



DOCKET #: W2580

PROPOSED ZONING:
HB

EXISTING ZONING:
RS9, HB, and HB-S

PETITIONER:
CABO, LLC, for
property owned by others

SCALE: 1" represents 200'

STAFF: Roberts

GMA: 3

ACRE(S): 5.19

MAP(S): 618886, 624886



September 20, 2002

CABO, LLC
800 W. Fourth Street
Winston-Salem, NC 27101

RE: ZONING MAP AMENDMENT W-2580

Dear Sirs:

The attached report of the Planning Board to the Board of Aldermen is sent to you at the request of the Aldermen. You will be notified by the City Secretary's Office of the date on which the Aldermen 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
G. Emmett McCall, 633 W. Fourth Street, Suite 150, Winston-Salem, NC 27101
Richard Redding, 147 S. Cherry St., Suite 200, Winston-Salem, NC 27101

ACTION REQUEST FORM

DATE: September 20, 2002
TO: The Honorable Mayor and Board of Aldermen
FROM: A. Paul Norby, AICP, Director of Planning

BOARD ACTION REQUEST:

Request for Public Hearing on zoning map amendment of CABO, LLC for property owned by Nancy G. Cheek, James H. Gilley, Jr., and BNE Land Development Co.

SUMMARY OF INFORMATION:

Zoning map amendment of CABO, LLC for property owned by Nancy G. Cheek, James H. Gilley, Jr., and BNE Land Development Co. from RS-9, HB, and HB-S [Boarding or Rooming House; ABC Store (liquor); Arts and Crafts Studio; Building Materials Supply; Convenience Store; Food or Drug Store; Furniture and Home Furnishings Store; General Merchandise Store; Hardware Store; Implement Sales and Service; Motorcycle Dealer; Nursery, Lawn and Garden Supply Store, Retail; Outdoor Display Retail; Restaurant (without drive-through service); Restaurant (with drive-through service); Retail Store, Specialty or Miscellaneous; Shopping Center; Banking and Financial Services; Bed and Breakfast; Building Contractors, General; Car Wash; Funeral Home; Health Services, Miscellaneous; Hotel or Motel; Medical or Dental Laboratory; Motor Vehicle, Rental and Leasing; Motor Vehicle, Repair and Maintenance; Motor Vehicle, Body or Paint Shop; Motor Vehicle, Storage Yard; Offices, Miscellaneous; Professional Office; Services, Business A; Services, Business B; Services, Personal; Storage Services, Retail; Veterinary Services; Recreation Services, Indoor; Recreation Service, Outdoor; Recreation Facility, Public; Theater, Indoor; Child Day Care Center; Church or Religious Institution, Community; Church or Religious Institution, Neighborhood; Hospital or Health Center; Library, Public; Police or Fire Station; Post Office; School, Vocational or Professional; Stadium, Coliseum, or Exhibition Building; Storage and Salvage Yard; Park and Shuttle Lot; and Parking, Commercial - TWO PHASE] to HB: property is located on the east side of University Parkway and west side of Summit Square Boulevard (Zoning Docket W-2580).

PLANNING BOARD ACTION:

MOTION ON PETITION: APPROVAL
FOR: UNANIMOUS
AGAINST: NONE
SITE PLAN ACTION: NOT REQUIRED

CITY ORDINANCE - GENERAL USE

Zoning Petition of CABO, LLC for property owned by Nancy G. Cheek, James H. Gilley, Jr., and BNE Land Development Co., Docket W-2580

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 Board of Aldermen 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, HB, and HB-S [Boarding or Rooming House; ABC Store (liquor); Arts and Crafts Studio; Building Materials Supply; Convenience Store; Food or Drug Store; Furniture and Home Furnishings Store; General Merchandise Store; Hardware Store; Implement Sales and Service; Motorcycle Dealer; Nursery, Lawn and Garden Supply Store, Retail; Outdoor Display Retail; Restaurant (without drive-through service); Restaurant (with drive-through service); Retail Store, Specialty or Miscellaneous; Shopping Center; Banking and Financial Services; Bed and Breakfast; Building Contractors, General; Car Wash; Funeral Home; Health Services, Miscellaneous; Hotel or Motel; Medical or Dental Laboratory; Motor Vehicle, Rental and Leasing; Motor Vehicle, Repair and Maintenance; Motor Vehicle, Body or Paint Shop; Motor Vehicle, Storage Yard; Offices, Miscellaneous; Professional Office; Services, Business A; Services, Business B; Services, Personal; Storage Services, Retail; Veterinary Services; Recreation Services, Indoor; Recreation Service, Outdoor; Recreation Facility, Public; Theater, Indoor; Child Day Care Center; Church or Religious Institution, Community; Church or Religious Institution, Neighborhood;

Hospital or Health Center; Library, Public; Police or Fire Station; Post Office; School, Vocational or Professional; Stadium, Coliseum, or Exhibition Building; Storage and Salvage Yard; Park and Shuttle Lot; and Parking, Commercial - TWO PHASE] to HB the zoning classification of the following described property:

Tax Block 6244, Tax Lot 1L; Tax Block 2049, Tax Lot 301; and Tax Block 2050, Tax Lots 1, 2, 3, 4, and 5

Section 2. This ordinance shall become effective upon adoption.

ZONING STAFF REPORT

DOCKET # W-2580

STAFF: Gary Roberts

Petitioner(s): CABO, LLC

Ownership: Nancy G. Cheek, James H. Gilley, Jr., and BNE Land Development Company

REQUEST

From: RS-9, HB, and HB-S [Boarding or Rooming House; ABC Store (liquor); Arts and Crafts Studio; Building Materials Supply; Convenience Store; Food or Drug Store; Furniture and Home Furnishings Store; General Merchandise Store; Hardware Store; Implement Sales and Service; Motorcycle Dealer; Nursery, Lawn and Garden Supply Store, Retail; Outdoor Display Retail; Restaurant (without drive-through service); Restaurant (with drive-through service); Retail Store, Specialty or Miscellaneous; Shopping Center; Banking and Financial Services; Bed and Breakfast; Building Contractors, General; Car Wash; Funeral Home; Health Services, Miscellaneous; Hotel or Motel; Medical or Dental Laboratory; Motor Vehicle, Rental and Leasing; Motor Vehicle, Repair and Maintenance; Motor Vehicle, Body or Paint Shop; Motor Vehicle, Storage Yard; Offices, Miscellaneous; Professional Office; Services, Business A; Services, Business B; Services, Personal; Storage Services, Retail; Veterinary Services; Recreation Services, Indoor; Recreation Service, Outdoor; Recreation Facility, Public; Theater, Indoor; Child Day Care Center; Church or Religious Institution, Community; Church or Religious Institution, Neighborhood; Hospital or Health Center; Library, Public; Police or Fire Station; Post Office; School, Vocational or Professional; Stadium, Coliseum, or Exhibition Building; Storage and Salvage Yard; Park and Shuttle Lot; and Parking, Commercial - TWO PHASE]

To: HB Highway Business District

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: 5.19 acres

LOCATION

Street: East side of University Parkway and west side of Summit Square Boulevard.

Jurisdiction: City of Winston-Salem.

Ward: Northeast.

PROPERTY SITE/IMMEDIATE AREA

Existing Structures on Site: One single family residential structure.

Adjacent Uses:

- North - Multiple commercial uses zoned HB and HB-S.
- East - Multiple commercial uses zoned HB-S.
- South - Multiple commercial uses zoned HB-S.
- West - Multiple commercial uses zoned HB.

GENERAL AREA

Character/Maintenance: Mixture of small to regional scale commercial and service type operations in good maintenance.

Development Pace: Moderate to rapid.

PHYSICAL FEATURES/ENVIRONMENTAL REVIEW

Impact on Existing Features: No impact determined with general use request.

Topography: There is an approximate change in elevation on the subject property of 36' [(from an approximate elevation of 880' in the northwest (at University Parkway) down to an approximate elevation of 844' in the east (at Summit Square Boulevard)].

Vegetation/habitat: Mostly cleared.

Water supply watershed: Site is not within the boundaries of a water supply watershed.

TRANSPORTATION

Direct Access to Site: University Parkway; Summit Square Boulevard.

Street Classification: University Parkway - major thoroughfare; Summit Square Boulevard - local road.

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

University Parkway between US 52 and Hanes Mill Road = 23,000 (1995 Count)/32,200

Hanes Mill Road between University Parkway and Germanton Road = 9,400/30,100

Sidewalks: None.

Transit: Routes 10 and 44 along University Parkway.

Bike: None.

HISTORY

Relevant Zoning Cases:

1. W-1714; HB-S to Final Development Plan; withdrawn at May 9, 2002 Planning Board meeting; west side of Summit Square Boulevard east of University Parkway, portion of current site; 1.19 acres; staff recommended approval.

2. W-1714; B-3-S (Multiple uses - TWO PHASE) and R-6 to B-3-S [Multiple uses (Shopping Center with outparcels) - TWO PHASE]; approved May 6, 1991; northeast corner of University Parkway and Patterson Avenue, including a portion of current request; 76.41 acres; Planning Board and staff recommended approval.
3. W-1443; R-2-S, R-6, B-2, B-3, and I-3 to B-3-S (TWO PHASE); approved July 6, 1987; northeast corner of University Parkway and Patterson Avenue, including a portion of current request; 78.8 acres; Planning Board and staff recommended approval.

CONFORMITY TO PLANS

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

Relevant Comprehensive Plan Recommendation(s): The parcels proposed for rezoning are located within the North Summit Square Metro Activity Center. Metro Activity Centers are compact and pedestrian friendly mixed use areas. The North Summit Square Metro Activity Center has a major concentration of retail development but currently lacks a complement of higher density residential and office uses and an overall pedestrian friendly-design.

Area Plan/Development Guide: Site is not within the boundaries of an area plan or development guide.

ANALYSIS

The request is to rezone 5.19 acres located on the eastern side of University Parkway and western side of Summit Square Boulevard from RS-9, HB and HB-S to HB. With the exception of one single family residential structure, the property is undeveloped.

The surrounding context of the site is heavily commercialized. The adjoining properties are zoned either HB or HB-S. University Parkway is a five lane major thoroughfare with an average daily traffic count of approximately 23,000 vehicles. Sam's Club is constructing a new ±130,590 square foot retail/wholesale facility directly across Summit Square Boulevard.

The property was originally rezoned from residential to commercial in 1987 as part of a larger 344 acre "mixed use" development known as Oak Summit. The subject portion of the site was proposed to accommodate the major section of a 150,000 square foot shopping center. In 1991 Oak Summit was rezoned to B-3-S TWO PHASE which included an overall new design and an extensive list of conditions. The approved site plan shows the subject property simply as "Future Development Area". However the existing HB-S designation does include some conditions which are still relevant to the subject property.

Specifically, Final Development Plan approval by the Planning Board is currently required. This review process provides the City not only with the opportunity to consolidate driveways along Summit Square Boulevard but to request sidewalks and large variety street trees of the same species. Other conditions of the existing zoning include: no direct access onto University Parkway; no freestanding signs over five feet in height; and an exclusion of free standing Adult Establishments and Transmission Towers.

Legacy identifies the subject property as a portion of the North Summit Square Metro Activity Center. Designated Metro Activity Centers are intended to evolve into compact, pedestrian friendly, mixed use areas. The surrounding area has a major concentration of retail development but currently lacks any real mixture of uses and is essentially an unfriendly setting for the pedestrian.

Staff recognizes that the subject property is very well suited for commercial use. Arguments in favor of the proposed rezoning include the current uncoordinated and un-pedestrian friendly nature of much of the surrounding development; and the very wide range of uses included in the current HB-S zoning.

Arguments against the proposed rezoning include: (1) Summit Square Boulevard should have sidewalks. While there is a minimal amount of nearby residential, employees and customers within the area should have the opportunity to safely move from one establishment to another without having to walk in the street or through the middle of a parking lot. (2) Summit Square Boulevard should have large variety street trees. While the UDO requires a 10 foot streetyard in-between the street and parking lot, special use zoning provides the opportunity to ensure that "large variety" trees which provide shade overhead and visibility underneath, will be planted even where no parking will abut the street. In addition, by using the same species as that is already in place, the streetscape can mature in a cohesive rather than a disjointed manner. The subject property lends itself well to this improvement due to the absence of overhead utility lines along the right-of-way. (3) Access control. Under HB general, the property could be subdivided into six individual lots each with its own driveway connection and no opportunity to acquire interior cross access between each property. (4) Excessive signage is possible. Under HB general, a 35 foot tall, 150 square foot freestanding sign could be erected on each of the above mentioned lots. This would only add to the visual clutter now found along University Parkway and be inconsistent with some of the nearby monument signs made possible through special use zoning. Monument signs are complimentary with large variety street trees whereby you have the greenery up above and the advertising down below at eye level rather than visa versa. (5) Use limitations. The current special use classification prohibits free standing Adult Establishments and Transmission Towers both of which would be permitted under a general use HB designation.

Although there are reasons to approve the rezoning, in order to address the above mentioned objectives and the desire of staff to be consistent in its recommendations in similar situations, the rezoning is not recommended by staff in its current form.

FINDINGS

1. *Legacy* identifies the subject property as a portion of the North Summit Square Metro Activity Center. Designated Metro Activity Centers are intended to evolve into compact, pedestrian friendly, mixed use areas.
2. The character of the area currently does not include pedestrian friendly mixed use development.

3. Site is not within the boundaries of an area plan or development guide.
4. Proposed HB designation would eliminate the existing access restrictions onto University Parkway and preclude consolidation of driveways onto Summit Square Boulevard.
5. Proposed HB designation would remove the desirable land use and sign restrictions currently in place and essentially forgo the opportunity to require a sidewalk and street trees along Summit Square Boulevard.

STAFF RECOMMENDATION

Zoning: **DENIAL**.

Gary Roberts presented the staff report.

Philip Doyle was excused from consideration of this request due to a potential conflict of interest.

PUBLIC HEARING

FOR:

Emmett McCall, 633 W. Fourth Street, Winston-Salem, NC 27101

This will be an assemblage of four parcels. My clients are assembling this parcel so they can use both public streets. They are buying it from people who think it's already zoned HB based on the purchase price!

I'm not sure who's going to be using sidewalks on University Parkway.

This is an HB site. All it's missing is your approval. We request you give it.

Richard Redding, 147 S. Cherry Street, Suite 200, Winston-Salem, NC 27101

I represent the majority property owner and am speaking on their behalf.

I remember when we began working on the UDO, there were 12 zoning districts. We were going to 36 zoning districts. The answer to why we were having so many districts was to reduce the need for special use districts. On today's agenda there are 8 special use and 2 general use (both for churches). I don't think when the UDO was adopted we were anticipating 80-90% of cases would be special use.

This is in the middle of business and commercial zoning. There are no residential districts. If this is not a valid case for general use business zoning, it doesn't need to be part of your ordinance.

There is no opposition to this case.

This case and the specifics of this particular site certainly warrant general use zoning.

Please pursue dialogue among yourselves about what has happened in the reliance upon special use zoning that case by case subjectively sets different standards for every developer that comes up here to have to play by.

AGAINST: None
WORK SESSION

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

1. There are some good reasons why general use district zoning makes sense. However, there is a planned approach to the east of Summit Square Drive which contributed heavily to staff's support for special use district zoning.
2. This area may need to be transformed into a Metro Activity Center (MAC) at some point in the future. However, the specific area has not been laid out.
3. No limitations on curb cuts can be put on General Use zoning petitions. Staff and Planning Board have to consider all the uses allowed under General Use zoning - basically the worst case scenario.
4. The Board discussed the use of special use district zoning versus general use district zoning. Paul Norby noted that many of staff's requests for special use district zoning are based on the need to limit such things as the size of signs or the number of curb cuts for the overall benefit of the community. As *Legacy* gets implemented, more of those items will be codified, thereby reducing staff's requests for special use district zoning.
5. In further discussion, it was noted that sometimes the appointed and elected boards seem to want special use district zoning to know what is going to be developed before they will approve zoning for a site. It is likely a combination of factors that lead to a higher number of requests for special use district zoning than general use district zoning. The Planning Board asked staff to provide the percentages of general versus special use district zoning requests for the previous twelve months.
6. Arnold King - I'm going to trust Mr. McCall not to put an Adult Establishment up here.

MOTION: Arnold King moved approval of the map amendment.

SECOND: Jimmy Norwood

VOTE:

FOR: Avant, Bost, Clark, Folan, King, Norwood, Powell

AGAINST: None

EXCUSED: Doyle

A. Paul Norby, AICP
Director of Planning