



DOCKET #: F1543

PROPOSED ZONING:
HB-L

EXISTING ZONING:
RS30

PETITIONER:
Bill Katsis and Dena Katsis
for property owned by Same

 Subject property

 500' notification radius

SCALE: 1" represents 300'

STAFF: Roberts

GMA: 3

ACRES: 3.52

NEAREST BLDG: 3' north

MAP(S): 684838



**CITY-COUNTY PLANNING BOARD
DRAFT STAFF REPORT**

PETITION INFORMATION	
Docket #	F-1543
Staff	Gary Roberts, Jr. AICP
Petitioner(s)	Bill & Dena Katsis
Owner(s)	Same
Subject Property	PIN # 6884-40-7744
Address	2220 Highway 66 South
Type of Request	Special use limited rezoning from RS30 to HB-L
Proposal	<p>The petitioner is requesting to amend the Official Zoning Maps for the subject property from RS30 (Residential, Single Family District; 30,000 sf minimum lot size) to HB-L (Highway Business – special use limited district). The petitioner is requesting the following uses:</p> <ul style="list-style-type: none"> • Nursery, Lawn and Garden Supply, Retail and Services B <p>NOTE: General, special use limited, and special use district zoning were discussed with the petitioner(s) who decided to pursue the rezoning as presented.</p>
Neighborhood Contact/Meeting	The application indicates that no neighborhood meeting has been held.
Zoning District Purpose Statement	The HB District is primarily intended to accommodate retail service and distributive uses. The district is established to provide locations for establishments which require high visibility and good road access, or which cater primarily to passing motorists. However, the district is not intended to encourage or accommodate strip commercial development. Developments in this district generally have substantial front setbacks. This district is intended for application in GMAs (Growth Management Areas) 2 (Urban Neighborhoods), 3 (Suburban Neighborhoods), and 4 (Future Growth Area).
Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(R)	<p>(R)(1) - Is the proposal consistent with the purpose statement(s) of the requested zoning district(s)?</p> <p>The site has good access being located along a major thoroughfare and it is located within GMA 3. However, approval of the subject request could encourage or accommodate strip commercial development along NC 66.</p>
GENERAL SITE INFORMATION	
Location	West side of NC 66 South, south of Yorktown Road
Jurisdiction	Forsyth County
Site Acreage	± 3.52 acres
Current Land Use	The site is currently used for the parking of vehicles for a landscaping business which falls under the Services B use. See additional comments in the Analysis of Conformity to Plans and Planning Issues section below.

Surrounding Property Zoning and Use	Direction	Zoning District		Use
	North	RS30		Single family homes
	East			
	South			
West				
Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(R)	(R)(2) - Is/are the use(s) permitted under the proposed classification/request compatible with uses permitted on other properties in the vicinity?			
	No, the proposed uses are not compatible with the low density residential uses permitted on the adjacent properties. This is particularly true in consideration of the relatively large size of the subject property as 3.52 acres of HB-L zoned property could have significant impacts on the adjacent residential properties.			
Physical Characteristics	The western portion of the site appears to be covered in grass/underbrush and has a gentle slope downward to the northwest.			
Proximity to Water and Sewer	The site has access to public water but does not have access to public sewer.			
Stormwater/ Drainage	No known issues.			
Watershed and Overlay Districts	The site is located within the balance area of the Abbott's Creek WS III water supply watershed.			
Analysis of General Site Information	The site has very good topography and the rectangular configuration of the property lends itself well to development. However, it does lack access to public sewer and the watershed requirements limit the amount of impervious coverage to 24%.			
SITE ACCESS AND TRANSPORTATION INFORMATION				
Street Name	Classification	Frontage	ADT Count	Capacity/LOS D
NC 66	Major Thoroughfare	250'	9,800	15,300
Venus Road	Local street	30'	NA	NA
Proposed Access Point(s)	Because this is a special use limited request with no site plan or access conditions, the exact location of access points is unknown. The site is currently accessed from NC 66.			
Planned Road Improvements	The 2012 <i>Comprehensive Transportation Plan</i> recommends a three lane section for NC 66 with wide outside lanes, curb and gutter and sidewalks.			
Trip Generation - Existing/Proposed	<p><u>Existing Zoning: RS30</u> $3.52 \text{ acres} \times 43,560 / 30,000 = 5 \text{ units} \times 9.57 \text{ (SFR Trip Rate)} = 48 \text{ Trips per Day}$</p> <p><u>Proposed Zoning: HB-L</u> No trip generation is available for the proposed special use limited zoning which has no site plan.</p>			
Sidewalks	There are no sidewalks located in the general area.			
Connectivity	The site does have access to an adjacent residential street (Venus Road) at the southwest corner of the site.			

Analysis of Site Access and Transportation Information	The site has good access onto a major thoroughfare. A NCDOT driveway permit will be required prior to any change of use. It should be anticipated that the proposed rezoning to HB-L would result in an increase in vehicular trips to the site compared with what could be expected under the current RS30 zoning.
CONFORMITY TO PLANS AND PLANNING ISSUES	
Legacy GMA	Growth Management Area 3 – Suburban Neighborhoods
Relevant Legacy Recommendations	<ul style="list-style-type: none"> • Encourage commercial and office uses (along with residential and institutional uses) in Activity Centers and in carefully planned Growth Corridors. <u>This site is not located in an Activity Center or Growth Corridor.</u> • Discourage inappropriate commercial encroachment into neighborhoods.
Relevant Area Plan(s)	<i>Southeast Forsyth County Area Plan Update</i> (Adopted by the County Commissioners in 2013)
Area Plan Recommendations	<ul style="list-style-type: none"> • The site is located in an area designated for low-density residential development.
Other Applicable Plans and Planning Issues	The County Attorney is of the opinion that if challenged, the request could be considered by the courts to be illegal spot zoning (See Attachment C).
Addressing	A building site plan which also shows the driveway access, is required in order to assign an address for this property.
Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(R)	(R)(3) - Have changing conditions substantially affected the area in the petition?
	No
	(R)(4) - Is the requested action in conformance with Legacy?
	No, <i>Legacy</i> discourages inappropriate commercial encroachment into residential neighborhoods.
Analysis of Conformity to Plans and Planning Issues	<p>The subject request is to rezone 3.52 acres of RS30 zoned property in the Abotts Creek Watershed to HB-L. The proposed uses are: Nursery, Lawn and Garden Supply, Retail and Services B. See Attachment B for the definition of Services B and the complete list of sub-uses.</p> <p>In 1992 affidavits were received and accepted regarding the establishment of a nonconforming (lawn and garden) nursery established in 1966 on the subject property. Aerial photography appears to support the continued use of the site for this purpose into the late 1990’s. Images taken after 1998 appear to show the property as being vacant until a February 2012 photo begins to show some activity. According to a neighbor, commercial vehicles began appearing on the site in the fall of 2012. The April 2013 photo shows significant parking improvements and an improvement to an existing structure. It therefore appears that permits will be required for these activities. An electrical permit for a new meter was issued for the property in February of 2013 and approved. Several security lights have also been installed and it appears that these lights do not use cutoff fixtures and could cast light onto adjacent</p>

residential properties and impact motorists travelling along NC 66.

At this point, based upon aerial photography (and lack of evidence to the contrary) it is staff's opinion that the site has lost its nonconforming status. At present, the site is illegally used for the parking of vehicles associated with a landscaping business (Services B). However, the owners have not been cited with a Notice of Violation because of the pending rezoning request.

Although the subject request is only for two commercial uses, the proposed HB district is one of the more intense districts in the UDO. Uses permitted in this district which are similar in intensity to these two uses are: Convenience Store; Outdoor Display Retail; Restaurant without drive-through service; and Motor Vehicle, Repair and Maintenance.

The site is surrounded by low density residential uses and zoning. The closest commercial zoning is an LB zoned site located over one half of a mile to the south along NC 66. The recently adopted *Southeast Forsyth County Area Plan Update* recommends low-density residential development for the general area. *Legacy* discourages inappropriate commercial encroachment into residential neighborhoods.

The County Attorney is of the opinion that if challenged in a Court, based on the current interpretation of the law, the rezoning, if approved, would not successfully withstand a legal challenge and would constitute an illegal spot zoning (See Attachment C). Planning staff consistently defers to such an opinion in making its recommendations on proposed rezonings. Planning staff recommends denial of the request.

RELEVANT ZONING HISTORIES

There are no relevant zoning cases in the vicinity of the subject property.

CONCLUSIONS TO ASSIST WITH RECOMMENDATION

Positive Aspects of Proposal	Negative Aspects of Proposal
The request would allow for new commercial activity.	The County Attorney is of the opinion that if challenged, the request could be considered to be illegal spot zoning.
	The request is inconsistent with the <i>Southeast Forsyth County Area Plan Update</i> .
	The request is inconsistent with the recommendations of <i>Legacy</i> .
	The proposed zoning district and requested uses are incompatible with the surrounding low density residential development pattern and could have negative impacts on the adjacent single family homes in regard to noise, dust, lighting and traffic.
	If approved, the request could lead to other commercial rezoning petitions in the general area.

SITE-SPECIFIC RECOMMENDED CONDITIONS OF APPROVAL

The following proposed conditions are from interdepartmental review comments and are proposed in order to meet codes or established standards, or to reduce negative off-site impacts.

- **PRIOR TO THE ISSUANCE OF ANY PERMITS:**
 - a. Developer shall obtain a Watershed Permit.
 - b. Developer shall obtain a driveway permit from NCDOT.

- **OTHER REQUIREMENTS:**
 - a. Freestanding signage shall be limited to one monument sign with a maximum height of six (6) feet and a maximum copy area of thirty-six (36) square feet.
 - b. Developer shall install a streetyard along the frontage of NC 66.
 - c. Developer shall obtain building/zoning permits for all commercial buildings on the site.

STAFF RECOMMENDATION: Denial

NOTE: These are **staff comments** only; final recommendations on projects are made by the City-County Planning Board, with final decisions being made by the appropriate Elected Body, who may approve, deny, table or request modification for any project. **THE APPLICANT OR REPRESENTATIVE IS STRONGLY ENCOURAGED TO ATTEND THE PUBLIC HEARINGS WHERE THE CASE WILL BE CONSIDERED BY THE PLANNING BOARD AND THE ELECTED BODY.**

**CITY-COUNTY PLANNING BOARD
PUBLIC HEARING
MINUTES FOR F-1543
SEPTEMBER 12, 2013**

PUBLIC HEARING

FOR: None

AGAINST: None

WORK SESSION

MOTION: Clarence Lambe moved withdrawal of the zoning petition with reimbursement of partial fees.

SECOND: Paul Mullican

VOTE:

FOR: Tommy Hicks, Arnold King, Clarence Lambe, Darryl Little, Barry Lyons, Lynne Mitchell, Paul Mullican, Brenda Smith, Allan Younger

AGAINST: None

EXCUSED: None

A. Paul Norby, FAICP
Director of Planning and Development Services