PROPOSED ZONING:
PB-S, GB-S, and a driveway Special Use Permit

EXISTING ZONING:
HB-S

PETITIONER:
Hubbard Realty of WS Inc., et al, for property owned by Same

SCALE: 1" represents 600'
STAFF: King
GMA: 3
ACRE(S): 30.10
MAP(S): 624822, 624826
June 21, 2006

Hubbard Realty of Winston-Salem, Inc.
Austin D. McGuire, Jr. and Annie C. McGuire
Hendrix Enterprises
4003-B Country Club Road
Winston-Salem, NC  27104

RE: ZONING MAP AMENDMENT F-1461

Dear Sirs:

The attached report of the Planning Board to the Forsyth County Board of Commissioners is sent to you at the request of the Commissioners.

When the rezoning is scheduled for public hearing, you will be notified by Jane Cole, Clerk to the County Commissioners, of the date on which the Commissioners will hear this petition.

Sincerely,

A. Paul Norby, FAICP
Director of Planning

Attachment

pc: Jane Cole, County Manager's Office
    Nancy Gould, 1031 Van Hoy Avenue, Winston-Salem, NC  27104
    Bruce Hubbard, 2110 Cloverdale Avenue, Winston-Salem, NC  27103
A. Public Hearing on Zoning Map Amendment and a Special Use Permit by Hubbard Realty of Winston-Salem, Inc. et al, for property owned by same and Austin D. McGuire, Sr. The zoning map amendment is to rezone from HB-S [Golf Driving Range; Recreation Services, Indoor; Recreation Services, Outdoor; Retail Store, Specialty or Miscellaneous; Non-Store Retailer; and Restaurant (without drive-through service)] to PB-S [Residential Building, Multifamily; Residential Building, Townhouse; Combined Use; ABC Store; Arts & Crafts Studio; Convenience Store; Food or Drug Store; Furniture & Home Furnishings Store; General Merchandise Store; Hardware Store; Nursery Lawn & Garden Supply Store, Retail; Restaurant (without drive-through service); Retail Store, Specialty or Miscellaneous; Shopping Center; Banking and Financial Services; Building Contractor, General; Health Services, Miscellaneous; Medical & Surgical Offices; Non-Store Retailer; Offices, Miscellaneous; Professional Office; Services, Business A; Services, Business B; Services, Personal; Testing and Research Lab; Warehousing; Recreational Services, Indoor; Theater, Indoor; Adult Daycare Center; Child Care (Drop-in); Child Care (Sick Children); Child Care Institution; Child Day Care Center; Church or Religious Institution, Community; Church or Religious Institution, Neighborhood; Government Offices; Hospital or Health Center; Institutional Vocational Training Facility; Library, Public; Museum or Art Gallery; Nursing Care Institution; Police or Fire Station; Post Office; School, Private; School, Vocational or Professional; Access Easement, Private Off-Site; Broadcast Studio; and, Park and Shuttle Lot] and GB-S (Nursery Land and Garden Supply Store, Retail; Wholesale Trade A; Building Contractors, General; Non-Store Retailer; Offices, Miscellaneous; Professional Office; Services, Business A; Services, Business B; Storage Services, Retail; Warehousing; Recreational Services, Indoor; Recreational Services, Outdoor; Post Office; Manufacturing A; and Access Easement, Private Off-Site). The Special Use Permit is for a private access easement to GB-S zoning through PB-S zoning: property is located on the west side of Peters Creek Parkway, north of Village Park Court (Zoning Docket F-1461).

B. Ordinance amending the Forsyth County Zoning Ordinance and Official Zoning Map.

C. Approval of Special Use District Permit

D. Approval of Special Use Permit

E. Approval of Private Access Easement

F. Approval of Site Plan

CONTINUED ON NEXT PAGE
COUNTY MANAGER’S RECOMMENDATION OR COMMENTS:-

SUMMARY OF INFORMATION:-

See attached staff report.

After consideration, the Planning Board recommended denial of the Special Use District Permit, denial of the Special Use Permit, denial of the Private Access Easement and confirmed that the site plan conforms to the requirements of the UDO.

ATTACHMENTS:-  X  YES  ___ NO

SIGNATURE: ___________________________ DATE: ________________

County Manager
COUNTY ORDINANCE - SPECIAL USE

Zoning Petition of Hubbard Realty of Winston-Salem, Inc. et al, for property owned by same and Austin D. McGuire, Sr., Docket F-1461

AN ORDINANCE AMENDING
THE FORSYTH COUNTY
ZONING ORDINANCE AND THE
OFFICIAL ZONING MAP OF
THE COUNTY OF FORSYTH,
NORTH CAROLINA

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

Section 1. The Zoning Ordinance of the Unified Development Ordinances of the County of Forsyth, North Carolina, and the Official Zoning Map of the County of Forsyth, North Carolina, are hereby amended by changing from HB-S [Golf Driving Range; Recreation Services, Indoor; Recreation Services, Outdoor; Retail Store, Specialty or Miscellaneous; Non-Store Retailer; and Restaurant (without drive-through service)] to PB-S [Residential Building, Multifamily; Residential Building, Townhouse; Combined Use; ABC Store; Arts & Crafts Studio; Convenience Store; Food or Drug Store; Furniture & Home Furnishings Store; General Merchandise Store; Hardware Store; Nursery Lawn & Garden Supply Store, Retail; Restaurant (without drive-through service); Retail Store, Specialty or Miscellaneous; Shopping Center; Banking and Financial Services; Building Contractor, General; Health Services, Miscellaneous; Medical & Surgical Offices; Non-Store Retailer; Offices, Miscellaneous; Professional Office; Services, Business A; Services, Business B; Services, Personal; Testing and Research Lab; Warehousing; Recreational Services, Indoor; Theater, Indoor; Adult Daycare Center; Child Care (Drop-in); Child Care (Sick Children); Child Care Institution; Child Day Care Center; Church or Religious Institution, Community; Church or Religious Institution, Neighborhood; Government Offices; Hospital or Health Center; Institutional Vocational Training Facility; Library, Public; Museum or Art Gallery; Nursing Care Institution; Police or Fire Station; Post Office; School,
Private; School, Vocational or Professional; Access Easement, Private Off-Site; Broadcast Studio; and, Park and Shuttle Lot] and GB-S (Nursery Land and Garden Supply Store, Retail; Wholesale Trade A; Building Contractors, General; Non-Store Retailer; Offices, Miscellaneous; Professional Office; Services, Business A; Services, Business B; Storage Services, Retail; Warehousing; Recreational Services, Indoor; Recreational Services, Outdoor; Post Office; Manufacturing A; and Access Easement, Private Off-Site) the zoning classification of the following described property:

Tract One (PB-S)
BEGINNING at an existing iron in the west right-of-way of NC Highway 150, the northeast corner of Parkside West as recorded in Plat Book 48 Page 182 at the Forsyth County Register of Deeds; thence with the north line of said subdivision north 86° 18' 41" west 778.95 feet to a point; thence a new line with Tract II north 03° 36' 03" east 282.89 feet to a point; thence continuing with Tract II north 17° 56' 35" east 199.42 feet to a point in the south line of Brannigan Village, recorded in Deed Book 2090, Page 1675; thence with the south line of Brannigan Village south 72° 08' 23" east 373.93 feet to a point; thence north 17° 51' 37" east 45.0 feet to a point in the south right-of-way of Brannigan Village Drive; thence with the south right-of-way of Brannigan Village Drive south 72° 09' 59" east 372.66 feet to a point in the west right-of-way of NC Highway 150; thence with said right-of-way south 04° 28' 48" west 337.21 feet to the point and place of BEGINNING. Being the 7.27± acre east portion of Tax Lot 102E, Block 3869.

Tract Two (GB-S)
BEGINNING at a point, the southwest corner of Tract I, located South 86° 18' 41" west 778.95 feet from an iron in the west right-of-way on NC Highway 150; thence south 86° 18' 41" west, 1,500.07 feet to an iron; thence north 73° 45' 10" west 10.38 feet to point in South Fork Creek; thence with said creek the four (4) following courses and distances, 1) north 20° 34' 20" east 168.96 feet to a point; 2) north 28° 41' 43" east 235.41 feet to a point, 3) north 25° 24' 55" east 162.30 feet, 4) north 27° 29' 12" east 300.48 feet to a point, the southwest corner of Brannigan Village Apartments, as recorded in Deed Book 2090 Page 1675 in the Forsyth County Register of Deeds; thence with the south line of Brannigan Village Apartments south 72° 08' 23" east 1,287.18 feet to a point; thence with the west line of Tract I south 17° 56' 33" west 199.42 feet to a point; thence south 03° 36' 03" west 282.89 feet to the point and place of BEGINNING. Being the 20.83± acre west portion of Tax Lot 102E, Block 3869.

Section 2. This Ordinance is adopted after approval of the site plan entitled Hubbard Realty of WS Inc., et al/Shops at Brannigan Village, and identified as Attachment A of the Special Use District Permit issued by the Forsyth County Board of Commissioners the _______
day of _________________, 20____ to Hubbard Realty of Winston-Salem, Inc. et al, for property owned by same and Austin D. McGuire, Sr.

Section 3. The Board of Commissioners hereby directs the issuance of a Special Use District Permit pursuant to the Zoning Ordinance of the *Unified Development Ordinances* for a development to be known as Hubbard Realty of WS Inc., et al/Shops at Brannigan Village. Said Special Use District Permit and site plan with associated documents are attached hereto and incorporated herein.

Section 4. This Ordinance shall be effective from and after its adoption.
COUNTY ORDINANCE - SPECIAL USE PERMIT

Special Use Permit of Hubbard Realty of Winston-Salem, Inc. et al, for property owned by same and Austin D. McGuire, Sr., Docket F-1461

AN ORDINANCE ISSUING A SPECIAL USE PERMIT FOR ACCESS TO A PROPERTY ZONED GB-S THROUGH PROPERTY ZONED PB-S

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

Section 1. The Board of Commissioners hereby makes an affirmative finding as follows, based upon the material and competent evidence presented at the public hearing:

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved;
2. That the use meets all required conditions and specifications;
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and,
4. That the location and character of the use, if developed according to the application and plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with Legacy.

Section 2. The Forsyth County Board of Commissioners hereby issues a special use permit for access to a property zoned GB-S through property zoned PB-S in accordance with Section 6-1.5 of the Zoning Ordinance of the Unified Development Ordinances to Hubbard Realty of Winston-Salem, Inc. et al, for property owned by same and Austin D. McGuire, Sr., to be established on the following described property:

BEGINNING at the centerline of a proposed 25 foot wide access easement, said point located the following four courses and distances from the intersection of the south right-of-way of Brannigan Village Drive and the west right-of-way of NC Highway 150; 1) with the south right-of-way of Brannigan Village Drive north 72° 09' 59" west 234.24 feet, 2) thence with the west right-of-way of proposed Village Park Court, south 17° 50' 01" west 32.55 feet, 3) continuing with said right-of-way a curve to the left, a chord of south 45° 59' 25" west 70.76 feet, radius 75.00 feet, 4) continuing with said right-of-way south 74° 08' 49" west 37.92 feet to the point of BEGINNING; thence with the center line of a proposed
25' access easement north 54° 56' 49" west 64.18 feet to a point; thence with said center line north 72° 03' 25" west 385.49 feet to a point in the proposed common line of Tract I and Tract II the terminus of the proposed 25 foot access easement.

Section 3. This Ordinance is adopted after approval of the site plan entitled Hubbard Realty of WS Inc., et al/Shops at Brannigan Village and identified as Attachment "A" of the Special Use Permit issued by the Board of Commissioners the ______ day of __________________, to Hubbard Realty of Winston-Salem, Inc. et al, for property owned by same and Austin D. McGuire, Sr.

Section 4. The Board of Commissioners hereby directs the issuance of a Special Use Permit pursuant to Section 6-1.5 of the Zoning Ordinance of the Unified Development Ordinances for a development to be known as Hubbard Realty of WS Inc., et al/Shops at Brannigan Village. Said Special Use Permit and site plan with associated documents are attached hereto and incorporated herein.

Section 5. This Ordinance shall be effective from and after its adoption.
COUNTY, SPECIAL USE DISTRICT PERMIT
SPECIAL USE DISTRICT PERMIT

Issued by the Forsyth County Board of Commissioners

The Forsyth County Board of Commissioners issues a Special Use District Permit for the site shown on the site plan map included in this zoning petition of Hubbard Realty of Winston-Salem, Inc. et al, for property owned by same and Austin D. McGuire, Sr. (Zoning Docket F-1461). The site shall be developed in accordance with the plan approved by the Board and bearing the inscription: "Attachment A, Special Use District Permit for PB-S [Residential Building, Multifamily; Residential Building, Townhouse; Combined Use; ABC Store; Arts & Crafts Studio; Convenience Store; Food or Drug Store; Furniture & Home Furnishings Store; General Merchandise Store; Hardware Store; Nursery Lawn & Garden Supply Store, Retail; Restaurant (without drive-through service); Retail Store, Specialty or Miscellaneous; Shopping Center; Banking and Financial Services; Building Contractor, General; Health Services, Miscellaneous; Medical & Surgical Offices; Non-Store Retailer; Offices, Miscellaneous; Professional Office; Services, Business A; Services, Business B; Services, Personal; Testing and Research Lab; Warehousing; Recreational Services, Indoor; Theater, Indoor; Adult Daycare Center; Child Care (Drop-in); Child Care (Sick Children); Child Care Institution; Child Day Care Center; Church or Religious Institution, Community; Church or Religious Institution, Neighborhood; Government Offices; Hospital or Health Center; Institutional Vocational Training Facility; Library, Public; Museum or Art Gallery; Nursing Care Institution; Police or Fire Station; Post Office; School, Private; School, Vocational or Professional; Access Easement, Private Off-Site; Broadcast Studio; and, Park and Shuttle Lot] and GB-S (Nursery Land and Garden Supply Store, Retail; Wholesale Trade A; Building Contractors, General; Non-Store Retailer; Offices, Miscellaneous; Professional Office; Services, Business A; Services, Business B; Storage Services, Retail; Warehousing; Recreational Services, Indoor; Recreational Services, Outdoor; Post Office; Manufacturing A; and Access Easement, Private Off-Site), 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 PB-S and GB-S zoning districts of the Zoning Ordinance of the Unified Development Ordinances of the County Code, the Erosion Control Ordinance, and other applicable laws, and the following conditions be met:

• **PRIOR TO THE ISSUANCE OF GRADING PERMITS:**
  a. Developer shall obtain a driveway permit from NCDOT; additional improvements may be required prior to issuance of driveway permit.
  b. Developer shall clearly flag the 50% maximum floodplain line on the subject property.

• **PRIOR TO THE ISSUANCE OF BUILDING PERMITS:**
  a. All proposed buildings shall be in substantial conformity with building elevations entitled “Proposed Shoppes at Brannigan – Winston-Salem, NC” and drawn by Lloyd Architecture, as determined by planning staff.
  b. Developer shall dedicate a forty (40) foot greenway easement to the City of Winston-Salem along the creek.

• **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS:**
  a. Developer shall install sidewalks along the frontage of Peters Creek Parkway to the specifications of the City of Winston-Salem Public Works Department.
  b. The existing sign for Tax Pin # 6822-56-7920.78 (Brannigan Village Apartments) located on the subject property is considered an off-premises sign and is not allowed on this site. This sign shall be brought into compliance with all applicable UDO requirements.

• **OTHER REQUIREMENTS:**
  a. No more than two freestanding on-premises monument signs shall be allowed along Peters Creek Parkway as shown on the site plan. One monument sign shall be allowed with no more than seventy-five (75) square feet of copy area and with a maximum height of fifteen (15) feet. The second monument sign shall be allowed with no more than thirty-six (36) square feet of copy area and with a maximum height of six (6) feet. A two-hundred foot (200’) spacing requirement between the two monument signs along Peters Creek Parkway shall be met. One freestanding on-premises sign shall be allowed with no more than thirty-six (36) square feet of copy area and with a maximum height of six (6) feet within the area labeled "10'x5' Signage Area" on the site plan.
  b. All on site lighting shall be a maximum of 18 feet tall and shall be of the “shoebox” type or otherwise designed not to cast direct light on adjacent properties.
  c. Developer shall be responsible for the cost of a traffic signal if warranted by NCDOT.
**PETITION INFORMATION**

<table>
<thead>
<tr>
<th>Docket #</th>
<th>F-1461</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff</td>
<td>Aaron King</td>
</tr>
<tr>
<td>Petitioner(s)</td>
<td>Hubbard Realty of Winston-Salem, Inc.</td>
</tr>
<tr>
<td>Owner(s)</td>
<td>Hubbard Realty of Winston-Salem, Inc. and Austin D. McGuire, Sr.</td>
</tr>
<tr>
<td>Subject Property</td>
<td>Tax Lot 102E, Tax Block 3869</td>
</tr>
<tr>
<td>Type of Request</td>
<td>Special use rezoning request from HB-S to GB-S and PB-S for a shopping center and mini-storage facility. The petitioner is also requesting a Special Use Permit for a private access easement to GB-S zoning through PB-S zoning.</td>
</tr>
<tr>
<td>Continuance Request</td>
<td>This case was continued from the April 13, 2006 meeting and again from the May 11, 2006 meeting to allow the petitioner to make modifications to the site plan.</td>
</tr>
</tbody>
</table>

**Proposal**

The petitioner is requesting to amend the Official Zoning Maps for the subject property from HB-S (Golf Driving Range; Recreation Services, Indoor; Recreation Services, Outdoor; Retail Store, Specialty or Miscellaneous; Non-Store Retailer; and Restaurant (without drive-through service) – Special Use Zoning) to PB-S (Pedestrian Business – Special Use Zoning) and GB-S (General Business – Special Use Zoning). The petitioner is requesting the following uses:

- **GB-S:** Tract 2 (Nursery Land and Garden Supply Store, Retail; Wholesale Trade A; Building Contractors, General; Nonstore Retailer; Offices, Miscellaneous; Professional Office; Services, Business A; Services, Business B; Storage Services, Retail; Warehousing; Recreational Services, Indoor; Recreational Services, Outdoor; Post Office; Manufacturing A; and Access Easement, Private Off-Site)

- **PB-S:** Tract 1 (Residential Building, Multifamily; Residential Building, Townhouse; Combined Use; ABC Store; Arts & Crafts Studio; Convenience Store; Food or Drug Store; Furniture & Home Furnishings Store; General Merchandise Store; Hardware Store; Nursery Lawn & Garden Supply Store, Retail; Restaurant (without drive-through service); Retail Store, Specialty or Miscellaneous; Shopping Center; Banking and Financial Services; Building Contractor, General; Health Services, Miscellaneous; Medical & Surgical Offices; Nonstore Retailer; Offices, Miscellaneous; Professional Office; Services, Business A; Services, Business B; Services, Personal; Testing and Research Lab; Warehousing; Recreational Services, Indoor; Theater, Indoor; Adult Daycare Center; Child Care (Drop-in); Child Care (Sick Children); Child Care Institution; Child Day Care Center; Church or Religious Institution, Community; Church or Religious Institution, Neighborhood; Government Offices;
Hospital or Health Center; Institutional Vocational Training Facility; Library, Public; Museum or Art Gallery; Nursing Care Institution; Police or Fire Station; Post Office; School, Private; School, Vocational or Professional; Access Easement, Private Off-Site; Broadcast Studio; and, Park and Shuttle Lot

Zoning District Purpose Statement

PB: The PB District is primarily intended to accommodate office, retail, service, institutional and high density residential uses which customarily serve community and convenience business needs of smaller communities and urban nodes in the city and county. The district is intended to encourage the development of attractive, identifiable small towns, and to accommodate the pattern of building in the business concentrations surrounding the central core of Winston-Salem, and the central core of other municipalities in the County. This district is intended for application in Growth Management Areas 2 and 3.

GB: The GB District is primarily intended to accommodate a wide range of retail, service, and office uses located along thoroughfares in areas which have developed with minimal front setbacks. However, the district is not intended to encourage or accommodate strip commercial development. The district would accommodate destination retail and service uses, characterized by either a larger single business use or the consolidation of numerous uses in a building or planned development, with consolidated access. This district is intended for application in Growth Management Areas 1, 2, 3, and activity centers.

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 subject property is located within GMA 3, which is consistent with both purpose statements.

GENERAL SITE INFORMATION

<table>
<thead>
<tr>
<th>Location</th>
<th>West side of Peters Creek Parkway, north of Village Park Court</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jurisdiction</td>
<td>Forsyth County</td>
</tr>
<tr>
<td>Site Acreage</td>
<td>Approximately ± 30.10 acres</td>
</tr>
<tr>
<td>Current Land Use</td>
<td>Undeveloped land</td>
</tr>
<tr>
<td>Surrounding Property Zoning and Use</td>
<td></td>
</tr>
<tr>
<td>Direction</td>
<td>Zoning District</td>
</tr>
<tr>
<td>North</td>
<td>RM-12-S</td>
</tr>
<tr>
<td>East</td>
<td>RS-9 &amp; RM-8-S</td>
</tr>
</tbody>
</table>
Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(S)

<table>
<thead>
<tr>
<th>South</th>
<th>RM-8-S</th>
<th>Townhouse units being constructed</th>
</tr>
</thead>
<tbody>
<tr>
<td>West</td>
<td>RS-9</td>
<td>Muddy Creek; Single family homes</td>
</tr>
</tbody>
</table>

(S)(2) - Is/are the use(s) permitted under the proposed classification/request compatible with uses permitted on other properties in the vicinity?

The site plan shows a very intense commercial area located on Tract I and self storage units located on Tract II. This request would allow a significant increase in the intensity of uses allowed on this site and adjacent to residentially zoned property to the north and south.

Physical Characteristics

The site’s highest elevation (+/- 778 ft.) is located on the eastern 1/3 of the site. The property slopes down from that point with the westernmost 1/3 of the site located within the floodway/floodplain. The National Wetlands Inventory maps do not identify wetland areas on the petition site; however, the Forsyth County Soil Survey shows extensive wetland indicative and hydric inclusive soils (Wehadkee and Chewacla) in the floodplain on the petition site. The petitioner is responsible for complying with all State and Federal wetland and stream protection regulations, including securing appropriate permits from the NC Department of Environment and Natural Resources, the NC Division of Waters Quality, and the US Army Corp of Engineers.

Proximity to Water and Sewer

The subject property will be served by public water and public sanitary sewer.

Stormwater/Drainage

No known issues

Watershed and Overlay Districts

The subject property is not located within a water supply watershed.

Historic, Natural Heritage and/or Farmland Inventories

The Friedberg Marsh, site #7 of the Forsyth County Natural Heritage Inventory, is located just downstream of this 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.

Analysis of General Site Information

The subject request focuses on 30.1 acres located on the west side of Peters Creek Parkway south of Brannigan Village Drive. The site contains a mild topography with the western half of the site being located within the floodway/floodplain. When the subject property was rezoned to HB-S in 1997 for a golf driving range, staff’s support was in part because that use was appropriate for the site due to its floodplain restrictions. The driving range would have required minimal grading and would pose no substantial environmental concerns. Through the above-referredenced HB-S zoning, staff gained a level in comfort with this very low impact use of the subject property. Staff has concerns with this proposed...
rezoning and the much increased intensity being requested.

<table>
<thead>
<tr>
<th>Generalized Recommended Conditions</th>
<th>BRIEF DESCRIPTION OF CONDITION(S):</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Condition to flag the floodplain line in the field</td>
</tr>
<tr>
<td></td>
<td>• Condition for greenway easement</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>SITE ACCESS AND TRANSPORTATION INFORMATION</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Street Name</strong></td>
</tr>
<tr>
<td>-----------------</td>
</tr>
<tr>
<td>Peters Creek Parkway</td>
</tr>
<tr>
<td>Brannigan Village Drive</td>
</tr>
<tr>
<td>Village Park Court</td>
</tr>
</tbody>
</table>

**Proposed Access Point(s)**

The subject property has +/- 363 feet of road frontage along Peters Creek Parkway, however access will be via Brannigan Village Drive and a connection to Village Park Court. The Special Use Permit being requested will allow access through the proposed PB-S portion of the site to the proposed GB-S portion in the rear.

**Planned Road Improvements**

The Thoroughfare Plan recommends that Peters Creek Parkway be constructed as a four-lane divided cross section with raised median, curb and gutter and sidewalks. The TIS submitted with this request recommends that a right turn lane into the site be installed along Peters Creek Parkway.

**Trip Generation - Existing/Proposed**

**Existing Zoning:** HB-S

40 driving positions x 1.25 (Golf Driving Range Trip Rate) = 50 Trips per Day

**Proposed Zoning:** PB-S & GB-S

The TIS estimates +/- 4,623 trips per day.

**Sidewalks**

Sidewalks are proposed along Village Park Court.

**Traffic Impact Study (TIS)**

A TIS has been submitted for review by NCDOT and WSDOT.

**Analysis of Site Access and Transportation Information**

The subject request proposes access points that tie into Brannigan Village Drive and Village Park Court. The site will have no access to Peters Creek Parkway. This request is estimated to generate a significant amount of traffic compared to the driving range that was previously approved. The TIS estimates +/- 4,623 trips per day generated by this request. One condition of approval for the apartments north of the subject property was that a right turn lane be constructed on Peters Creek Parkway. This turn lane has not been constructed and the TIS included this turn lane in its list of recommended road improvements. Staff understands that the petitioner has been in contact with NCDOT in regard to this right turn lane requirement. The TIS also states that a traffic signal will be needed at the intersection of Peters Creek Parkway and Brannigan Village Drive.

<table>
<thead>
<tr>
<th>Generalized Recommended Conditions</th>
<th>BRIEF DESCRIPTION OF CONDITION(S):</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>• Condition for driveway permit</td>
</tr>
<tr>
<td></td>
<td>• Condition to install sidewalks along Peters Creek Parkway</td>
</tr>
</tbody>
</table>
**Condition requiring petitioner to pay for traffic signal, if needed**

### CONFORMITY TO PLANS AND PLANNING ISSUES

<table>
<thead>
<tr>
<th><strong>Legacy GMA</strong></th>
<th>GMA 3 (Suburban Neighborhoods)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Relevant Legacy Recommendations</strong></td>
<td>- Legacy recommends protecting residential areas from inappropriate commercial and industrial encroachment. Legacy also recommends expanding existing large and small business to provide a broad range of employment opportunities.</td>
</tr>
<tr>
<td><strong>Relevant Area Plan(s)</strong></td>
<td>The subject property is not located within the boundaries of an Area Plan or Development Guide.</td>
</tr>
<tr>
<td><strong>Greenway Plan Information</strong></td>
<td>The Greenway Plan recognizes the western portion of this site as part of the Muddy Creek Greenway. A greenway easement along the site’s portion of Muddy Creek will be a condition of approval.</td>
</tr>
</tbody>
</table>

#### Analysis of Conformity to Plans and Planning Issues

The subject request poses some concerns to staff. When this property was originally rezoned for a driving range, staff was supportive of the request due to the floodplain restrictions and the low level of intensity of the use. This request represents a substantial increase in intensity. Peters Creek Parkway from Clemmonsville Road to downtown Winston-Salem is a commercial corridor. Legacy also recommends a Metro Activity Center (MAC) to be located on Peters Creek Parkway near the intersection of the West Clemmonsville Road extension. With the developing MAC and established commercial corridor further north on Peters Creek Parkway, staff does not see the justification for intensifying the zoning at this location. Although this is a change to a generally less intense category of zoning, the proposed uses are far more intense. Staff views this site as appropriate for multifamily housing, given the surrounding land uses and zoning. This request represents a significant increase in commercial intensity that staff cannot support at this location.

The second request associated with this case is a Special Use Permit (SUP) for access to the GB-S site in the rear of the property. For SUP’s requiring approval by the elected body, certain findings have to be met. Findings of the Planning Board accompanying a favorable recommendation shall include:

**Planning Board Findings:**

1. The development is in conformity with Legacy. (No)
2. Water and sewer service are available in adequate capacity. (Yes)
3. Where buildings greater than thirty-five (35) feet in height are proposed within the City of Winston-Salem limits, there is adequate access for aerial fire-fighting equipment. (Yes)
4. Streets and highways, both within and in the vicinity of the development, are of such design and traffic-carrying capacity that the
development will not create a traffic hazard. *(Yes, provided the necessary improvements are made)*

5. General layout and design of the development meet all requirements of this Ordinance. *(Yes)*

6. Adequate, safe and convenient provision is made for vehicular and pedestrian movement on the site with particular attention paid to the needs of public safety equipment and personnel (fire, police, etc) and service vehicles and personnel (sanitation, postal delivery, etc). *(Yes)*

7. The Planning Board may recommend to the Elected Body conditions as identified in Section 6-1.3(A)(1) for the issuance of the special use permit to reduce impacts associated with the project. *(See “SITE-SPECIFIC RECOMMENDED CONDITIONS OF APPROVAL” section below)*

The Elected Body shall issue a special use permit only when the Elected Body makes an affirmative finding as follows:

**Elected Body Findings:**

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved. *(Yes)*

2. That the use meets all required conditions and specifications. *(Yes)*

3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and, *(Yes)*

4. That the location and character of the use, if developed according to the application and plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with Legacy. *(The request is not in conformance with the recommendations of Legacy)*

### RELEVANT ZONING HISTORIES

<table>
<thead>
<tr>
<th>Case</th>
<th>Request</th>
<th>Decision &amp; Date</th>
<th>Direction from Site</th>
<th>Acreage</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Staff</td>
</tr>
<tr>
<td>F-1396</td>
<td>RS-9 to RM-8-S</td>
<td>Approved October 13, 2003</td>
<td>South</td>
<td>119.65</td>
<td>Approval</td>
</tr>
<tr>
<td>F-1325</td>
<td>RS-9 to RM-8-S</td>
<td>Approved November 13, 2000</td>
<td>South</td>
<td>37.63</td>
<td>Approval</td>
</tr>
<tr>
<td>F-1181</td>
<td>RS-9 to HB-S</td>
<td>Approved January 27, 1997</td>
<td>Subject property</td>
<td>28.79</td>
<td>Approval</td>
</tr>
<tr>
<td>F-1182</td>
<td>RS-9 to RM-12-S</td>
<td>Approved January 27, 1997</td>
<td>North</td>
<td>22.69</td>
<td>Approval</td>
</tr>
</tbody>
</table>

### SITE PLAN COMPLIANCE WITH UDO REQUIREMENTS

<table>
<thead>
<tr>
<th>Building Square Footage</th>
<th>Square Footage</th>
<th>Placement on Site</th>
</tr>
</thead>
<tbody>
<tr>
<td>PB-S: 43,000 sf.</td>
<td>GB-S: 71,330 sf.</td>
<td>Various locations</td>
</tr>
<tr>
<td>Parking</td>
<td></td>
<td></td>
</tr>
<tr>
<td>---------</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Required</strong></td>
<td><strong>Proposed</strong></td>
<td><strong>Layout</strong></td>
</tr>
<tr>
<td>156 spaces</td>
<td>217 spaces</td>
<td>90° head-in parking</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Building Height</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum</strong></td>
</tr>
<tr>
<td>PB-S: 60 feet / GB-S: 60 feet</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Impervious Coverage</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum</strong></td>
</tr>
<tr>
<td>PB: 100% / GB: 100%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>UDO Sections Relevant to Subject Request</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Section 2-1.3(F) PB District</td>
</tr>
<tr>
<td>• Section 2-1.3(J) GB District</td>
</tr>
<tr>
<td>• Section 2-5.1 Use Conditions</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Complies with Chapter B, Article VII, Section 7-5.3</th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) <em>Legacy</em> policies:</td>
</tr>
<tr>
<td>(B) <em>Environmental Ord.</em></td>
</tr>
<tr>
<td>(C) Subdivision Regulations</td>
</tr>
</tbody>
</table>

### Analysis of Site Plan Compliance with UDO Requirements

The site plan proposes a mixture of commercial uses along with a self storage component. The Tract I portion of the site plan contains 43,000 square feet of commercial square footage located in two buildings. An extension of Village Park Court runs north/south between the two buildings and will connect to the RM-8-S site to the south. Tract II will contain the self storage component of the project, containing six buildings. The remainder of Tract II will remain undeveloped due to its location in the floodway/floodplain. The special use permit (SUP) being requested is to allow access to the GB-S portion of the site through the PB-S portion. The SUP will cover the northern portion of the parking lot shown on Tract I. It appears that the request meets the required findings, with the exception of being in conformance with the recommendations of *Legacy*. The petitioner did reduce the amount of square footage being requested on Tract I from 54,631 sf to 43,000 sf. Staff is still of the opinion that this amount of commercial square footage is inappropriate at this location. The petitioner also has volunteered elevations for this request which will be included in the recommended conditions of approval.

### Generalized Recommended Conditions

**BRIEF DESCRIPTION OF CONDITION(S):**

- Condition that buildings comply with submitted elevations
- Signage condition
- Lighting condition

### CONCLUSIONS TO ASSIST WITH RECOMMENDATION

<table>
<thead>
<tr>
<th>Positive Aspects of Proposal</th>
<th>Negative Aspects of Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>The petitioner did reduce the amount of square footage being requested.</td>
<td>The request is not in conformance with <em>Legacy</em>.</td>
</tr>
<tr>
<td>Peters Creek Parkway is a significant transportation corridor.</td>
<td>The request intensifies the zoning at a location on Peters Creek Parkway that is not located within the established commercial corridor or the MAC.</td>
</tr>
<tr>
<td></td>
<td>The request contains a destination-oriented shopping center that would be difficult to justify as being consistent with the purpose statement of the PB district.</td>
</tr>
</tbody>
</table>
### SITE-SPECIFIC RECOMMENDED CONDITIONS OF APPROVAL

#### PRIOR TO THE ISSUANCE OF GRADING PERMITS:

- b. Developer shall obtain a driveway permit from NCDOT; additional improvements may be required prior to issuance of driveway permit.
- b. Developer shall clearly flag the 50% maximum floodplain line on the subject property.

#### PRIOR TO THE ISSUANCE OF BUILDING PERMITS:

- a. All proposed buildings shall be in substantial conformity with building elevations entitled “Proposed Shoppes at Brannigan – Winston-Salem, NC” and drawn by Lloyd Architecture, as determined by planning staff.
- b. Developer shall dedicate a forty (40) foot greenway easement to the City of Winston-Salem along the creek.

#### PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS:

- a. Developer shall install sidewalks along the frontage of Peters Creek Parkway to the specifications of the City of Winston-Salem Public Works Department.
- b. The existing sign for Tax Pin # 6822-56-7920.78 (Brannigan Village Apartments) located on the subject property is considered an off-premises sign and is not allowed on this site. This sign shall be brought into compliance with all applicable UDO requirements.

#### OTHER REQUIREMENTS:

- a. No more than two freestanding on-premises monument signs shall be allowed along Peters Creek Parkway as shown on the site plan. One monument sign shall be allowed with no more than seventy-five (75) square feet of copy area and with a maximum height of fifteen (15) feet. The second monument sign shall be allowed with no more than thirty-six (36) square feet of copy area and with a maximum height of six (6) feet. A two-hundred foot (200') spacing requirement between the two monument signs along Peters Creek Parkway shall be met. One freestanding on-premises sign shall be allowed with no more than thirty-six (36) square feet of copy area and with a maximum height of six (6) feet within the area labeled "10'x5' Signage Area" on the site plan.
- b. All on site lighting shall be a maximum of 18 feet tall and shall be of the “shoebox” type or otherwise designed not to cast direct light on adjacent properties.
- c. Developer shall be responsible for the cost of a traffic signal if warranted by NCDOT.

### STAFF ZONING RECOMMENDATION: DENIAL

### STAFF SPECIAL USE PERMIT 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.**
Aaron King presented the staff report.

**PUBLIC HEARING**

FOR:

Nancy Gould, 1031 Van Hoy Avenue, Winston-Salem, NC 27104
- We feel this is a neat concept which *Legacy* has put forward.
- The existing use of Driving Range is not appropriate.
- It seemed like a good idea until they started talking to developers of driving ranges. Because of the shape of the site, balls will go into neighbors properties. Since our developers donated a greenway easement along the creek and there is concern that people using the greenway could be hit with balls. Apparently the site's orientation would mean the driving range had to be oriented to the west which is a no-no because you're looking into the sun when you're trying to hit the golf ball.
- The staff has suggested residential uses might be more appropriate. The problem again with that is these transmission towers. Buildings can't be under the 270' power line easement. Roadways cannot be parallel to the lines, so it greatly limits where housing could go. A lot of people have concerns now about living close to major power lines which could easily result in a marketing problem.
- There is a crucial vehicular access situation here.
- We looked carefully at *Legacy* and other planning documents.
- There are going to be over 650 units within a quarter mile of this site. A quarter mile is the distance most people are comfortable walking.
- I can't think of a better location for a neighborhood service center. That's exactly what we've done.
- We're trying to create a workable, walkable, and sustainable neighborhood just as *Legacy* describes.
- This is already zoned Highway Business.
- It would provide needed services and combine the surrounding neighborhoods.
- It is very similar to the shopping center at Hawthorne and Knollwood Road. That doesn't detract from Thruway Shopping Center. This is half the size of that center and half the size of Oliver's Crossing to the south.
- It will compliment the metro center just like the one at Knollwood and Hawthorne.

Bruce Hubbard, 2110 Cloverdale Avenue, Winston-Salem, NC 27103
- We have talked with adjoining property owners. Mr. Grover Shugart is developing the property to the south. He's very much in favor of our proposal.
- Mr. Carroll who runs the apartment complex embraces the concept.

AGAINST: None

**WORK SESSION**

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

1. Paul Mullican: I understand that people don't want to live under power lines. I like this concept. They've tried to make it a village concept. We all like that.
2. Carol Eickmeyer: Sidewalks are part of what makes a community walkable, so no matter what, I think the sidewalk needs to stay. I have a real problem with storage units in this development. People don't walk to storage units. This isn't a good place for housing under power lines. Do we need to develop every inch of Forsyth County or would this site be a good donation to the Parks system?

3. Lynne Mitchell: The proposal has a lot of shops which will certainly be of use to the surrounding residents, but to have sustainable business, there will have to be significant automobile traffic as well. People need the sidewalk and good crosswalks to be able to access this site. When we have these shopping centers a mile apart, the tendency is to fill in between them. If it were a smaller shopping center, it might better serve the community but might not be able to sustain the business.

4. Arnold King: We're still talking about less than 10% development of the site. One of the things that appeals to me is the street that allows the neighbors access to a full intersection. If I lived out there, I believe I'd rather have these shops out there than a driving range.

5. Brenda Smith: The site constrained by two floodplains coming around it which limits strip development on the other side of that. The power lines do limit what you can do. This fits in the physical surroundings to me.

6. Wesley Curtis: I think the storage units, how they're located, do not bother me as much. As long as we're on the hill and out of the wetlands, I think they're an appropriate use for the site. It would definitely be a destination, but it seems an appropriate use. My concern is the list of uses. There are uses there which may not really be a part of what the people in the area may use. The only reason I would support something like this is because there are living units nearby. Uses like ABC Store and a general contractor's office, the whole purpose that I feel is good would be lost in that process.

7. Jerry Clark: I'm okay with the PB part of this, but the storage building part I don't necessarily agree with that. At this point in time, I feel storage buildings is an inappropriate use of this property. I do agree with Wesley that there are some uses listed which aren't applicable to the community.

In response to a question from the Board, Bruce Hubbard indicated that he had absolutely no problem with sitting down to look at the permitted uses if there are ones that concern the Board or staff.

8. Carol Eickmeyer noted that it is zoned Highway Business, but it is special use for a driving range and therefore does not allow the wide range of uses allowed in Highway Business general district zoning. I'm not going to be comfortable with this at all, but I'd be more comfortable with some seriously limited uses that are truly neighborhood serving.
Nancy Gould stated that the storage units would be designed to compliment the architecture of the rest of the retail center.

MOTION: Carol Eickmeyer moved denial of the zoning map amendment because it is not in accordance with Legacy and because there is no storm water review required by the County.
SECOND: Lynne Mitchell
VOTE:
  FOR: Jerry Clark, Wesley Curtis, Carol Eickmeyer, Lynne Mitchell
  AGAINST: Arnold King, Paul Mullican, Brenda Smith
  EXCUSED: None

MOTION: Carol Eickmeyer moved denial of the Special Use Permit.
SECOND: Lynne Mitchell
VOTE:
  FOR: Jerry Clark, Wesley Curtis, Carol Eickmeyer, Lynne Mitchell
  AGAINST: Arnold King, Paul Mullican, Brenda Smith
  EXCUSED: None

SITE PLAN MOTION: Paul Mullican certified that the site plan meets all code requirements and recommends staff conditions.
SECOND: Jerry Clark
VOTE:
  FOR: Jerry Clark, Arnold King, Paul Mullican, Brenda Smith
  AGAINST: Wesley Curtis, Carol Eickmeyer, Lynne Mitchell
  EXCUSED: None

According to information furnished by the Office of the Tax Assessor on March 1, 2006, the subject property was in the name of Hubbard Realty of WS, Inc., et al., and Austin D. McGuire, Sr.

_______________________
A. Paul Norby, FAICP
Director of Planning