DOCKET #: W2380
PROPOSED ZONING: HB
EXISTING ZONING: RS9
PETITIONER:
Bob Neill, Inc.
of Winston-Salem for
property owned by
Mary M. Mathis Heirs

SCALE: 1" represents 200'
STAFF: L. Weston
GMA: 3
ACRE(S): 2.64
MAP(S): 600846
March 22, 2000

Bob Neill, Inc. of Winston-Salem
for property owned by Mary M. Mathis Heirs
601 Jonestown Road
Winston-Salem, NC  27103

RE:  ZONING MAP AMENDMENT W-2380

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
     Thomas T. Crumpler, 380 Knollwood Street, Suite 700, Winston-Salem, NC  27103
### ACTION REQUEST FORM

**DATE:** March 22, 2000  
**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 Bob Neill, Inc. of Winston-Salem for property owned by Mary M. Mathis Heirs

### SUMMARY OF INFORMATION:

Zoning map amendment of Bob Neill, Inc. of Winston-Salem for property owned by Mary M. Mathis Heirs from RS-9 to HB: property is located on both the south side and east side of Kirk Road north of Kester Mill Road (Zoning Docket W-2380).

### PLANNING BOARD ACTION:

**MOTION ON PETITION:** APPROVAL  
**FOR:** UNANIMOUS  
**AGAINST:** NONE  
**SITE PLAN ACTION:** NOT REQUIRED
CITY ORDINANCE - GENERAL USE

Zoning Petition of Bob Neill, Inc. of Winston-Salem for property owned by Mary M. Mathis Heirs, Docket W-2380

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 to HB the zoning classification of the following described property:

Beginning at an iron at the southwest corner of the property owned by Richard C. Vaspory as described in deed recorded in Book 1349, Page 799, Forsyth County Registry; thence from said beginning point, north 81° 22' 39" west 20.93 feet to an iron; thence continuing north 81° 22' 39" west 130.38 feet to an iron in the eastern right-of-way line of Kirk Road; thence along the eastern right-of-way line of Kirk Road as it curves in a north northwestward direction the five (5) following courses and distances, to-wit: north 00° 31' 04" west 11.72 feet to a brass disk, on a curve to the left a radius of which is 232.84 feet and having a linear distance of 237.32 feet and a chord bearing and distance of north 29° 41' 26" west 171.85 feet to a brass disk, and north 29° 09' 59" east 36.24 feet to a brass disk; thence along the southern right-of-way line of Kirk Road as it extends in an eastward direction, south 82° 00' 18" east 436.74 feet to an iron, corner with the aforementioned Vaspory property; thence along Vaspory's west line, south 09° 50' 45" west 380.90 feet to the point and place of beginning, containing 2.6367 acres, more or less, all according to survey of Thomas A. Riccio dated January 10, 1989. Being known as Tax Lot 22B, Block 3905, Forsyth County Tax Maps as presently constituted.

Section 2. This ordinance shall become effective upon adoption.
ZONING STAFF REPORT

DOCKET #  W-2380
STAFF:     Larry F. Weston

Petitioner(s):  Bob Neill, Inc. of Winston-Salem
Ownership:    Mary M. Mathis Heirs

REQUEST

From:    RS-9 Residential Single Family District; minimum lot size 9,000 sf
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:  2.64 acres

LOCATION

Street:  East and south sides of Kirk Road, north of Kester Mill Road.
Jurisdiction:  City of Winston-Salem.
Ward:    Southwest.

PROPERTY SITE/IMMEDIATE AREA

Existing Structures on Site:  Site is vacant.
Adjacent Uses:
  North -    Single family homes zoned RS-9.
  East -     Vacant land zoned HB; business uses further east nearer Jonestown Road.
  South -    Warehouse and other business uses zoned HB, HB-S, and GB-S.
  West -     Manufactured home park zoned MH.

GENERAL AREA

Character/Maintenance:  Well-maintained business uses and residential uses.
Development Pace:  Moderate to fast.
PHYSICAL FEATURES

Topography: Site slopes down to the southwest.
Vegetation/habitat: Site is clear.
Impact on Existing Features: Minor.

TRANSPORTATION

Direct Access to Site: Kirk Road.
Street Classification: Not classified.
Average Daily Traffic Count/Estimated Capacity at Level of Service D (Vehicles per Day): NC
US 421 east of Peace Haven Road - 50,000/81,000
Sight Distance: Fair.

HISTORY

Relevant Zoning Cases:

1. W-2028; RS-9 to GB-S (Warehousing); approved February 19, 1996; 0.83 acre; across Kirk Road southwest of current site; Planning Board and staff recommended approval.

2. W-1931; R-6 to B-3; approved October 3, 1994; west side of Kirk Road, south and west of current site; 0.42 acre; Planning Board and staff recommend approval.

3. W-1840; R-5 to R-1-S (Offices); approved September 7, 1993; south side of Kester Mill Road, across from Kirk Road; 0.49 acre; Planning Board and staff recommended approval.

4. W-1668; B-3-S (Multiple Uses) to B-3-S (Lumber Yard); approved July 2, 1990; northeast corner of Kirk Road and Kester Mill Road; 1.03 acres; Planning Board and staff recommended approval.

CONFORMITY TO PLANS

Relevant Comprehensive Plan Recommendation(s): Separation and buffering of commercial, office, and industrial uses from residential areas. Development of activity nodes at planned locations; separation and buffering of commercial, office and industrial uses from residential areas; preservation of stable neighborhood areas.
Area Plan/Development Guide: This site does not lie within the boundaries of a development guide or an area plan.
ANALYSIS

The petition is to rezone nearly three acres of land from a moderate density residential single family district (RS-9) to a general use high density retail business district (HB). There is a mixture of warehouse, lumberyard, and other business uses in the area, along with significant single family and manufactured home residences. The US 421 right-of-way runs just north of the site. Immediately west of the site is a manufactured home park; north of this site, backing up directly to the US 421 right-of-way, are approximately six single family homes.

Staff regards this site as a transition between very different uses, and in the last petition (W-2028) filed in this vicinity, recommended against further general use business zoning in the area. This petition for general use HB district zoning does nothing to ease the transition from the businesses to the south to the residences to the north and west. Vision 2005 promotes separation and buffering of uses, as well as protection of neighborhoods. This petition allows for neither.

The petition approved immediately southwest of the current site was approved despite staff’s recommendation for denial. It was, however, a special use district petition that proposed a use (warehousing) which is a relatively low traffic generator and is consistent with the warehouse uses directly south of the site. Other general use zoning districts in the area have access on either Jonestown Road east of the site or to Kester Mill Road south of the site. The current site would access only Kirk Road, which is used as a local street by homes located in the Jonestown Mobile Home Park and the residences on Kirk Road.

Staff believes that the interests of residents in the surrounding neighborhood should be protected from intrusion by potentially high intensity, high volume retail uses. No conditions may be placed on a general use petition, and no specific use that is less intense can be specified. Staff does not believe that sound planning and the principle of protecting neighborhoods should be abrogated by approval of such a petition.

There may be other uses for the site that might serve to provide a more acceptable transition and buffer to the residential uses. Restriction of uses would require either a different zoning district, or the same district with a special use district petition and a site plan that reinforces protections for surrounding residential neighbors. The petitioner should consider other means of achieving his desired results which reflect greater sensitivity to the adjacent residential area.

FINDINGS

1. The petition is not consistent with Vision 2005.

2. This site lies in an area in transition and is surrounded by a variety of uses, including adjacent residential uses.

3. This petition is for general use district zoning and, if approved, would allow uses compatible with adjacent single family residential uses.
4. In the most recent rezoning case in this immediate vicinity, a precedent was set for more neighborhood-compatible uses; staff believes this precedent should be respected and continued.

**STAFF RECOMMENDATION**

Zoning: **DENIAL**.

Larry Weston presented the staff report.

**PUBLIC HEARING**

FOR:

Terry Crumpler, Suite 700, 380 Knollwood Street, Winston-Salem, NC  27103
This site is surrounded on the west, south, and east by business zoning.
The Aldermen just approved an industrial use near this site.
Three houses north of the site are owned by the owners of the site.
The nearest neighbors have no objection. This is when you have general use. Special use is to help accommodate some development that would not occur under general use law.
Special use should not be an opportunity to contract zone everything.
If there had been opposition, or even reservations, we might very well have gone special use.
Staff doesn’t have the benefit of the content of our conversations with residents when they make their decisions.

AGAINST: None

**WORK SESSION**

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

1. The general industrial request that the Aldermen approved was attached to special use industrial for the adjoining property.

2. Staff tries to look long-term at residents who are likely to live in an area ten or twenty years in the future.

3. The petitioners own houses near this site and are supported by the community.

4. It appears that the residents in this area have accepted that this area will become industrial in the future.
MOTION: Kem Schroeder moved approval of the zoning map amendment.
SECOND: Norman Williams
VOTE:
   FOR: Bost, Johnson, Powell, Rousseau, Schroeder, Snelgrove, Williams
   AGAINST: None
   EXCUSED: None

A. Paul Norby, AICP
Director of Planning