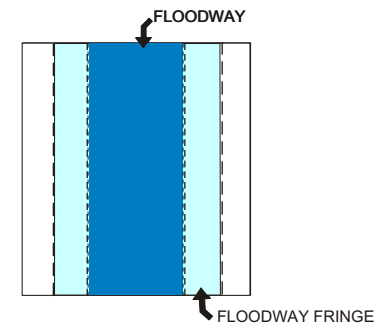


**DOCKET #:** W2661

**PROPOSED ZONING:**  
RM18

**EXISTING ZONING:**  
HB-S

**PETITIONER:**  
Kelly Smith Doub



**SCALE:** 1" represents 400'

**STAFF:** Hall

**GMA:** 3

**ACRE(S):** 0.99

**MAP(S):** 612878



**DRAFT ZONING STAFF REPORT**

**DOCKET #** W-2661  
**STAFF:** S. Chad Hall

Petitioner(s): Kelly Smith Doub  
Ownership: Same

**REQUEST**

From: HB-S Highway Business District [Golf Course; and Restaurant (without drive-through service)]  
To: RM-18 Residential Multifamily District; 18 units per acre maximum

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: .99 acre

**LOCATION:**

Street: Off the west side of Bethania Station Road, north of Bethabara Park Blvd.  
Jurisdiction: City of Winston-Salem.  
Ward: North.

**PROPERTY SITE/IMMEDIATE AREA**

Existing Structures on Site: No structure currently exists on site. The subject property and all properties that border it are located within the 100-year floodplain of Mill Creek. Fifty percent of the floodplain may be developed per the UDO.

Adjacent Uses:

- North: Undeveloped land zoned RM-18.
- Northeast: Developed RM-18 known as Mountain Lodge Apartments
- East: Small commercial establishment zoned LB.
- South: Developed HB-S for golf course (now closed) and restaurant without drive-through service.
- Southwest: Undeveloped RS-9; former site of par three golf course associated with the HB-S.
- West: Undeveloped RS-9; former site of par three golf course associated with the HB-S.
- Northwest: Undeveloped land zoned RM-18.

## **GENERAL AREA**

Character/Maintenance: Fairly well maintained mixture of housing stock.

Development Pace: Slow.

## **HISTORY**

Relevant Zoning Cases:

1. W-2640; RM-18, RS-12, RS-9, and HB-S [Golf Course; and Restaurant (without drive-through service)] to RM-18; withdrawn at the September 2, 2003 City Council meeting; west side of Bethania Station Road and the southern terminus of Williamsburg Road; 20.8 acres; Planning Board and staff recommended denial.
2. W-2058; RS-9 and RM-18 to HB-S [Golf Course; and Restaurant (without drive-through service)]; approved July 1, 1996; north side of Bethania Station Road, north of the intersection of Bethabara Park Boulevard and Bethania Station Road; 3.91 acres; Planning Board and staff recommended approval.
3. W-1300; R-2-S, R-3-S, and R-4 to R-2-S (TWO PHASE); approved October 7, 1985; southeast intersection of Bethania Station road and Bethabara Park Boulevard; 60 acres; Planning Board and staff recommended approval.

## **PHYSICAL FEATURES/ENVIRONMENTAL REVIEW**

Impact on Existing Features: Cannot be determined through a general use request. However, fifty percent of the floodplain may be developed per the UDO.

Topography: The subject property experiences an elevation change of approximately eight feet, from about 770 feet along the southern and eastern edges of the property up to about 778 feet in the eastern and northwestern sections of the property.

Streams: A tributary of Mill Creek runs along the eastern most border of the property. Mill Creek itself lies about 315 feet to the southeast of the southeastern corner of the property.

Vegetation/habitat: The subject property has only some small amounts of vegetation, located along the eastern border and in the central section of the property.

Floodplains: The subject property lies entirely within the floodway fringe area of Mill Creek.

Wetlands: One identified wetland just crosses into the western most section of the subject property. The wetland is classified as PUBHx (Palustrine, Unconsolidated Bottom, Permanently Flooded, Excavated) per the *USGS Rural Hall Quad*.

Environmental Resources Beyond The Site: Because this is a general use petition, the impact 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.

Compliance with Federal/State requirements for wetland/stream protection: The petitioner is responsible for complying with all federal and state wetland and stream protection regulations.

Comments: The subject property and its immediate area have experienced significant flooding in recent months. However, the subject property appears to have been recently filled.

## **TRANSPORTATION**

Direct Access to Site: Bethania Station Road; Bethabara Park Boulevard.

Street Classification: Bethania Station Road - Minor Thoroughfare; Bethabara Park Boulevard - Major Thoroughfare.

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

Bethania Station Road between Bethabara Park Boulevard and Shattalon Drive =  
6,600/14,600

Bethabara Park Boulevard between Bethabara Road and Bethania Station Road =  
14,000/32,200

Connectivity of street network: Cannot be determined through general use petition. If approved, Planning staff and the Planning Board will have the opportunity to review the multifamily site plan for connectivity, but the public would not have an opportunity to comment.

Planned Road Improvements: None

Sidewalks: None existing.

Transit: Route 44 along Bethabara Park Boulevard and Bethania Station Road

Bicycle Route: None existing.

## **CONFORMITY TO PLANS**

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

Relevant Comprehensive Plan Recommendation(s): *Legacy* promotes higher density residential densities within the municipal services area where appropriate. Appropriateness includes environmentally sensitive development that respects natural areas (including floodprone areas and wetlands) and enhances the quality of our built environment.

Area Plan/Development Guide: *Polo-Reynolda Area Plan* (adopted in 1985)

Relevant Development Guide Recommendation(s): The *Polo-Reynolda Area Plan* recommends that the subject property be developed as moderate density residential uses. The northern portion of the site that runs parallel to the un-named road running east-west is recommended at high density (up to 17 units/acre). The portion of the tract proposed for rezoning is recommended for moderate density (up to 8 units/acre). The site is also identified as a potential public park site in the plan.

## **ANALYSIS**

The current request is to rezone 0.99 acre of land in the City of Winston-Salem from HB-S [Golf Course and Restaurant (without drive-through)] to RM-18. The property is located off of the west side of Bethania Station Road, north of Bethabara Park Boulevard.

This general use request incorporates a portion of an existing HB-S site; approval of this request would not nullify that site plan for said restaurant and associated parking, as far it would relate to any dimensional requirements. However, the open space component of the HB-S site would be reduced and staff notes that all of the property is in the floodplain.

A proposed expansion of the current RM-18 to the north and northwest of the subject property (same petitioner) was submitted and heard earlier this year (see History: W-2640) and was recommended for denial by both the Planning staff and the Planning Board before being withdrawn at the City Council. During the Planning Board public hearing, the discussion revolved around the following points:

- The majority of the site is in the floodplain. The floodplain has been proven to be frequently subject to flooding.
- Environmental impacts based on impervious surface and storm water runoff.
- Special-use zoning may help to address some additional concerns such as access to the site.

The *Polo-Reynolda Area Plan* (adopted 1985) recommends that the subject property be developed as a moderate-density residential use (up to 8 units/acre) and also acknowledges the existing RM-18 zoning to the north calling for high-density residential (up to 17 units/acre). The site is also identified as a potential park site.

*Legacy* promotes higher density residential within the municipal services area where appropriate. Appropriateness includes environmentally sensitive development that respects natural areas (including flood prone areas and wetlands) and enhances the quality of our built environment. Being a general use request, it is impossible to adequately evaluate the impacts of the proposed development as it relates to the natural environment. At this particular location with its known flood problems, additional attention needs to be given to the consideration of *any* proposed development.

Although the UDO permits limited development to occur within floodplains, such development must be done in an extremely sensitive manner to minimize impacts to surrounding areas, especially in areas experiencing flooding problems. Mill Creek base flood elevations have raised dramatically over the last several decades, principally as the result of the substantial new urban development within the upstream watershed. Potential further loss of flood storage area within the subject property may likely worsen the existing problem.

Another concern is regardless of whether the subject property is filled, it appears that access to and from the property must go through flood prone land. This could put future residents of the subject property at risk if there is a need to evacuate in another flood situation, but the access drive is flooded.

Beyond potential environmental impacts, other factors cannot be evaluated through general use zoning such as access to the site, connectivity of the street network, and visual and/or physical relationships to existing development in the area. A site plan that incorporated the adjacent RM-18 land (same ownership) would help to evaluate those elements and determine the adequacy of measures to protect surrounding lands and landowners, should the request be approved. However, Planning staff concludes, even in the absence of such a plan, that the best use for the property as it pertains to the health, safety, and welfare of the public would be for the site to be utilized as a park, open space or low intensity, non-residential development. The owner is also free to use the subject property and surrounding lands under the already existing zoning.

In short, in an area that is already experiencing hardships such as flooding, Planning staff believes that any further intensification of development potential will exacerbate the problem and therefore recommends denial.

## **FINDINGS**

1. The *Polo-Reynolda Area Plan* recommends that the subject property be developed as a moderate-density residential use (up to 8 units/acre) and identifies the subject property as a potential park site.
2. *Legacy* promotes higher density residential within the municipal services area where appropriate; appropriateness includes environmentally sensitive development.
3. Mill Creek base flood elevations have raised dramatically over the last several decades, principally as the result of the substantial new urban development.
4. Development of the site under the proposed rezoning could further worsen the flooding situation and put future residents at risk if there was a need to evacuate the area.
5. A site plan that incorporated the adjacent RM-18 land would help in the evaluation of access to the site, connectivity of the street network, and visual and/or physical relationships to existing development in the area.
6. In the absence of a site plan, that the best use for the property as it pertains to the health, safety, and welfare of the public would be for the site to be utilized as a park, open space, or as already zoned.

## **STAFF RECOMMENDATION**

Zoning: **DENIAL**.

Zoning map amendment of Kelly Smith Doub from HB-S [Golf Course; and Restaurant (without drive through service)] to RM-18: property is located off the west side of Bethania Station Road, north of Bethabara Park Boulevard (Zoning Docket W-2661).

Chad Hall presented the staff report.

## **PUBLIC HEARING**

FOR:

Gene Doub, 2560 Biting Road, Winston-Salem, NC 27104

- Distributed maps of site.
- My surveyor back in 1986 inadvertently included this strip in our request for HB-S. I'm asking that you give me back that RM-18 zoning.

- We have not graded the property. We have cleared that 114C tract except for some that comes down south there and put swales in to clear the potholes and so that water will stay in our lakes.
- I gave a lot of money for this land and put a lot of money into providing utilities. I don't get my money back through open space.
- The neighbors are concerned that this will cause flooding at their homes. They are at least 10 feet above floodplain. It won't flood.
- I can't visualize that water coming across my property is going to go across his dike which is higher than my property.
- The Army Corps of Engineers has restrictions in place to allow building in areas like this.
- You do not have to fill the property, just make sure the floor line is one foot above the floodline.
- This property was zoned apartments before the residences were there.
- I don't see how our interactions with the Courts have any impact on this zoning request.

AGAINST:

John N. Taylor, Jr. 370 Knollwood Street, Suite 600, Winston-Salem, NC 27103

- Represent Mr. Vernon Ferrell.
- Our position is the same as the last time that this matter came before you.
- I do acknowledge that the court system is separate and apart from your actions today.

However, I do want to let you know that there is current court action on this site, specifically regarding the fill in the stream. What the court was considering important in that decision was the flooding impact on Mr. Ferrell's apartments.

- We oppose the rezoning request to the extent that it will lead to filling in the stream and will divert surface water onto Mr. Ferrell's apartments.

Douglas I. Jordan, 5075 Williamsburg Road, Winston-Salem, NC 27106

- We were here just a few months back. I realize the area is not the same, but the purpose is the same. I think all the reasons you used to recommend denial last time are still applicable.
- Flooding is an issue.
- All traffic will come through Colonial Estates.
- I hope you will recommend denial again.

Robert Cleveland, 2175 Independence Road, Winston-Salem, NC 27106-2413

- President of Colonial Estates Neighborhood Association and representing the association.
- Almost all the neighbors in this area have been here around 40 years. We have seen significant floods, to the extent that my son took a rowboat and boated all over this area during one of the floods.
- This area does flood significantly.
- I would appreciate it if you would deny this request.

## WORK SESSION

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

1. Parr Street is a lot owned by Mr. Doub and used to access Mr. Ferrell's apartments.
2. Paul Norby: I suspect the elevations were changed by FEMA last time they updated the flood maps. Every time they review floodplains, the levels rise because of development upstream. However, our question is whether we should rezone more land in that flood area for more residential development.
3. Arnold King: If the surrounding RM-18 site was developed, access could be on Parr Street or through Colonial Estates. Without a site plan, we just don't know. That's part of the concern we had before regarding bringing that kind of traffic through Colonial Estates.
4. Paul Mullican: One thing that bothers me is the diversion of the water. My understanding is that he can fill all that area in and that would create water flow problems.
5. Arnold King: What's so critical about this one acre? Gene Doub: Without this one acre, I can't get buildings oriented north-south of the west side of my road which I believe will help the drainage problem. Arnold King: We don't know that you're accessing the site on Parr Street. I wouldn't want traffic going through Colonial Estates. Why don't you want to bring us a site plan? Gene Doub: You have to live with the plan through the whole system. You can't make one little change without coming back before this Board.
6. Jimmy Norwood: I want to make sure we don't lead him down the path that implies if he brings this in as special use, it will be approved.
7. Arnold King: There is no guarantee that we will approve it.
8. Dara Folan: We'd like to know more about what's going to go in there than we can know with general use.
9. Jerry Clark: When I first moved to Winston-Salem back in 1974, I lived in Mountain Lodge apartments for about 8 months. My apartment flooded twice. This is real. People have to live in this area and you probably don't want to impact it any more. It is a bad problem. Last spring we got a lot more water than we normally do around here. If that pattern continues, this will really be a problem.
10. Arnold King: I think anywhere else in this county, if you were requesting HB-S to RM-18, it would probably be approved. This is just a unique area. I wish he would consider special use to give us a better shot at it. We could apply the fees he's already paid toward a special use application.
11. Jimmy Norwood: I recommend that Mr. Doub talk closely with staff. Gene Doub: I didn't know I had the opportunity to do that. Jimmy Norwood: If you come in, they'll help you as much as they can. I know that first-hand.



MOTION: Dara Folan moved denial of the zoning map amendment.

SECOND: Jimmy Norwood

After further discussion with Mr. Doub, it was determined that Mr. Doub would prefer withdrawing and re-submitting as a special use district permit. Accordingly, Dara Folan withdrew his motion for denial.

MOTION: John Bost moved withdrawal of the zoning map amendment with the provisions that we adjust the fees to 1) the difference between special use and general use given that he brings special use in within a six month window of time and fees don't change and 2) plus advertising costs.

SECOND: Paul Mullican

VOTE:

FOR: Bost, Clark, Eickmeyer, Folan, King, Mullican, Norwood

AGAINST: None

EXCUSED: None

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A. Paul Norby, AICP  
Director of Planning