



DOCKET #: W2641
 (continued from 8/14/03
 CCPB meeting)

PROPOSED ZONING:
 HB-S
 (Outdoor Display, Retail)

EXISTING ZONING:
 LB

PETITIONER:
 B. V. Disher Industries,
 Inc., A. H. Disher
 Industries, Inc.
 and A. H. Disher Family Trust

SCALE: 1" represents 200'

STAFF: Hall

GMA: 3

ACRE(S): 0.73

MAP(S): 606854



October 22, 2003

B. V. Disher Industries, Inc., et al
c/o Andrew G. McDowell
180 Windrush Road
Winston-Salem, NC 27106

RE: ZONING MAP AMENDMENT W-2641

Dear Mr. McDowell:

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, AICP
Director of Planning

pc: City Secretary's Office, P.O. Box 2511, Winston-Salem, NC 27102
Craig Hill, 6900 Kenbridge Drive, Clemmons, NC 27012
James Brady, 3910 Country Club Road, Winston-Salem, NC 27104
Charmaine Daum, 3910 Country Club Road, Winston-Salem, NC 27104

ACTION REQUEST FORM

DATE: October 22, 2003
TO: The Honorable Mayor and City Council
FROM: A. Paul Norby, AICP, Director of Planning

COUNCIL ACTION REQUEST:

Request for Public Hearing on Zoning map amendment of B. V. Disher Industries, Inc., A. H. Disher Family Trust, B. V. Disher, and A. H. Disher Industries, Inc.

SUMMARY OF INFORMATION:

Zoning map amendment of B. V. Disher Industries, Inc., A. H. Disher Family Trust, B. V. Disher, and A. H. Disher Industries, Inc. from LB to HB-S (Outdoor Display Retail; and Motor Vehicle, Repair and Maintenance) : property is located at the southeast corner of Country Club Road and Gordon Drive; continued from the August 14, 2003 Planning Board meeting (Zoning Docket W-2641).

PLANNING BOARD ACTION:

MOTION ON PETITION: APPROVAL
FOR: BOST, DOYLE, KING, LAMBE, NORWOOD
AGAINST: CLARK, EICKMEYER, FOLAN, GLENN
SITE PLAN ACTION: CONFORMS

CITY ORDINANCE - SPECIAL USE

Zoning Petition of B. V. Disher Industries, Inc.,
A. H. Disher Family Trust, B. V. Disher, and
A. H. Disher Industries, Inc., Docket W-2641

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 LB to HB-S (Outdoor Display Retail; and Motor Vehicle, Repair and Maintenance) the zoning classification of the following described property:

Tax Block 1466, Tax Lots 001, 002, 003, 004, 101, 102, 103, and 104

Section 2. This Ordinance is adopted after approval of the site plan entitled B. V. Disher Industries, Inc., A. H. Disher Family Trust, B. V. Disher, and A. H. Disher Industries, Inc. and identified as Attachment "A" of the Special Use District Permit issued by the City Council the _____ day of _____, to B. V. Disher Industries, Inc., A. H. Disher Family Trust, B. V. Disher, and A. H. Disher Industries, Inc.

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 B. V. Disher Industries, Inc., A. H. Disher Family Trust, B. V. Disher, and A. H. Disher Industries, Inc. 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 B. V. Disher Industries, Inc., A. H. Disher Family Trust, B. V. Disher, and A. H. Disher Industries, Inc., (Zoning Docket W-2641). 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 HB-S (Outdoor Display Retail; and Motor Vehicle, Repair and Maintenance), 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-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 BUILDING PERMITS**
 - a. On-site fire hydrant locations shall be approved by the City Fire Department in writing to the Inspections Division.
- **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS**
 - a. All required fire hydrants shall be installed in accordance with the City Fire Department.
- **OTHER REQUIREMENTS**
 - a. Signage shall be limited to one monument type sign with a 5' maximum height.
 - b. Any sidewalks damaged during development of the site shall be repaired.

ZONING STAFF REPORT

DOCKET # W-2641
STAFF: S. Chad Hall

Petitioner(s): B. V. Disher Industries, Inc., A. H. Disher Family Trust, B. V. Disher, and A. H. Disher Industries, Inc.
Ownership: Same

REQUEST

From: LB Limited Business District
To: HB-S Highway Business District (Outdoor Display Retail; and Motor Vehicle, Repair and Maintenance)

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

Acreage: 0.73 acre

CONTINUANCE REQUEST

The petitioner requested a second continuance from the September 11, 2003 Planning Board meeting to the October 9, 2003 meeting in order to continue working on various site plan issues. No further continuances may be granted. The petition was originally continued from the August 14, 2003 Planning Board meeting to the September 11, 2003 Planning Board meeting.

LOCATION:

Street: Southeast corner of Country Club Road and S. Gordon Drive.
Jurisdiction: City of Winston-Salem.
Ward: Southwest

SITE PLAN

Proposed Use: Outdoor Display Retail; and Motor Vehicle, Repair and Maintenance.
Square Footage: Two existing buildings, 1,900 square feet (sf) and 1,600 sf (3,500 total).
Building Height: One story (per existing structures).
Parking: Required: 7; proposed: 8
Bufferyard Requirements: Type I abutting LB; type IV abutting RS-9
Vehicular Use Landscaping Standards Requirements: UDO standards shall apply

PROPERTY SITE/IMMEDIATE AREA

Existing Structures on Site: Two one-story commercial structures are on site.

Adjacent Uses:

North-	Convenience store zoned LB.
East-	Pet supply store zoned LB.
South-	Developed residences zoned RS-9.
West-	Convenience store zoned LB.

GENERAL AREA

Character/Maintenance: A mixture of convenience stores, shopping centers, and former residential dwellings that have been converted to businesses and offices along Country Club Road. While there is a broad assortment of parking lots and their associated businesses in this area, no Outdoor Display, Retail businesses exist along the entire length of Country Club Road.

Development Pace: Moderate.

PHYSICAL FEATURES/ENVIRONMENTAL REVIEW

Impact on Existing Features: Some existing vegetation may have to be removed to provide parking for Motor Vehicle, Repair and Maintenance facility.

Topography: The subject property experiences an elevation change from about 899.1 at the northern portion of the site to about 890 feet in the southern part of the site.

Streams: No streams are located on or adjacent to the subject property.

Vegetation/habitat: The subject property has some existing vegetation behind the existing structures at the rear of the lot.

Floodplains: The subject property is not located in a floodplain.

Wetlands: None.

Environmental Resources Beyond the Site: The site plan does not appear to indicate any new or significant environmental impacts beyond the site.

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

TRANSPORTATION

Direct Access to Site: Country Club Road; Gordon Drive

Street Classification: Country Club Road – Major Thoroughfare; Gordon Drive – Local Road

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

Country Club Road between Old Vineyard Road and Lindberg Road = 12,000/18,500

Country Club Road between Lindberg Road and Silas Creek Parkway = 19,000/18,500

Trip Generation/Existing Zoning: LB

$1,900/1,000 \times 40.67$ (Specialty Retail Center Trip Rate) = 77 Trips + $1,600/1,000 \times 15.86$

(Auto Care Center on Saturday Trip Rate) = 25 Trips; Total Trips per Day = **102**

Trip Generation/Proposed Zoning: HB-S

$1,900/1,000 \times 37.5$ (Car Sales Trip Rate) = 71 Trips + $1,600/1,000 \times 15.86$ (Auto Care

Center on Saturday Trip Rate) = 25 Trips; Total Trips per Day = **96**

Planned Road Improvements: None.

Sidewalks: South side of Country Club Road.

Transit: Route 12 along Country Club Road.

Bicycle Route: Route 1, Silas Creek Loop, along Country Club Road.

HISTORY

Relevant Zoning Cases:

1. W-2550; RS-9 to NO; approved July 15, 2002; south side of County Club Road, west of Kilpatrick Street and east of Old Vineyard Road; 0.79 acre; Planning Board and staff recommended approval.
2. W-2504; RS-9 to LO-S (Professional Office; Offices, Miscellaneous); approved October 1, 2001; north side Country Club Road, west of Kilpatrick Street and east of Old Vineyard Road; 1.48 acres; Planning Board and staff recommended approval.
3. W-1758; R-4 to B-3-S (Multiple Uses); approved April 6, 1992; north of Country Club Road and east of Gordon Drive (no public road frontage); 0.58 acre; Planning Board and staff recommended approval.
4. W-983; R-4 to B-3-S (Parking); approved November 2, 1982; north of Country Club Road and west of Gordon Drive (no public road frontage); 0.57 acre; Planning Board and staff recommended approval.

CONFORMITY TO PLANS

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

Relevant Comprehensive Plan Recommendation(s): *Legacy* promotes the development of compact and walkable commercial areas with a mix of retail, office and adjacent higher density residential.

Area Plan/Development Guide: *Country Club/Jonestown Area Plan* (adopted in 1985)

Relevant Development Guide Recommendation(s): The *Country Club/Jonestown Area Plan* recommends that the subject property be developed for commercial purposes.

ANALYSIS

The current request is to rezone 0.73 acre from LB to HB-S (Outdoor Display Retail; and Motor Vehicle, Repair and Maintenance). The site is located on the southeast corner of Country Club Road and S. Gordon Drive. The subject property is in the heart of an activity node. From the intersection of Gordon Drive and Country Club Road, this node is one lot deep to both the north and south and extends approximately 450 feet to both the east and west. Almost all of the properties in this area are general use LB (Limited Business). More recently a couple of special use district zoning requests were submitted in the area so that site plan considerations could more adequately protect adjacent neighborhoods. Residential zoning, almost exclusively single family, surrounds this node for at least a ½ mile radius.

The current Limited Business zoning district does not allow the use “Outdoor Display, Retail” in the Suburban Neighborhoods Growth Management Area (GMA 3).

Country Club Road, from the “Five Points” area westward to its intersection of Styers Ferry Road only has a couple of areas of commercial development. These nodes include the area of the subject property, the area between the intersections of Jonestown Road to Peace Haven Road, and lastly at the Meadowlark Road and Styers Ferry Road node. Along the full stretch of Country Club Road, only one “Outdoor Display, Retail” establishment exists, being across from Calvary Baptist Church.

One issue that is prevalent in the activity node surrounding the subject property is the amount of asphalt and/or lack of vegetation. Most businesses in this area have large and multiple vehicular access areas to their respective establishments. The resultant appearance is in sharp contrast to the surrounding large lot dwellings that line not only Country Club Road but also the perpendicular local streets that have mostly mature vegetation in their yards.

The site plan currently shows three driveway cuts providing access to the subject property with minimal room for any streetyard. Said streetyard could go a long way to help improve the aesthetics of the area by partially screening the display area, softening the impacts of the desired uses and simply by providing “green” space. Two vehicular access points to the site are from S. Gordon Drive: one for the proposed area for Outdoor Display area and one for the Motor Vehicle Repair area. The other access is from Country Club into the Outdoor Display.

Beyond any physical impacts of Outdoor Display, Retail, Planning staff is concerned about the precedent that the proposed HB-S zoning district and, more particularly the use of “Outdoor Display, Retail” will set for this otherwise stable and primarily residential area.

The purpose of the HB District reads that said district “is primarily intended to accommodate retail and distributive uses (in) locations...which require high visibility and good road access, or which cater primarily to passing motorists.” Furthermore, the use “Outdoor Display, Retail” is typically a destination that is not necessarily supported exclusively by the local neighborhood(s).

In contrast, the LB purpose statement reads that said district “is primarily intended to accommodate moderately intense neighborhood shopping and service centers close to residential areas (and) to provide locations for businesses which serve nearby neighborhoods.” As previously mentioned, the residential zoning in the area, almost exclusively single family, surrounds this activity center for at least a ½ mile radius.

Many of the LB zoned uses in this area serve the local area with strong sidewalk connections and narrow streets. To place an “Outdoor Display, Retail” use in the heart of this existing neighborhood serving commercial center could set a precedent for other intrusive uses that may erode the vitality of the existing surrounding neighborhood.

FINDINGS

1. The subject property is in the heart of a neighborhood serving activity node.
2. Almost all of the properties in this area are general use LB (Limited Business).
3. The LB district is primarily intended to accommodate moderately intense neighborhood shopping and service centers close to residential areas.
4. There is only one “Outdoor Display, Retail” establishment along the entire length of County Club Road at this time.
5. “Outdoor Display, Retail” is typically a destination vs. a neighborhood serving business.
6. Approval of this request could set a precedent for other highway business oriented uses that may erode the vitality of the existing neighborhood.

STAFF RECOMMENDATION

Zoning: **DENIAL**.

Site Plan: Staff certifies that **the site plan meets all code requirements**, and recommends the following conditions:

- **PRIOR TO THE ISSUANCE OF BUILDING PERMITS**
 - a. On-site fire hydrant locations shall be approved by the City Fire Department in writing to the Inspections Division.
- **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS**
 - a. All required fire hydrants shall be installed in accordance with the City Fire Department.
- **OTHER REQUIREMENTS**
 - a. Signage shall be limited to one monument type sign with a 5’ maximum height.
 - b. Any sidewalks damaged during development of the site shall be repaired.

PUBLIC HEARING regarding continuance - September 11, 2003

Staff noted that a letter had been received from the petitioner requesting a continuance to October 9, 2003.

FOR: None

AGAINST:

James Brady, 3910 Country Club Road, Winston-Salem, NC 27104

- I am an adjoining property owner.
- This site creates a safety problem. The cars on the lot block the line of sight for vehicles leaving our site.
- This property has been used illegally for four years. He doesn't need an additional month.
- High grass is also a problem, blocking the line of sight.

WORK SESSION

During discussion by the Planning Board, the following point was made:

1. Ronnie Grubbs noted that Housing Services could require the property owner to cut the grass or do so and charge the owner accordingly.

MOTION: Philip Doyle moved continuance of the zoning map amendment and site plan to October 9, 2003.

SECOND: John Bost

VOTE:

FOR: Bost, Clark, Doyle, Eickmeyer, Folan, King, Lambe, Norwood

AGAINST: None

EXCUSED: None

PUBLIC HEARING - October 9, 2003

Chad Hall presented the staff report.

FOR:

Andy McDowell, 180 Windrush Road, Winston-Salem, NC 27106

- I'm recommending the Board's support of this. There will be no change to the building footprint.
- I'm not sure of the difference between Used Car Sales and Rental Agency. I think the impact would be the same.
- Have tried to meet neighbors concerns which are primarily sight distance.
- I know they have had concerns about cars being sold there illegally. I can't police that daily, but have ordered a sign to put up in the window to deter trespassing. Obviously having a tenant there would improve the appearance.
- I understand this area is residential, but much of it is rental.

Craig Hill, 6900 Kenbridge Drive, Clemmons, NC 27012

- There are several businesses in this immediate area which we will be able to assist. We will also provide 6-7 jobs. We are not looking to create a Flow Automotive with asphalt and seas of cars.

- There would most likely be ten cars or so at this site, but wouldn't be 50-60. We want the place to look nice.
- There's a market where people want to sell their cars. The zoning is primarily to provide us with a physical address so we can get a license to sell cars.
- I have roots in this community and want to be part of it.

AGAINST:

James Brady, 3910 Country Club Road, Winston-Salem, NC 27104

- I think this is a classic case of differences in opinion. I do know this will have a significant impact on businesses in the area, but I don't think it will be positive.
- We still have the main issue here with safety. According to ASTO, 246 feet is still required (to brake to a stop from the posted 35 mph) and this will be 230 feet.
- Showed pictures. When cars are parked in the right-of-way, the line of sight is about 80 feet.
- We have minor criminal activity and vagrancy here.
- There has been operation of a business here for four years which has been encroaching on Gordon Drive.
- A rental car business would be very different than a car sales business.
- It will definitely change people's view.
- There is no sign in their window. If there was any information for contacts, we would have contacted them a long time ago.
- My wife's business was entered and the men told her the request was going to go through anyway and she might as well jump on board.
- This just isn't a good idea.
- We will have to continually ask them to move vehicles.
- We own a business and a home in this immediate area.

Charmaine Daum, 3910 Country Club Road, Winston-Salem, NC 27104

- My property adjoins this site.
- Please deny this.

WORK SESSION

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

1. Dara Folan: Is there currently a repair shop now? Chad Hall: Yes, in the portion facing Gordon Drive.
2. Jimmy Norwood: There is about 45' from fence back to building.
3. Jerry Clark: If there's a fence on the right-of-way, is it going to block the view?

4. Carol Eickmeyer: It is difficult to pull out onto Country Club Road from this area.
5. Clarence Lambe: Current zoning allows vehicle repair and car rental (as a legally non-conforming use).
6. Philip Doyle: The current uses allow even more obstructive uses.

MOTION: Philip Doyle moved approval of the zoning map amendment.

SECOND: Clarence Lambe

VOTE:

FOR: Bost, Doyle, King, Lambe, Norwood

AGAINST: Clark, Eickmeyer, Folan, Glenn

EXCUSED: None

SITE PLAN MOTION: Philip Doyle certified that the site plan meets all code requirements and recommends staff recommendations.

SECOND: Dara Folan

VOTE:

FOR: Unanimous

AGAINST: None

EXCUSED: None

Written Comments From the Planning Board:

Dara Folan: I think this is a close case. However, I voted against the proposed zoning because I believe this request could set a precedent for other "Outdoor Display, Retail" zoning along Country Club. I also am concerned about the safety issues for drivers on Gordon and Country Club near the site.

Lavastian Glenn: One of my concerns is that there seems to be a contradiction in the UDO where LB allows a rental car business and not car sales. So the petitioner could have cars out front on the property if they were running a rental car business. My question is, "Why does Auto Sales exist in HB-S and Rental Car Business is in LB?" Is this something staff can look into and help me understand?

Carol Eickmeyer: Against because of encroachment into the neighborhood - the sight distance issues and the use - don't want to set a precedent for this use on Country Club.

Arnold King: My support for approving this rezoning case, despite the Staff's objection, was based on the following:

1. Existing operations (automobile repair shop) are unsightly but can continue "as is" with no rezoning.
2. Approval of the rezoning and site plan would force petitioner to park the vehicles being serviced at the rear of the property and out of view.

3. Approval of the rezoning included a condition that the existing curb cut on Country Club Road would become an "exit only" thereby creating safer vehicular movements.
4. Petitioner agreed to installing a decorative fence along Country Club Road. This will improve the appearance of the site and also restrict the current practice of automobiles being parked in the right-of-way - creating another improved safety condition.
5. The size of the lot, although zoned Highway Business, would not allow a large operation and would not create a major traffic issue. In fact, the Staff report indicated a slight decrease in traffic if the zoning change were approved.

A. Paul Norby, AICP
Director of Planning