderately well maintained houses. Given the subject property's proximity to major highways and thoroughfares and the development pace of the general area, it is likely that this overall area could convert to a more efficient, comprehensively planned, mixed-used development. However, without a larger assemblage of land, staff is of the opinion that this petition could negatively impact this residential area and would interfere with future comprehensively planned redevelopment of the neighborhood.

This is a rapidly developing/redeveloping area whereby the LO zoning on the lot south of the subject site provides a stabilizing element. If anything, this LO zoning establishes a precedent that favors lower intensity mixed-use development in the area. The proposed incremental rezoning request to NB jumps over the southern LO office zoning with additional commercial zoning. In contrast, the proposed MAC location is intended to focus mixed-use, including additional retail commercial uses south of the subject property.

Being that the site does not meet the overall purpose of the NB district, especially with a requirement of new construction, staff believes that rezoning the subject property would likely have a negative impact on the adjacent neighborhood as it currently exists. A piecemeal approach to zoning in this area would lessen any cohesiveness desired near the activity center to the south and would most likely disrupt any opportunity for a comprehensively planned mixed-use development. While staff recognizes that the subject property and others in the area may not be suitable in the long term for single-family residential use, staff is concerned about the incremental expansion of retail commercial uses in the opposite direction of a proposed MAC.

Until the *North Suburban Small Area Plan* study is completed and provides more guidance, staff believes that such a rezoning request is premature at this time.

## **FINDINGS**

1. The site is located in the Suburban Neighborhoods Growth Management Area (GMA 3) and is located in close proximity to a Metro Activity Center (MAC).
2. The subject property is also within the *North Suburban Small Area Plan* study area, which is still being developed, with no land use recommendations generated at this time.
3. The proposed NB zoning at the subject location does not meet the purpose statement of the NB district as defined in the UDO.
4. The site is located along a major thoroughfare with many highway-oriented businesses in the area.

5. Staff is concerned about the incremental expansion of retail commercial business uses in the opposite direction of a proposed MAC and leapfrogging over a limited office zoning district.
6. While staff recognizes that the subject property and others in the area may not be suitable in the long term for single-family detached residential use, a comprehensively planned and mixed-use development may better meet the needs of the greater area.

### **STAFF RECOMMENDATION**

Zoning: **DENIAL**.

Chad Hall presented the staff report.

### **PUBLIC HEARING**

FOR:

John Richardson, 1531A Westbrook Plaza Drive, Winston-Salem, NC 27103

Attorney for petitioners.

Staff's report appears to focus on the two residential lots that are adjacent to this property rather than the overall area.

The adjoining property owners and the residents north of the adjoining site have no opposition to this request.

The residential portion of this area is only 33% residential.

The neighborhood is a mixed use neighborhood and has been for years.

Putting business at this location is actually conforming to the neighborhood.

The petitioner is aware of what can and cannot be placed on this site. He's aware of the setbacks. He means to be a good neighbor.

This is only for 0.4 acre.

A neighborhood business is the best use for this site.

AGAINST: None

### **WORK SESSION**

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

1. Staff believes it is premature to make any recommendation on this site due to the area plan study which is underway and which will include defining a location for the MAC (Metropolitan Activity Center) for this area.
2. Although special use and general use zoning were discussed with the petitioner, because of the decision to pursue general use zoning, staff is not aware of what the petitioner's needs may be or whether other zoning classifications would meet those needs.

3. It is difficult to tell an owner to wait until the area plan is done to use his property. At the same time, when the desired use is commercial, it's difficult to let it move on up a road like this one when a short delay could result in a comprehensive plan which would benefit the community.
4. It is somewhat disingenuous of the property owner to destroy the building and the trees before asking for rezoning. It presumes something that may or may not happen.

MOTION: Carol Eickmeyer moved denial of the zoning map amendment.

SECOND: Jerry Clark

VOTE:

FOR: Clark, Eickmeyer, Norwood

AGAINST: Bost, Glenn, King, Lambe, Mullican

EXCUSED: None

MOTION FAILED.

MOTION: Clarence Lambe moved approval of the zoning map amendment.

SECOND: Paul Mullican

VOTE:

FOR: Bost, Glenn, King, Lambe, Mullican

AGAINST: Clark, Eickmeyer, Norwood

EXCUSED: None

#### Written Comments by Planning Board Members

Carol Eickmeyer: This request should be put on hold until a more specific plan exists. NB is probably not appropriate if the neighborhood is to be protected. RS-9 is not realistic now because of the development of shopping - but NB is not currently appropriate either.

Jimmy Norwood: Based on the fact that there is a plan in progress I feel that a general use zoning at this time is premature. I do not feel that because the existing area is commercial that this would provide an automatic acceptance of more. Based on the size of the property it is limited to what can be built there so a plan would provide me with adequate information.

Paul Mullican: To have voted the other way would be the same as spot zoning. With 75% business, why not finish what was started. I do not feel this zoning will go past RM-18 even though there are businesses past (north) of this area.

Lavastian Glenn: I don't think RS-9 is sustainable on that corner. I think NB fits for that lot because of its location and wouldn't have a negative effect on the single family houses that surround it.

Jerry Clark: I voted "no" for this petition because the North Suburban Small Area Plan study was not completed. My vote was in support of the staff's position which is appropriate and the correct position for the citizens of Winston-Salem.

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A. Paul Norby, AICP  
Director of Planning