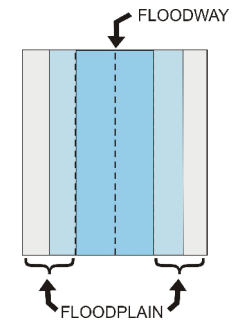


DOCKET #: F1514

PROPOSED ZONING:
LB-L

EXISTING ZONING:
RS9

PETITIONER:
Greenhouse Road LLC
for property owned
by Same



SCALE: 1" represents 700'

STAFF: Roberts

GMA: 3

ACRES: 13.91

**NEAREST
BLDG:** 70' north

MAP(S): 624826, 624822,
618826



August 26, 2009

Greenhouse Road, LLC
c/o Johnny and Susan Sides
3056 Greenhouse Road
Winston-Salem, NC 27127

RE: ZONING MAP AMENDMENT F-1514

Dear Mr. Sides:

The attached report of the Planning Board to the Forsyth County Board of Commissioners is sent to you at the request of the Commissioners. You will be notified by the Board of Commissioners' Office of the date on which the Commissioners will hear this petition.

Sincerely,

A. Paul Norby, FAICP
Director of Planning

pc: County Manager's Office

FORSYTH COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: _____ **AGENDA ITEM NUMBER:** _____

SUBJECT:-

- A. Public Hearing on Special Use District - No Site Plan of Greenhouse Road, LLC from RS-9 to LB-L: property is located on the east side of Old Salisbury Road & south side of Latonia Road (Zoning Docket F-1514).
- B. Ordinance amending the Forsyth County Zoning Ordinance and Official Zoning Map of the County of Forsyth, North Carolina.
- C. Approval of Special Use District - No Site Plan Permit

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:-

SUMMARY OF INFORMATION:-

See attached staff report.

After consideration, the Planning Board decision resulted in a tie vote regarding the special use district - no site plan request.

ATTACHMENTS:- YES NO

SIGNATURE: _____ **DATE:** _____
County Manager

COUNTY ORDINANCE -
SPECIAL USE DISTRICT - NO SITE PLAN

Zoning Petition of Greenhouse Road, LLC, Docket F-1514

AN ORDINANCE AMENDING THE
FORSYTH COUNTY ZONING ORDINANCE
AND THE OFFICIAL ZONING MAP OF
FORSYTH COUNTY, N.C.

BE IT ORDAINED by the Board of Commissioners of Forsyth County as follows:

Section 1. The Forsyth County Zoning Ordinance and the Official Zoning Map of the County of Forsyth, N.C. are hereby amended by changing from RS-9 to LB-L the zoning classification of the following described property:

PIN # 6822-46-4207

Section 2. This Ordinance is adopted after approval of the Special Use District - No Site Plan Permit issued by the Board of Commissioners the _____ day of _____, 20__ to Greenhouse Road, LLC.

Section 3. The Board of Commissioners hereby directs the issuance of a Special Use District - No Site Plan Permit pursuant to the Zoning Ordinance of the *Unified Development Ordinances* for a development to be known as Greenhouse Road, LLC. Said Special Use District - No Site Plan Permit with conditions is attached hereto and incorporated herein.

Section 4. This Ordinance shall be effective from and after its adoption.

COUNTY

SPECIAL USE DISTRICT - NO SITE PLAN PERMIT

Issued by the Board of Commissioners

of Forsyth County, NC

The Board of Commissioners of Forsyth County, NC issues a Special Use District - No Site Plan Permit for the zoning petition of Greenhouse Road, LLC, (Zoning Docket F-1514). The site shall be developed in accordance with the conditions approved by the Board and the following uses: Limited Business District Uses, approved by the Forsyth County Board of Commissioners the _____ day of _____, 20____" and signed, provided the property is developed in accordance with requirements of the LB-L zoning district of the Zoning Ordinance of the *Unified Development Ordinances*, the Erosion Control Ordinance, and other applicable laws, and the following additional condition be met:

- **PRIOR TO ISSUANCE OF ANY PERMITS:**
 - a. No driveway permits shall be issued for the frontage along Latonia Road.

**CITY-COUNTY PLANNING BOARD
STAFF REPORT**

PETITION INFORMATION			
Docket #	F-1514		
Staff	Gary Roberts, Jr. AICP		
Petitioner(s)	Greenhouse Road, LLC		
Owner(s)	Same		
Subject Property	PIN # 6822-46-4207		
Address	To the south and east of 3001 Old Salisbury Road		
Type of Request	Special Use District – No Site Plan rezoning request from RS-9 to LB-L		
Proposal	<p>The petitioner is requesting to amend the Official Zoning Maps for the subject property from RS-9 (Residential, Single Family; 9,000 sf minimum lot size) to LB-L (Limited Business – Special Use District- No Site Plan) zoning. The petitioner is requesting the following uses:</p> <ul style="list-style-type: none"> • Nursery, Lawn and Garden Supply Store, Retail 		
Zoning District Purpose Statement	<p>The LB District is primarily intended to accommodate moderately intense neighborhood shopping and service centers close to residential areas. The district is established to provide locations for businesses which serve nearby neighborhoods, including smaller business locations up to ten (10) acres in size in rural areas. The district is typically located near the intersection of a collector street or thoroughfare in areas which are otherwise developed with residences. Standards are designed so that this district, in some instances, may serve as a transition between residential districts and other commercial districts. This district is intended for application in Growth Management Areas 2, 3, 4, and 5.</p>		
Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(S)	(S)(1) - Is the proposal consistent with the purpose statement(s) of the requested zoning district(s)?		
	The request is not consistent with the LB District purpose statement in that the site is not located near a significant intersection. In addition, at 13.91 acres the subject property is larger than the typical LB zoned site.		
GENERAL SITE INFORMATION			
Location	East side of Old Salisbury Road & south side of Latonia Road		
Jurisdiction	Forsyth County		
Site Acreage	Approximately 13.91 acres		
Current Land Use	The site is used for tree harvesting. A small utility structure is located on the site.		
Surrounding Property Zoning and Use	Direction	Zoning District	Use
	North	RS-9	Single family homes
	East	GB-S	Undeveloped property
	South	RM8-S & RS-9	Undeveloped property
	West	RS-9	Undeveloped property

Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(S)	(S)(2) - Is/are the use(s) permitted under the proposed classification/request compatible with uses permitted on other properties in the vicinity?			
	The proposed use of Nursery, Lawn and Garden Supply Store, Retail is not compatible with the adjacent single family homes located to the north.			
Physical Characteristics	The site has a gentle slope downward to the south and abuts the South Fork Muddy Creek. A significant portion of the lot is within its associated floodplain. The site is also impacted by an overhead electric transmission line.			
Proximity to Water and Sewer	Public water and sewer are available.			
Stormwater/ Drainage	No known issues.			
Watershed and Overlay Districts	The site is not within a water supply watershed.			
Analysis of General Site Information	The site has some natural and manmade constraints as noted above. The petitioner is responsible for complying with all applicable federal, State and local stream and floodplain regulations.			
SITE ACCESS AND TRANSPORTATION INFORMATION				
Street Name	Classification	Frontage	ADT Count	Capacity/LOS D
Old Salisbury Road	Minor Thoroughfare	812'	6,100	11,100
Latonia Road	Local Street	1001'	NA	NA
Proposed Access Point(s)	The petitioner has volunteered a condition to have no access onto Latonia Road.			
Planned Road Improvements	The Thoroughfare Plan recommends a three lane, curb and gutter section with wide outside lanes and sidewalks for Old Salisbury Road.			
Trip Generation - Existing/Proposed	<p><u>Existing Zoning: RS-9</u> $13.91 \times 43,560 \text{ sf} / 9,000 = 67 \text{ units} \times 9.57 \text{ (SFR Trip Rate)} = 641 \text{ Trips per Day}$</p> <p><u>Proposed Zoning: LB-L</u> Because there is no site plan associated with the subject request, no specific trip generation numbers are available for the proposed LB-L zoning.</p>			
Sidewalks	There are no sidewalks located in the general area.			
Transit	Not available			
Traffic Impact Study (TIS)	Not required			
Analysis of Site Access and Transportation Information	The site has adequate access onto Old Salisbury Road. The petitioner has volunteered a condition to have no access onto Latonia Road. A driveway permit will need to be obtained from NCDOT.			

CONFORMITY TO PLANS AND PLANNING ISSUES	
Legacy GMA	Growth Management Area 3, Suburban Neighborhoods
Relevant Legacy Recommendations	<ul style="list-style-type: none"> • Protect residential areas from inappropriate commercial and industrial encroachment. (p. 123) • Promote economic development which is compatible with existing residential neighborhoods and other business developments. (p. 77)
Relevant Area Plan(s)	The site is not within the boundaries of an area plan or development guide.
Other Applicable Plans and Planning Issues	The Friedberg Marsh, a site identified in the Forsyth County Natural Heritage Inventory, is located directly downstream of the petition site on the west side of Old Salisbury Road. The Forsyth County Natural Heritage Inventory, completed in 1998 with a grant from the NC Natural Heritage Program, identified 23 significant natural sites in Forsyth County. The Friedberg Marsh was identified in the Natural Heritage Inventory as being of regional significance due to the size of the wetland, the complexity of its natural communities, and the presence of at least one rare and several uncommon species. This site is owned by NCDOT and serves as a wetland mitigation area.
Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(S)	(S)(3) - Have changing conditions substantially affected the area in the petition?
	No
	(S)(4) - Is the requested action in conformance with Legacy?
	No
Analysis of Conformity to Plans and Planning Issues	<p>While the subject property has some natural and manmade constraints, it is currently being used to grow trees for a landscaping operation. This is a permitted use within the existing RS-9 zoning. Clearly this is a good use of property within a regulatory floodplain and provides the owner a reasonable return.</p> <p>The subject rezoning request would open the site to retail sales of not only trees and shrubs grown on the site but fertilizers, pesticides, mulch and other garden supplies to the general public. Staff wants to make the distinction clear that what is now taking place and what is being proposed are very different activities. The proposed use of Nursery, Lawn and Garden Supply Store, Retail is a relatively intense use, utilizing heavy equipment, such as dump trucks, motor graders, and fork lifts to load and unload the landscaping materials. Off site impacts include noise, dust, diesel fumes, and the smell of mulch. If approved, it should be anticipated that the operation would generate additional heavy equipment use and increase the other noted impacts. In addition to the immediate impacts on the surrounding residential properties, Planning staff is also concerned with long term implications of such a commercial expansion in this area, as noted below.</p>

The site is not located within the boundaries of an area plan; however, *Legacy* recommends protecting residential areas from inappropriate commercial and industrial encroachment. *Legacy* also recommends concentrating commercial development at planned activity centers as opposed to encouraging strip commercial development.

Opening the door to commercial zoning on this part of Old Salisbury Road will not only negatively impact the adjacent single family homes to the north but would establish a precedent for other types of destination commercial establishments between the West Clemmons Road intersection and Friedberg Church Road. Furthermore, while the petitioner is requesting only one use of the property at this time, once commercial zoning is established on the site, it becomes easier to rationalize requests for other intense business uses in the future.

RELEVANT ZONING HISTORIES

Case	Request	Decision & Date	Direction from Site	Acreage	Recommendation	
					Staff	CCPB
F-1461	HB-S to PB-S & GB-S	Approved 7-10-06	Directly east	30.1	Denial	Denial
F-1396	RS-9 to RM8-S	Approved 10-13-03	Directly east	119.65	Approval	Approval

UDO Sections Relevant to Subject Request

- Chapter B, Article II, Section 2-1.3 (G) Limited Business District

Complies with Chapter B, Article VII, Section 7-5.3	(A) Legacy policies:	No
	(B) Environmental Ord.	NA
	(C) Subdivision Regulations	NA

CONCLUSIONS TO ASSIST WITH RECOMMENDATION

Positive Aspects of Proposal	Negative Aspects of Proposal
The request would allow for the establishment of a new/expanded business.	The proposed use would negatively impact the adjacent single family homes in terms of noise, dust, diesel fumes, and the smell of mulch.
	Request would open the door to additional commercial rezonings in this area.
	Request is inconsistent with the recommendations of <i>Legacy</i> .
	While staff is not supportive of commercial zoning under any circumstance, it is unclear how the petitioner intends to mitigate any potential negative impacts to the single family homes to the north.
	Old Salisbury Road is residential in character. There are no commercially zoned properties on Old Salisbury Road between Friedberg Church Road and Clemmons Road.

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 ISSUANCE OF ANY PERMITS:**
 - a. No driveway permits shall be issued for the frontage along Latonia Road.

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.**

Gary Roberts presented the staff report.

PUBLIC HEARING

FOR:

Johnny Sides, 3056 Springhouse Road, Winston-Salem, NC 27127

- My wife and I own this property and live very close to here.
- We bought this property in the 80s to grow trees on and sell them wholesale and for use in our landscaping business.
- We'd just like to put in a garden showcase type place there.
- The neighbors all said they wouldn't mind if we did this. In fact, they all signed that they wouldn't have any objection to it. The petition is included in the agenda book.
- We just feel this would be the best use of the property.
- Of course our motive is to be entrepreneurs and make money and we'd just like to use our property for that.

AGAINST: None

WORK SESSION

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

1. Paul Mullican: What he's doing right now is trying to rezone so he can put a structure on the site.
2. Gary Roberts: Inspections is comfortable with the amount of mulch he stores on the site because he is using it to prop up trees, etc.

3. Wesley Curtis: Along with the building comes a structure, parking, traffic.
4. Mr. Sides: There's only 3/4 acre that you could actually build a building on because of the power line and the floodplain. Any building would be hidden from Old Salisbury Road.
5. Mr. Sides: I have talked to the neighbors. A petition has been submitted from the neighbors supporting this request.
6. Paul Mullican: The petitioner has the best use of the property today. The issue is whether we allow him to expand.
7. Arnold King: What he's proposing seems to be a reasonable use. It appears to be more of a neighborhood serving business rather than a destination.
8. Arthur King: I have a concern that if you start putting commercial operations where they are none, you not only change the use of that property but you potentially change the use of adjacent properties. I don't want to stand in the way of people earning whatever they can off their property but I think this Board has a responsibility also to look out for the use of the community resource, land, in ways which make it most helpful for all the community to thrive and achieve its goals. I have a concern about setting a commercial property in the middle of an area that has none.
9. Carol Eickmeyer: I agree with your concern. Since I have been on the Planning Board, we have visited at least three garden centers that started out in the middle of nowhere and are now surrounded by houses and they are dusty and noisy and they are a nuisance. Even if they were there first, they still are those things in areas that are pretty much designated to be residential. I don't think the neighbors know really what could happen because right now it's a wonderful tree farm. Their imagination doesn't stretch to gravel and chunky mulch and things that would reasonably follow.
10. Paul Mullican: Once you drive down that area it's nothing but floodplain and big power lines. I understand what Dr. King is saying about setting a precedent for zoning, but I just don't see it expanding any. He owns all the property there and this is the best use for it. We've talked about making things available so people don't have to drive too far for their needs to be met.
11. Lynne Mitchell: The part of this is looking to the future. Along Peters Creek Parkway are quite a few places which would be good locations for a nursery. If you are very successful, you will outgrow this place relatively quickly. Looking to the future, we don't want to have people going places like this when we're trying to direct them to other places which are already commercially zoned. It's a very difficult decision because I understand being under a power line and hear what you're trying to do. It makes perfect sense but looking to the future, what's best for the community?

12. Brenda Smith: When you look at the rules, you also have to look at the physical condition of the land. When you look at protecting the area, unless you're talking about a very large physical scale, there's nothing to protect in the area because of the unique physical setting this is in. If you look at the use of the zoning patterns that serve this area, this fits in the intended pattern.
13. Carol Eickmeyer: I think the possibility of opening up the areas along Old Salisbury Road for commercial development is a legitimate concern because there is development along there and as we know because we do it every month, it's no big deal to change from RS-9 to something else. When the guy next door wants to change his zoning and we've okayed this, we don't have much reason to say that he shouldn't do it.
14. Paul Mullican: Gary, is there any way we can accommodate him as far as an "S" zoning or any other way we can do this? Can we use a reversion clause?
15. Gary Roberts: We have put reversion clauses on cases before. That could be a possibility here. If a reversion clause was put in and if the proposed use ceased for 6 months or a year, the zoning would revert to residential zoning. Obviously we would need to get a site plan to look at the restraints of the power easement and the floodplain and think about the placement of buildings. He would have to continue for two months in order to submit a site plan.
16. Carol Eickmeyer: There's no question that this will never be residential. The question is whether what he's doing now is sufficient for this property given the restraints or is it neighborhood serving to create a retail store that is now possibly longer hours of the day and open more days in this location?

MOTION: Arthur King moved denial of the zoning map amendment, certified that the site plan meets all code requirements and recommends staff conditions.

SECOND: Carol Eickmeyer

VOTE:

FOR: Wesley Curtis, Carol Eickmeyer, Arthur King, Lynne Mitchell

AGAINST: Arnold King, Darryl Little, Paul Mullican, Brenda Smith

EXCUSED: None (Clarence Lambe was absent.)

The vote resulted in a 4-4 tie.

According to information furnished on August 20, 2009 by the Office of the Tax Assessor, the subject property was in the name of Greenhouse Road, LLC.

A. Paul Norby, FAICP
Director of Planning