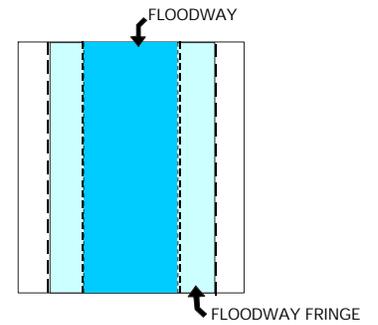


**DOCKET #:** W2491

**PROPOSED ZONING-**  
GB-S (Landfill,  
Construction and

**EXISTING ZONING:**  
RS9

**PETITIONER:**  
Ghali Hasan for property  
owned by Bethlehem  
Holiness Church of God



**SCALE:** 1" represents 400'

**STAFF:** Roberts

**GMA:** 2

**ACRE(S):** 10.69

**MAP(S):** 642858



## **DRAFT ZONING STAFF REPORT**

**DOCKET #** W-2491  
**STAFF:** Gary Roberts

Petitioner(s): Ghali Hasan  
Ownership: Bethlehem Holiness Church of God

### **REQUEST**

From: RS-9 Residential Single Family District; minimum lot size 9,000 sf  
To: GB-S General Business District (Landfill, Construction and Demolition)

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

Acreage: 10.69 acres

### **LOCATION**

Street: North of Barbara Jane Avenue off the terminus of Woodrow Powell Drive (private).  
Jurisdiction: City of Winston-Salem.  
Ward: East.

### **SITE PLAN**

Proposed Use: Construction and demolition landfill.  
Bufferyard Requirements: 100 foot type IV bufferyard.

### **PROPERTY SITE/IMMEDIATE AREA**

Existing Structures on Site: Small church (Bethlehem Holiness Church of God) zoned RS-9. A significant portion of the site is in the floodplain.

Adjacent Uses:

- North - Winston Lake Estates, comprised of very well maintained, large single family homes zoned RS-12 and a few vacant lots.
- East - Heavily wooded area immediately east of Woodrow Powell Drive and single family homes further east, all zoned RS-9.
- South - Single family homes zoned RS-9
- West - Brushy Fork Creek and floodplain zoned IP.

## **GENERAL AREA**

Character/Maintenance: Single family residential homes of various sizes and states of maintenance.

Development Pace: Slow.

## **PHYSICAL FEATURES/ENVIRONMENTAL REVIEW**

Impact on Existing Features: Partial removal of existing tree canopy.

Topography: GIS maps indicate that this property is fairly flat in the northwestern floodplain area. However, the grade change increases by approximately 100' from the center of the property to the eastern property line.

Streams: This property is adjacent to Brushy Fork Creek.

Constraints: UDO requires Construction and Demolition Landfills to have direct access onto a major or minor thoroughfare which the current site does not.

Floodplains: This property includes floodway and floodway fringe areas. The UDO restricts uses in floodways to primarily agriculture, recreation, and infrastructure uses. A buffer zone must be provided along the lake/stream with a sufficient width to confine visible siltation within the 25% of the buffer zone nearest the land disturbing activity. [Reference: UDO Chapter C, Section 7-7.1].

Wetlands: The National Wetland Inventory conducted by The US Department of the Interior in 1994 indicates that this section of Brushy Fork Creek contains a marshy wetland that is forested with broad-leaved deciduous trees. It also indicates that the fresh water chemistry contains an acid pH modifier.

Environmental Resources Beyond the Site? Significant potential of storm water runoff pollution from the landfill into the adjacent stream and designated wetland.

Is the project in a Water Supply Watershed? No. The site is not within the boundaries of a water supply watershed.

Compliance with Federal/State requirements for wetland/stream protection: Before construction, the petitioner must obtain appropriate permits from the US Army Corps of Engineers and NC Department of Water Quality for survey and construction activities within wetland areas. The petitioner must also obtain permits from the NC Division of Waste Management to operate a Landfill/LCID.

## **TRANSPORTATION**

Direct Access to Site: Barbara Jane Avenue.

Street Classification: Collector.

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

Old Greensboro Road between Flag Road and Waterworks = 3,500/16,000

Trip Generation/Existing Zoning: RS9

$10.69 \times 43,560/9,000 = 51 \text{ units} \times 9.57 \text{ (SF Trip Rate)} = 488 \text{ trips per day}$

Trip Generation/Proposed Zoning: GB-S. No generation rates are available for the proposed use.

Transit: Route # 25, along Old Greensboro Road.

Bike: Route #15.

## **HISTORY**

Relevant Zoning Cases:

1. PBR 00-31; RS-9 to LCID; approved by Board of Adjustment on November 2, 2000; current site; 1.99 acres; Planning Board approved the site plan.
2. W-2179; RS-9 to Special Use Permit for expansion of institutional parking; approved September 2, 1997; southwest side of Glenbrook Drive 2,000 feet south of current site; 1.2 acres; Planning Board and staff recommended approval.
3. W-720; R-4 to B-3-S (Parking area); denied August 20, 1979; north side of Barbara Jane Avenue, 1,800 feet southeast of current site; .30 acre; Planning Board recommended denial and staff recommended approval.

## **CONFORMITY TO PLANS**

GMP Area (*Legacy*): Urban Neighborhoods.

Relevant Comprehensive Plan Recommendation(s): Protect residential areas from inappropriate commercial and industrial encroachment; encourage environmentally sensitive design which respects natural areas and minimizes adverse effects on the environment.

Area Plan/Development Guide: This site is not within the boundaries of a development guide or area plan.

## **ECONOMIC DEVELOPMENT**

Certified Area/Name: Request is adjacent to the southern border of the Lake Park Neighborhood which is being developed through the City's Economic Development Loan Program.

## **GREENWAY/RECREATION/OPEN SPACE REVIEW**

Greenway Plan: *Legacy*.

Greenway/Trail Name: Brushy Fork Creek.

Easement Requested: None.

Comments/Status of Trail: Construction of Phase I of the proposed Brushy Fork Creek Trail from Old Greensboro Road to Waterworks Road is expected to commence this year. The Trail will, however, be located on the west side of the Creek. The City's Recreation and Parks Department has indicated that there are no plans for the east side of the creek.

## **ANALYSIS**

The current request is to rezone a 10.69 acre parcel on Barbara Jane Avenue from RS-9 to GB-S in order to operate a Construction and Demolition Landfill. The applicant applied for and received permission to operate a 1.99 acre land clearing and inert debris, (LCID), landfill from the Planning Board and Board of Adjustment in 2000. The LCID is a permitted use in RS-9 with Board of Adjustment approval. The petitioner has been cited by the City Inspections Division and the North Carolina Department of Environment and Natural Resources for bringing in material in violation with the LCID approval. The applicant is therefore seeking the GB-S classification which would permit an expanded type and size of landfill activity. The proposed rezoning would also include a grinder for metal and masonry materials and several roll-off containers for temporary storage of various recyclable materials.

*Legacy* promotes the protection of residential areas from inappropriate commercial and industrial encroachment. Staff sees the activities connected with a full scale Construction and Demolition Landfill as detrimental to the adjacent single family neighborhoods. LCID landfills are more limited in scale, duration and type of acceptable materials. Rezoning the site for a Construction and Demolition Landfill would remove the three year time frame which exists under the current LCID approval, expand the operation into additional areas of the site and permit the dumping of material which has a greater potential to contaminate ground water supplies. The rezoning would also allow the above mentioned metal and masonry grinder.

Staff would also like to highlight the fact that the Lake Park neighborhood, located immediately to the north of the subject property, was developed in part by city economic development funds for the purposes of increasing the economic base in East Winston. The city provided the developer and prospective home buyers with over \$400,000 in low interest loans for initial infrastructure and lot purchase costs. Staff views the subject request as being in total contradiction to the ongoing efforts to revitalize this area and its approval could jeopardize the success of the public investments made thus far.

As is the normal procedure, staff has consulted with the City Attorney who has issued the opinion that the request, if approved, would constitute an illegal spot zone.

It should finally be noted that approval of the request would render the church, located on the site, a nonconforming use and therefore limit its future expansion.

## **FINDINGS**

1. *Legacy* recommends protection of residential areas from inappropriate commercial and industrial encroachment and encourages environmentally sensitive design which respects natural areas and minimizes adverse effects on the environment. Current request will have a significantly detrimental effect on the surrounding residential properties.
2. The City Attorney has issued the opinion that the subject request, if approved, would constitute an illegal spot zone.

3. The proposed use of Landfill, Construction and Demolition, would have a significantly detrimental effect on the surrounding single family residential properties in terms of noise, truck traffic and appearance.
4. Proposed rezoning could undermine the City's economic development activities and investments within the adjacent Lake Park neighborhood.
5. Staff could support no uses of the property other than those currently permitted in the RS-9 district.

### **STAFF RECOMMENDATION**

Zoning: **DENIAL**.

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

- **PRIOR TO GRADING PERMITS**
  - a. Locate and fence floodplain line by professional survey.
  - b. Fence in the maximum fill area.
  - c. On site fire hydrants will be required in locations approved by the City Fire Department.
  
- C **PRIOR TO OCCUPANCY PERMITS**
  - a. Developer shall improve Barbara Jane Avenue from the subject property to Old Greensboro Road to standards as required by the Public Works Director.
  - b. Fire hydrants shall be installed in accordance with the City Fire Department.
  
- C **OTHER REQUIREMENTS**
  - a. One freestanding ground sign shall be permitted along the frontage on Benefit Church Road. Said sign shall be limited to monument type with a maximum height of five (5) feet.
  - b. Developer shall improve the driveway to a minimum 20 foot wide, all weather surface.