DOCKET #: F1426
(Continued from 2/10/05 and 3/10/05 CCPB meeting)

PROPOSED ZONING:
HB-S (Multiple Uses)

EXISTING ZONING:
RS-9

PETITIONER:
Stultz Landscaping Supplies for property owned by Stephen K. Stultz and Sharon K. Stultz

SCALE: 1" represents 400'
STAFF: Roberts
GMA: 3
ACRE(S): 1.59
MAP(S): 690870
April 20, 2005

Stephen K. Stultz and Sharon K. Stultz
1327 North Main Street
Kernersville, NC  27284

RE:  ZONING MAP AMENDMENT F-1426

Dear Mr. & Mrs. Stultz:

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, AICP
Director of Planning

Attachment

pc:  Jane Cole, County Manager's Office
Raymond D. Thomas, 116 S. Cherry Street, Kernersville, NC  27284
Steve Causey, 4720 Kester Mill Road, Winston-Salem, NC  27103
Jerry Leonard, 200 Tortoise Lane, Winston-Salem, NC  27127
Clarence Walker, 1315 N. Main Street, Kernersville, NC  27284
Tim Walker, 2432 Bethel Church Road, Kernersville, NC  27284
Tony Walker, 2256 Bethel Church Road, Kernersville, NC  27284
Clarence Riersoe, 1220 N. Main Street, Kernersville, NC  27284
Jane King, 1196 N. Main Street, Kernersville, NC  27284
FORSYTH COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: ________________________  AGENDA ITEM NUMBER: _______

SUBJECT:-

A. Public Hearing on zoning map amendment of Stephen K. Stultz and Sharon K. Stultz from RS-20 to HB-S (Building Materials Supply; Nursery, Lawn and Garden Supply Store, Retail; and Services, Business B): property is located on the northwest side of North Main Street (NC 150) southwest of Bethel Church Road. (Zoning Docket F-1426).

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

C. Approval of Special Use District Permit

D. Approval of Site Plan

COUNTY MANAGER’S RECOMMENDATION OR COMMENTS:-

SUMMARY OF INFORMATION:-

See attached staff report.

After consideration, the Planning Board recommended denial of the rezoning petition, certified that the site plan meets all code requirements and recommends staff conditions.

ATTACHMENTS:-  X YES  ___ NO

SIGNATURE: ______________________________ DATE: ________________

County Manager
COUNTY ORDINANCE - SPECIAL USE

Zoning Petition of Stephen K. Stultz and Sharon K. Stultz, Docket F-1426

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 RS-20 to HB-S (Building Materials Supply; Nursery, Lawn and Garden Supply Store, Retail; and Services, Business B) the zoning classification of the following described property:

**BEGINNING** at a point in the southwest corner of Tax Lot 114 and adjoining Tax Lot 19 Block 5410 N 03° 30’ 33” E 62.15’ to a point; Thence adjoining Tax Lot 115D Block 5410 S 41° 35’ 59” E 114.95’ to a point; Thence along Tax Lot 115C Block 5410 and adjoining Tax Lot 115D N 48° 24’ 01” E, 60.46’ to a point; Thence along a new proposed zoning line in Tax Lot 115C Block 5410 S 45° 04’ 07,” E 536.49’ to a point; Thence S 44° 55’ 53” W, 100.00’ to a point in the line of Lot 114 Block 5410; Thence along Tax Lot 114 Block 5410 N 45° 04’ 07” W 613.77’ to the point and place of the beginning.

Section 2. This Ordinance is adopted after approval of the site plan entitled *Stultz Landscaping Supplies*, and identified as Attachment A of the Special Use District Permit issued by the Forsyth County Board of Commissioners the _____ day of __________________, 20____ to Stephen K. Stultz and Sharon K. Stultz.

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 Stultz Landscaping Supplies. Said Special Use District Permit and site plan with associated documents are attached hereeto and incorporated herein.

Section 4. 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 Stephen K. Stultz and Sharon K. Stultz (Zoning Docket F-1426). 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 HB-S (Building Materials Supply; Nursery, Lawn and Garden Supply Store, Retail; and Services, Business B), 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 HB-S zoning district 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. Obtain driveway permit from the North Carolina Department of Transportation.

• PRIOR TO THE ISSUANCE OF BUILDING PERMITS
  a. Developer shall seek approval to amend the site plan of the adjacent landscaping supply operation (see docket F-1004), in order to connect to the subject property as shown on proposed site plan. Note: This condition will not be necessary if F-1430 is approved.
  b. Bufferyard and streetyard trees shall be large variety trees as defined in UDO Section 3-4.10.
  c. Developer shall record a 40 foot easement for the bufferyard shown on the adjoining lot.
  d. Developer shall install all plantings shown on site plan within 90 days of approval by the County Commissioners.

• OTHER REQUIREMENTS
  a. No signage shall be permitted.
ZONING STAFF REPORT

DOCKET #    F-1426
STAFF:     Gary Roberts

Petitioner(s): Stephen K. Stultz and Sharon K. Stultz
Ownership:    Same

REQUEST

From:    RS-20 Residential Single Family District; 20,000 sf minimum lot size
To:      HB-S Highway Business District; (Building Materials Supply; Nursery, Lawn and Garden Supply Store, Retail; Offices, Miscellaneous; and Services, Business B)

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

Acreage: 1.59

CONTINUANCE HISTORY

This petition was continued from the February 10, 2005 Planning Board public hearing to the March 10, 2005 meeting and then to the April 14, 2005 meeting at the request of the petitioner. The petitioner has submitted a revised site plan which reduces the proposed area for rezoning from 5.08 acres to 1.59 acres.

LOCATION:

Street: Northwest side of North Main Street southwest of Bethel Church Road.
Jurisdiction: Forsyth County.

SITE PLAN

Proposed Use: Landscaping supply operation.
Square Footage: No structures are proposed.
Parking: Required: 14 spaces; Proposed: 14 spaces to be provided on the adjacent HB-S property as per the proposed site plan of F-1430.
Bufferyard Requirements: 15 and 40 foot type III bufferyard adjacent to RS-20 and 40 foot type III bufferyard easement on adjacent RS-20 zoned property to the northeast.

PROPERTY SITE/IMMEDIATE AREA

Existing Structures on Site: One small accessory building to be removed.
Adjacent Uses:
    North-    Undeveloped property and single family homes zoned RS-20.
    East-     Kernersville Community Church zoned RS-20.
Southeast- Single family homes zoned RS-20.
Southwest- Stultz Landscaping zoned HB-S.

**GENERAL AREA**

Character/Maintenance: Neighborhood scale church, landscaping supply operation and well maintained single family homes on large lots along a major thoroughfare.
Development Pace: Slow.

**HISTORY**

Relevant Zoning Cases:

1. F-1004; R-5 to B-3-S (Agriculture or farming; Stores or shops, retail; Services; and Storage yards); approved August 12, 1991; north side of North Main Street (NC 150) southwest of Bethel Church Road (adjacent to subject property); 3.76 acres; Planning Board and staff recommended denial.

2. F-333; from R-5 and R-6 to B-3; withdrawn December 3, 1973; northwest corner of North Main Street (NC 150) and Bethel Church Road (includes current site); 18.5 acres; the County Attorney expressed the opinion that this could be interpreted by the Courts as illegal spot zoning and both the Planning Board and staff recommended denial.

**PHYSICAL FEATURES/ENVIRONMENTAL REVIEW**

Impact on Existing Features: Minimal impact to existing features is proposed.
Topography: Very gentle slope downward from the central portion of the site to the southeastern portion.
Vegetation/habitat: Site is essentially cleared with the exception of some plantings along the front property line.
Water Supply Watershed: The subject property is not within a water supply watershed.

**TRANSPORTATION**

Direct Access to Site: North Main Street (NC 150)
Street Classification: Major Thoroughfare
Average Daily Traffic Count/Estimated Capacity at Level of Service D (Vehicles per Day):
   NC 150 between Bethel Church and Forsyth Roads = 5,000/16,100
   NC 150 between Bethel Church and County Line Roads = 10,000/16,100
Trip Generation/Existing Zoning: RS-20
   1.59 acres (RS-20) x 43,560/20,000 = 3 units x 9.57 (SFR Trip Rate) = 28 Trips per Day
Trip Generation/Proposed Zoning: HB-S
   No trip generation rates available for subject request as it does not include any additional building square footage.
Planned Road Improvements/Thoroughfare Plan: The subject property is located in the immediate vicinity of the proposed Regional Airport Connector.
CONFORMITY TO PLANS

Growth Management Plan: (Legacy): The Rural Area, GMA 5.
Relevant Comprehensive Plan Recommendation(s): Legacy states that provisions will be made for the protection of farmland, natural areas, and rural character in GMP Area 5 (the Rural Area). Legacy also states that this area is intended to remain in very low density residential and agricultural uses for the Plan’s 15-year time horizon. Legacy also specifically discourages rezonings to more intense districts in the Rural Area.

Area Plan/Development Guide: The subject property is not within the boundaries of an area plan or development guide.

INCORPORATED AREA COMMENTS

Incorporated Jurisdiction: Kernersville.
Expressed Concern: The Town of Kernersville Planning Department concurs with the recommendation of the CCPB staff.

SPOT ZONE OPINION

The County Attorney is of the opinion that the subject request, if approved, could be considered by the courts in the case of a challenge to be an illegal spot zone, based on current case law.

ANALYSIS

The subject request is to rezone 1.59 acres of undeveloped property located on the northwest side of North Main Street (NC 150), from RS-20 to HB-S. The site is currently undeveloped and is located between the Kernersville Community Church and the existing Stultz Landscaping operation. Single family homes on large lots and undeveloped property are located across the street and to the rear of the subject property.

This request is continued from the February 10, and March 10, 2005 Planning Board meetings. The petitioner has submitted a revised site plan which removes the portion of the site which fronted on North Main Street and reduces the size of the subject property from 5.08 acres to 1.59 acres. The 5,000 square foot building and associated parking, shown on the original petition has also been removed. The site plan illustrates storage and sales areas for various materials such as stone and mulch and would effectively be an expansion of the existing landscape supply operation which adjoins the site. Access to the site would be through the existing parking and driveway areas of the business to the southwest.

In 1973 the subject property was part of a larger 18.5 acre rezoning request to the B-3-S commercial district. The County Attorney expressed the opinion that the request may be considered by the courts as illegal spot zoning and both the Planning Board and staff recommended denial. The petition was subsequently withdrawn. In 1991, the adjacent 3.76 acre site was rezoned to accommodate the previously mentioned landscape supply business despite the County Attorney’s opinion that the request may be considered an illegal spot zone. Both the
Planning Board and staff recommended denial of the request. The County Attorney has reviewed the revised request. While considering the reduced acreage, the County Attorney remains of the opinion that the subject request, if approved, could be considered by the courts in case of a challenge to be an illegal spot zone, based on current case law. It is the policy of Planning staff to recommend denial of any request when such an opinion has been issued.

The site is located within *Legacy’s* Rural Area which discourages rezonings to more intense districts and recommends the area remain in very low density residential and agricultural uses for the Plan’s 15-year time horizon. The subject property is not within the boundaries of an area plan or development guide.

The present operation is relatively intense, 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 current request, although reduced in size, would generate additional heavy equipment operation and increase other noted impacts.

In addition to the immediate impacts on the surrounding low density residential and institutionally used properties, Planning staff is also concerned with long term implications of such a commercial expansion in this area. More specifically, if approved, there would be increased justification for commercial rezoning activity to take place across North Main Street or to the northeast at the intersection of North Main Street and Bethel Church Road.

Planning staff applauds the removal of the previously shown 5,000 square foot building and the substantial reduction in area from 5.08 acres to 1.59 acres. However, based upon the spot zone opinion of the County Attorney, staffs recommendation is for denial.

**FINDINGS**

1. The subject request for HB-S zoning is inconsistent with the recommendations for *Legacy’s* Rural Area.

2. The subject property is not within the boundaries of an area plan or development guide.

3. The proposed use would negatively impact the surrounding residential properties in regard to noise, dust, fumes, and odors.

4. The subject request would encourage the spread of additional commercial rezoning activity in the general area.

5. The County Attorney is of the opinion that the subject request, if approved and later challenged, could be considered by the courts to be an illegal spot zone, based on current case law.
STAFF RECOMMENDATION

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

- **PRIOR TO THE ISSUANCE OF GRADING PERMITS**
  a. Obtain driveway permit from the North Carolina Department of Transportation.

- **PRIOR TO THE ISSUANCE OF BUILDING PERMITS**
  a. Developer shall seek approval to amend the site plan of the adjacent landscaping supply operation (see docket F-1004), in order to connect to the subject property as shown on proposed site plan. Note: This condition will not be necessary if F-1430 is approved.
  b. Bufferyard and streetyard trees shall be large variety trees as defined in UDO Section 3-4.10.
  c. Developer shall record a 40 foot easement for the bufferyard shown on the adjoining lot.
  d. Developer shall install all plantings shown on site plan within 90 days of approval by the County Commissioners.

- **OTHER REQUIREMENTS**
  a. No signage shall be permitted.

PUBLIC HEARING - February 10, 2005

FOR: None

AGAINST: None

WORK SESSION

MOTION: Clarence Lambe moved continuance of the zoning map amendment and site plan to March 10, 2005.
SECOND: Carol Eickmeyer
VOTE:
  FOR: Clark, Eickmeyer, Folan, King, Lambe, Mullican, Norwood, Smith
  AGAINST: None
  EXCUSED: None

PUBLIC HEARING - March 10, 2005

FOR: None

AGAINST: None
WORK SESSION

MOTION: Clarence Lambe moved continuance of the zoning map amendment and site plan to April 14, 2005.
SECOND: Jerry Clark
VOTE:
   FOR: Clark, Eickmeyer, Glenn, King, Lambe, Mullican, Norwood, Smith
   AGAINST: None
   EXCUSED: None

PUBLIC HEARING - April 14, 2005

Gary Roberts presented the staff reports for F-1426 and F-1430. The public hearings for the two cases were then combined to minimize confusion about the two requests.

Jimmy Norwood was excused from discussion and consideration of these requests.

FOR:

Raymond D. Thomas, 116 S. Cherry Street, Kernersville, NC  27284
   • Steve Stultz is here and would be happy to answer any questions if you have them.
   • Steve Causey is here and would be happy to answer any questions about the site plan.
   • This site has been home to this type of use since 1991.
   • He does not grow any plants for sale.
   • Generally what is on this property is landscaping materials such as mulch, pine straw, stone.
   • We had "Offices, Miscellaneous" listed as a use. We removed that.
   • All Mr. Stultz wants to do is to store stone on pallets.
   • The only thing that would go on or off the property would be a forklift or something like that, picking the load up and carrying it to whatever means of transportation is available.
   • You should also look at this with the adjoining property because it is all owned by the same people and he wants to use it in connection with the site that you're looking at for site plan amendment.
   • One of the things you need to be aware of: The site plan amendment actually came about as a result of his wanting this rezoning because staff felt we should get the other site cleaned up and put into perspective in accordance with the UDO as it exists today.
   • Mr. Stultz will be bringing this site up into compliance with the UDO as it exists today.
   • We feel like this is just a little bit of an addition.
   • The question of spot zoning. Within about 400 yards is a mobile home park. Next to that is a used car lot. Right across the street is an institutional use, a very, very large church. Then there are some residents between the church and this site. This area is not just residential.
   • I submit to you that entire area is developing into residential. Part of what happens with residential construction is landscaping. It can provide a source of material and so forth to be used on any kind of residence anywhere.
• In regard to the neighborhood, obviously one of the things that is being done to this site and the adjoining site is buffering.
• The field will not perk, so the adjoining lot cannot be used until there is sewer provided to this area.
• Submitted signatures of people in area who are not opposed to this.
• If all that is granted is for this strip, which is going to be a part of the other, is allowed to be used for the storage of stone only, that's sufficient for us.
• In regard to the site plan, it was my understanding that a new site plan had been submitted.

Steve Causey, 4720 Kester Mill Road, Winston-Salem, NC  27103
• It was literally a ninth-hour decision when we got confirmation from zoning and inspections that they were agreeable to the building materials supply use.
• The changes were made this morning and delivered on the way into the meeting.
• We added a couple of parking spaces to meet the needs for the extra use.

AGAINST:

Jerry Leonard, 200 Tortoise Lane, Winston-Salem, NC  27127
• I'm an attorney representing several of the families opposed to both aspects on the docket.
• Distributed one-page brief about the site plan amendment and discussed the expansion plan.
• It has been said by those opposed to this request that this enterprise constitutes a nuisance in the community.
• Referred to the County Attorney's spot zoning opinion.
• Discussed legal definition of "nuisance" and the impact of this use on the neighborhood.
• These two requests today are not different: They are both part of the intensification of the use. We are opposed to both of them.

Clarence Walker, 1315 N. Main Street, Kernersville, NC  27284
• I've lived here for 40 years and I'm against the rezoning of this property.  This is a residential neighborhood and it should be left that way.

Tim Walker, 2432 Bethel Church Road, Kernersville, NC  27284
• I'm opposed because the enlargement that's being sought is going to make this operation of such size and scope that it's simply out of place in a residential community.
• You've heard some specific concerns that we have and we appreciate your consideration of these concerns.

Tony Walker, 2256 Bethel Church Road, Kernersville, NC  27284
• Asked those in opposition to stand.
• The residents of this neighborhood object to this proposal by this business for an intrusive rezoning expansion plan.
• We ask nothing that you would not ask if your neighborhood were being assaulted.
• We're trying to protect and maintain an environment and quality of life that each of you expects for yourself and rightfully so.
• We ask nothing more. We deserve nothing less.
• We are not the offenders here. Our mission is honest and clear and our goal is simple. Allow us to enjoy our homes and environment in tranquility.
• Approval of these proposals would open a door and set a precedent.
• The current owner no longer lives in this community, having converted his home to business and moved away, escaping the unsavory environment left behind for the rest of us.
• This operation is anything but quiet and subdued.
• The nature of this business is forcefully active, energetic, unrestrained, boisterous. It's unsightly, dusty, smelly, noisy and disruptive. There are tractor trailers, dump trucks, loaders, pans, fork lifts, heavy equipment, hauling, handling, moving, loading and unloading.
• Your approval might benefit the self-interest of one but would surely harm many.
• Regarding the site plan amendment, we are opposed to further land use development and on-site expansion. We're trying to protect the health and well-being of the neighborhood and maintain the quality of our lives. This site plan amendment would allow one to modify and intensify the on-grounds utilization and create an on-site expansion of the existing operation.
• The original and current special use regulations incorporated specific visions and conditions that limited the way the property and land area could be used. Only the back could be used for material storage, heavy commercial activity, heavy equipment, and the like. This was no accident.
• The original owner assured the neighbors there would be a sedate, well-mannered, non-disruptive operation and he filed such regulated plan. The plan still applies today. The fact that this owner has chosen to circumvent it or ignore it doesn't render it invalid.
• The rules haven't changed, but with a different owner the operation has.
• Should we not expect this owner to abide by the same established regulations that we recognize and accept?
• When the present owner bought the business, he was fully aware of the special use zoning provision regarding this operation. We are not seeking more stringent requirements. We're not asking for new restrictions. It's not we who are asking for special treatment. We are asking for fair treatment.
• There's no way to successfully conceal, shield or temper the nature of this bustling operation from the neighborhood around it.
• Compliance has not been the watchword here. More than a few violations have been cited by the Inspections Division. But we are even more concerned with the inherent noisy, dusty, unsightly, smelly nature of this type of commercial operation.
• Approval of this amendment would be to legitimize non-compliance and reward bad behavior. Don't punish this community and inflict harm on dozens of citizens with a vote to accommodate the narrow self-interests of one.
• We understand that we're not going to make it better, but we don't have to make it worse.

Clarence Rierson, 1220 N. Main Street, Kernersville, NC  27284
• I'm also representing my mother who lives next door.
• We are here to protect our quality of life, our homes, as well as protect our residential investments.
• Please keep in mind that our homes are in the midst of open farm territory and are not shielded by trees or other barriers. Thus, the neighborhood is vulnerable to noise pollution, airborne pollution, and visible pollutants.
• There are many retired persons in this immediate area, so there are many people who are at home during normal business hours.
• If this is granted, there will be more businesses established. There will be no end in sight.
• In the early 90's, the previous owner established residence at this same property. He started a landscaping supply business in his back yard. The property was illegally used as a business for a couple of years.
• When this was considered for rezoning, the previous owner met with each of us in the community and explained that he applying for special case rezoning. He would keep all materials at a distance from the front and screen the back property well, and keep the surrounding area very clean. He pleaded with us not to protest his request. He just wanted to keep a small business to support his family. That's why many of us didn't show up at the hearing. At that time his request seemed reasonable.
• If I knew then what I know now, I would have strongly opposed the first zoning request.
• I feel the community has been taken advantage of from the beginning. We tolerated an inch and since then a mile after mile has been taken.
• If this rezoning is allowed, the doors will be opened for other properties in the area to be rezoned business.
• A new family moved into the house in front of me and I realized a couple of weeks ago that there are already a wrecker, two flat-bed car haulers, and five disabled cars. What is to prevent this property from being rezoned if either of today's requests are passed?
• Please do not allow the rezoning of this or any other property in this area.
• To address comments made earlier:
  • The car lot has been there since before I moved to this area in 1986. It is half a dozen cars for sale and a few motorcycles.
  • The church serves a community purpose and should not be included in consideration for business rezoning, plus the traffic is usually at night and on Sundays.
  • Landscaping materials can be trucked across town and don't need to be used in the neighborhood where they are sold.

Jane King, 1196 N. Main Street, Kernersville, NC 27284
• I came from the church this morning where there was a funeral. There was a long-bed truck pulling out in front of me at this site and I had to stop. If someone was coming up the road at normal speed, there would have been an accident.
• We are opposed to the expansion efforts of Stultz Landscaping Supplies.
• An increase in the levels of noise, dust, diesel fumes, and the smell of mulch are offensive and unacceptable to those of us living in this community.
• Further growth and development of the business can only add to the problem of traffic and congestion in the area.
• This is a residential neighborhood.
• An expanding commercial business adds nothing of value here but it certainly contributes to the discomfort and concerns of many people in this community.
• Help us preserve our way of life.
WORK SESSION

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

1. Dara Folan: I have a problem with the spot zone since we have an opinion about that and generally I'm not sure if this should ever have been put out there in the first place so I definitely don't want it to expand too.

2. Lavastian Glenn: This zoning was not appropriate for this community and it has the potential to really grow and impact the community.

3. Dara Folan: Both Kernersville and our Planning staff have recommended denial.

4. Jerry Clark: This business was approved out there in 1991, why isn't there a buffer or some landscaping around here?

5. Ronnie Grubbs: We have had some Inspection problems. The conditions of the 1991 approval have not been entirely met. The western side of the road around this site was to have a bufferyard to obtain a variance. They did not do that. Plus, other areas in the back were being used for storage and weren't on an approved site plan.

6. Jerry Clark: Speak to us about the driveway widening and those kinds of things. What have you found out there? Ronnie Grubbs: If they get this approved, they want to combine the U-shaped drive into one main driveway and put all their parking off that one main driveway. That would be a condition of today's approval if it gets approved. I guess if this is ultimately denied, they're back to the site plan of record which is the 1991 plan and that would substantially reduce the amount of outdoor storage and they would be saddled with the original buffers that were required or the variance that might be needed if they could not put those buffers in. Jerry Clark: What are they in violation of right now? Ronnie Grubbs: Their 1991 approval of the special use zoning. They did not complete the improvements that were approved by the County Commissioners at that time.

7. Paul Mullican: Was most of that buffer? Ronnie Grubbs: Most of it was buffer.

8. Arnold King: Are the uses more intense now than what was approved? It isn't just a buffer violation, right? Ronnie Grubbs: I think the uses in 1991 don't match up to UDO, but I believe they had the same list if you converted them. However, the plan didn't show the massive storage of rock that's in the back of the house. It did not show that much storage of outdoor materials.
9. Paul Mullican: If F-1430 is denied, they wouldn't even be able to do what they're doing now, right? Ronnie Grubbs: We would have to go back to the 1991 site plan and that would be all they could do. That would mean a reduction in outdoor storage and the installation of buffers. They were supposed to get driveway permits from the State. I believe they got those, but am not sure.

10. Paul Mullican: They did have 69 signatures in favor of this and the people directly across the street signed the petition of support in 1991 and apparently are not here today. The spot zone opinion really bothers me.

11. Arnold King: I do know Mr. Stultz. I've done business with him. He provides a great service, runs a nice company, does a good job, well respected member of the business community in Kernersville, very community-minded, but I'm going to have to vote against the expansion. I hate to do it, but I understand what the neighbors are saying and he's a victim of his own success. He's taken a small business and made it very successful, but it's probably ended up being in the wrong location the way it's turned out and it's a shame.

12. Paul Mullican: I want to also tell these citizens that you have rights as a resident. If there are wrecked cars or whatever, you do have rights. You need to contact the Inspections Division.

MOTION: Dara Folan moved denial of the zoning map amendment.
SECOND: Lavastian Glenn
VOTE:
   FOR: Clark, Folan, Glenn, King, Mullican
   AGAINST: None
   EXCUSED: Norwood

SITE PLAN MOTION: Dara Folan certified that the site plan meets all code requirements and recommends staff conditions.
SECOND: Jerry Clark
VOTE:
   FOR: Clark, Folan, Glenn, King, Mullican
   AGAINST: None
   EXCUSED: Norwood

Written Comments by Planning Board members:

Jerry Clark: The petitioner has not kept good faith with neighbors in the area. The petitioner has been cited for violations: unapproved driveway widening, expansion of materials, storage and NO buffer. The question of "spot zoning" by the County Attorney adds to my position to vote NO.
According to information furnished by the Office of the Tax Assessor on December 8, 2004, the subject property was in the name of Stephen K. Stultz and Sharon K. Stultz.

A. Paul Norby, AICP
Director of Planning