DOCKET #: F1427

PROPOSED ZONING:
RM8-S (Residential Building, Twin Home; Residential Building, Multifamily; and Residential Building Townhouse)

EXISTING ZONING:
AG

PETITIONER:
Arbor Development Corporation and L.E. Pope Building Co., Inc., for property owned by Same

SCALE: 1" represents 600’

STAFF: Roberts

GMA: 3

ACRE(S): 37.36

MAP(S): 678846, 678850
March 23, 2005

Arbor Development Corporation
and L.E. Pope Building Co., Inc.
c/o Jeff Hunter
1349-C South Park Drive
Kernersville, NC  27284

RE:  ZONING MAP AMENDMENT F-1427

Dear Mr. Hunter:

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
     George Thomas, 3069 Trenwest Avenue, Winston-Salem, NC  27105
     Larry E. Wilson, 115 Wilchester Lane, Kernersville, NC  27284
     Lee Hope, 115 Ben Nevis Drive, Kernersville, NC  27284
     Gayle Hampton, 1299 Old Salem Road, Kernersville, NC  27284
     Charlie Reed, 113 Cheviot Drive, Kernersville, NC  27284
     Lisa Pfefferhorn, 1299 Old Salem Road, Kernersville, NC  27284
FORSYTH COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: ________________________ AGENDA ITEM NUMBER: ______

SUBJECT:-

A. Public Hearing on zoning map amendment of Arbor Development Corporation and L.E. Pope Building Co., Inc. from AG to RM-8-S (Residential Building, Twin Home; Residential Building, Multifamily; and Residential Building, Townhouse); property is located on the north side of Old Salem Road east of Cheviot Drive (Zoning Docket F-1427).

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 approval of the rezoning petition.

ATTACHMENTS:-  X  YES  ____ NO

SIGNATURE: ___________________________ DATE: _______________

County Manager
COUNTY ORDINANCE - SPECIAL USE

Zoning Petition of Arbor Development Corporation
and L.E. Pope Building Co., Inc., Docket F-1427

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 AG to RM-8-S (Residential Building, Twin Home; Residential Building, Multifamily; and Residential Building, Townhouse) the zoning classification of the following described property:

Tax Block 5643, Tax Lots 9H and 9L

Section 2. This Ordinance is adopted after approval of the site plan entitled Angus Ridge Townhomes, and identified as Attachment A of the Special Use District Permit issued by the Forsyth County Board of Commissioners the _____ day of _________________, 20____ to Arbor Development Corporation and L.E. Pope Building Co., Inc.

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 Angus Ridge Townhomes. 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, 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 Arbor Development Corporation and L.E. Pope Building Co., Inc. (Zoning Docket F-1427). 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 RM-8-S (Residential Building, Twin Home; Residential Building, Multifamily; and Residential Building, Townhouse), 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 RM-8-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. Developer shall flag the 100 year floodplain boundary of Abbotts Creek and the toe of fill slope.
  b. Developer shall provide DENR water quality approval of stream impacts.

• PRIOR TO THE ISSUANCE OF BUILDING PERMITS
  a. Developer shall obtain driveway permits from the North Carolina Department of Transportation; additional improvements such as turn lanes along Old Salem Road may be required.
  b. Developer shall record a final plat in the Office of the Register of Deeds. Final Plat shall show lots, common areas, public streets, utilities and easements, (including a negative access and sidewalk easement along Old Salem Road; a 40 foot greenway easement along both sides of Abbotts Creek; and a 20 foot public access easement from Wilchester Lane to Abbotts Creek).
  c. Developer shall either provide or obtain a variance of the bufferyard requirement in the floodway.
• PRIOR TO THE SIGNING OF PLATS
  a. All documents including covenants, restrictions, and homeowners’ association agreements shall be recorded in the office of the Register of Deeds. Final plats must show common open space declarati ons.
  b. All required fire hydrants shall be installed or bonded in accordance with the Forsyth County Fire Department.

• PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS
  a. All fire hydrants shall be installed in accordance with the Forsyth County Fire Department.
  b. Developer shall provide a sidewalk easement along Old Salem Road.
ZONING STAFF REPORT

DOCKET # F-1427
STAFF: Gary Roberts

Petitioner(s): Arbor Development Corporation and L. E. Pope Building Co., Inc.
Ownership: Same

REQUEST

From: AG Agricultural District; 40,000 sf minimum lot size
To: RM-8-S Multifamily Residential District; maximum density 8 units/acre
(Residential Building, Townhouse; Residential Building, Twin Home; and
Residential Building, Multifamily)

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

Acreage: 37.36

LOCATION:

Street: North side of Old Salem Road east of Cheviot Drive
Jurisdiction: Forsyth County

SITE PLAN

Proposed Use: 56 unit duplex and multifamily development.
Building Height: Two story.
Density: 1.5 units/acre.
Parking: Required: 2 spaces per unit = 112 spaces; Proposed: 112 spaces.
Bufferyard Requirements: 15 foot type II adjacent to AG and RS-20.

PROPERTY SITE/IMMEDIATE AREA

Existing Structures on Site: Site is undeveloped.
Adjacent Uses:

| North- | I-40 and undeveloped property zoned RS-20. |
| East-  | Undeveloped property and a single family home zoned AG. |
| South- | Undeveloped property and single family homes zoned AG. |
| West-  | Abbotts Creek and single family homes zoned RS-20. |

GENERAL AREA

Character/Maintenance: Well maintained single family homes and undeveloped property.
Development Pace: Slow.
**HISTORY**

Relevant Zoning Cases:

1. F-1415; AG to NO-S (Offices, Miscellaneous; and Professional Office); approved July 26, 2004; west side of NC 66 south of Old Salem Road; 0.48 acre; Planning Board recommended approval and staff recommended denial.

2. F-1307; AG to NO-S (Professional Office); withdrawn June 26, 2000 at the County Commissioners meeting; west side of NC 66 south of Old Salem Road, same site of F-1415; 0.48 acre; Planning Board and staff recommended denial.

3. F-1265; RS-20 to GB-S (Multiple Uses); approved September 13, 1999; northwest corner of NC 66 and Crews Farm Road; 3.1 acres; Planning Board and staff recommended denial.

**PHYSICAL FEATURES/ENVIRONMENTAL REVIEW**

Impact on Existing Features: Significant grading to accommodate improvements shown on site plan.

Topography: Moderate to gentle slope downward towards Abbotts Creek from the east to the west.

Streams: Abbotts Creek traverses the northwestern portion of the site.

Vegetation/habitat: Significant amounts of mature vegetation has recently been removed from the site, some trees remain.

Floodplains: A significant portion of the site is within the 100 year floodplain of Abbotts Creek.

Wetlands: A wetland is located on the southwest corner of the site adjacent to Abbotts Creek.

Environmental Resources Beyond The Site: The property is adjacent to a floodplain along Abbotts Creek. Care must be taken during and after the construction process to minimize detrimental effects to water quality or flood plain alteration.

Water Supply Watershed: Property is located within the WS-III Abbots Creek Water Supply Watershed.

Compliance with Watershed Protection Regulations: The petitioner is responsible for complying with all applicable watershed protection regulations.

Compliance with Federal/State requirements for wetland/stream protection: Two designated (floodplain) wetlands are located on the west side of the subject property. The proposed site plan does not indicate any direct disturbance of said wetlands however, petitioner must meet all Federal and State requirements.

Amount of AG Zoned Land Rezoned to Other Districts Since the Creation of the AG District on December 31, 1994: 1,716.9 acres; Balance: 59,799.63 acres.

**TRANSPORTATION**

Direct Access to Site: Old Salem Road.

Street Classification: Major Thoroughfare.
Average Daily Traffic Count/Estimated Capacity at Level of Service D (Vehicles per Day):
Old Salem Road between Teague Road and Union Cross Road = 3,300/11,100

Trip Generation/Existing Zoning: AG
37.36 x 43,560/40,000 = 40 units x 9.57 (SFR Trip Rate) = 382 Trips per Day
Trip Generation/Proposed Zoning:
56 units x 6.59 (Multifamily Trip Rate) = 369 Trips per Day

Planned Road Improvements/Thoroughfare Plan: The 2002 Thoroughfare Plan recommends that Old Salem Road be widened to a three-lane, urban cross-section with bicycle and pedestrian accommodation.

Sight Distance: Adequate.
Interior Streets: Proposed as private.
Connectivity of street network: Poor.
Sidewalks: None proposed. Sidewalks are recommended along new and existing public streets.
Transit: None.
Bicycle Route: Sedge Garden Connector along Old Salem Road.

GREENWAY/RECREATION/OPEN SPACE REVIEW

Greenway/Trail Name: Abbotts Creek.
Easement Requested: 40 foot.
Side of Creek: Both.
Comments/Status of Trail: Unimproved, no money budgeted.

CONFORMITY TO PLANS

GMP Area (Legacy): Suburban Neighborhoods, GMA 3
Relevant Comprehensive Plan Recommendation(s): Legacy recommends concentrating higher densities in and around Metro Activity Centers (MACs). Legacy specifically states that street connectivity between residential streets would distribute total traffic, ease congestion, and make movement easier to for all modes of transportation. Legacy also encourages neighborhoods to be designed with a sense of community unity.

Area Plan/Development Guide: Union Cross/Southeast Forsyth County Area Plan, 2004
Relevant Development Guide Recommendation(s): This site is at the outer edge, in the designated “support area”, of the Kernersville South Metro Activity Center (MAC). The support area of a MAC is to consist of medium-to high-density residential uses transitioning to lower-density at the outer edges. A range of densities from 4 to 12 units per acre is recommended in the support area. Building heights at the edges of a MAC should be comparable in height and massing to the surrounding neighborhoods.

Recommendations for the Kernersville South MAC include: floodplain and steep slopes along Abbotts Creek should serve as buffers to surrounding development; and, branches of Abbotts Creek that extend to the east could serve as an open space amenity from the creek to the core of the MAC. General recommendations for Activity Center include: encourage land use patterns that focus development in planned locations, conserve farmland and natural areas, help retain the rural character of the area, and provide mixed-use communities that incorporate “Smart Growth” principles, wherever possible;
encourage and provide mixed-use developments with a variety of housing types, densities, non-residential uses, open spaces, and recreational amenities; and, support medium- and high-density residential development only at designated Activity Centers to discourage urban sprawl from encroaching into the rural community. The Plan also recommends a greenway trail along Abbotts Creek to link the MAC to the greenway system.

**INCORPORATED AREA COMMENTS**

Incorporated Jurisdiction: Site is adjacent to the Town of Kernersville.
Expressed Concern: Kernersville Planning Department comments are as follows:
- Should include public street system with two stub streets to the east to assist in implementing the Kernersville South MAC.
- Dam maybe high hazard because of the down stream state road.
- Only one access road within the flood zone could be a safety issue.

**WINSTON-SALEM/FORSYTH COUNTY SCHOOLS**

Winston-Salem/Forsyth County Schools have estimated this project, when completed, will add a total of 55 students to the system, as indicated by the following chart.

<table>
<thead>
<tr>
<th>Project</th>
<th>Number Units</th>
<th>Schools</th>
<th>Projected Students from Project</th>
<th>2004-2005 Enrolled Students</th>
<th>2004-2005 Projected Students with Accumulated Totals since 4/15/04</th>
<th>School Capacity</th>
</tr>
</thead>
<tbody>
<tr>
<td>F-1427</td>
<td>56</td>
<td>Union Cross ES</td>
<td>25</td>
<td>996</td>
<td>1,021</td>
<td>709</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Southeast MS</td>
<td>13</td>
<td>1,176</td>
<td>1,189</td>
<td>722</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Glenn HS</td>
<td>17</td>
<td>1,819</td>
<td>1,836</td>
<td>924-1,222</td>
</tr>
</tbody>
</table>

**ANALYSIS**

The subject request is to rezone 37.36 acres of undeveloped property located on the northern side of Old Salem Road from AG to RM-8-S. Abbotts Creek traverses the western portion of the site and a significant amount of the subject property is located within the 100 year floodplain. The northern edge of the site adjoins the right-of-way for I-40. The surrounding development pattern consists of single family subdivisions zoned RS-20 and RS-30 to the west, and very low density residential uses zoned AG to the east and south.

The site is located within the Union Cross/Southeast Forsyth County Area Plan which was adopted by the County Commissioners in 2004. Specifically, the subject property lies on the western edge of the support area of the proposed Kernersville South Metro Activity Center (MAC). This MAC is generally centered along Old Salem Road with Abbotts Creek being the
western border and Bishop McGuiness High School serving as the eastern border. The concept of MACs was introduced in the *Legacy* plan as a means to focus development into compact, mixed use areas which resemble traditional town centers. Developments within MACs should be designed to reduce vehicular trip lengths and generally minimize dependence upon the automobile. Special emphasis is to be placed on facilitating transit and encouraging pedestrian and bicycle mobility. *Legacy* specifically states that street connectivity between residential streets would distribute total traffic, ease congestion, and make movement easier to for all modes of transportation. The *Union Cross/Southeast Forsyth County Area Plan* recommends a range of densities from 4 to 12 units per acre within the designated support area. In exchange for the increase in density, the plan recommends the incorporation of “Smart Growth” principles which likewise emphasize street connectivity. A variety of housing types is encouraged. The plan also recommends a greenway along Abbotts Creek and that the branches of Abbotts Creek that extend to the east could serve as an open space amenity from the creek to the core of the MAC. This recommendation is consistent with the Greenway Plan which also designates a greenway along Abbotts Creek.

The proposed site plan illustrates a mixture of duplexes and townhouses at a density of 1.5 units per acre. The units are clustered on the eastern portion of the site outside of said Abbotts Creek floodplain. They are accessed by one, dead end private street which is ±1,950 feet in length. No connections to the abutting properties to the east are shown. In compliance with the previously noted recommendations of *Legacy* and the recently adopted area plan, Planning staff is comfortable with the proposed density provided the other site design and planning considerations are positively addressed. In regard to the subject request, this translates into the use of public streets and at a minimum, one stub connection to the east. Again, due to the site’s location within a MAC, and the significant length and amount of undeveloped land directly east, staff’s preference would be for the extension of two public street stubs. In addition, staff has recommended the provision of sidewalks along Old Salem Road and on at least one side of the new public streets and that large variety street trees be installed at 30 foot spacing. Regarding the greenway, staff has requested the standard dedication of a 40 foot wide easement along both sides of the creek. Also, pedestrian access from the housing units down to the common area/future greenway along with an easement linking the future greenway to the adjacent Angus Woods neighborhood via Wilchester Lane, which stubs into the subject property, has been recommended.

The developer has voluntarily submitted illustrative building elevations. However staff would like to clarify that the mature vegetation shown on said elevation is not reflective of what is shown on the site plan.

**FINDINGS**

1. *Legacy* recommends concentrating higher densities in and around Metro Activity Centers and specifically states that street connectivity between residential streets would distribute total traffic, ease congestion, and make movement easier to for all modes of transportation.
2. In the *Union Cross/Southeast Forsyth County Area Plan*, this site is in the designated “support area”, of the Kernersville South Metro Activity Center (MAC). Recommendations include: a range of densities from 4 to 12 units per acre within the designated support area and the application of “Smart Growth” principles which emphasize street connectivity. A variety of housing types is encouraged and the plan recommends a greenway along Abbotts Creek.

3. Although the requested density at 1.5 units per acre is slightly higher than what is allowed under the existing and surrounding AG zoning, Planning staff supports the request due to its location within the outer edge of the Kernersville South MAC provided certain site plan issues are addressed.

**STAFF RECOMMENDATION**

Zoning: **APPROVAL** provided the main north-south street shown on the plan is a public street with sidewalks on one side and at least one stub connection to the east is provided.

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. Developer shall flag the 100 year floodplain boundary of Abbotts Creek and the toe of fill slope.
  b. Developer shall provide DENR water quality approval of stream impacts.

- **PRIOR TO THE ISSUANCE OF BUILDING PERMITS**
  a. Developer shall obtain driveway permits from the North Carolina Department of Transportation; additional improvements such as turn lanes along Old Salem Road may be required.
  b. Developer shall record a final plat in the Office of the Register of Deeds. Final Plat shall show lots, common areas, public streets, easements, (including a negative access easement along Old Salem Road).
  c. Developer shall either provide or obtain a variance of the bufferyard requirement in the floodway.

- **PRIOR TO THE SIGNING OF PLATS**
  a. All documents including covenants, restrictions, and homeowners’ association agreements shall be recorded in the office of the Register of Deeds. Final plats must show common open space declarations.
  b. All required fire hydrants shall be installed or bonded in accordance with the Forsyth County Fire Department.

- **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS**
  a. All fire hydrants shall be installed in accordance with the Forsyth County Fire Department.
Gary Roberts presented the staff report.

PUBLIC HEARING

FOR:

George Thomas, 3069 Trenwest Avenue, Winston-Salem, NC 27105

• The central concept and driving force behind what the petitioner is asking for is a private, gated community. If that's the case, the petitioner should not use or have a public road. If the road is private, that's fine. The owners, the developers, the homeowners’ association will be responsible for the upkeep and maintenance of the road. That takes the burden off the tax payer.
• If this is going to be a first class development, as I understand it to be, it should generate $12-15 million in taxable real property value.
• Referred to plan and noted that it would not be possible if the streets were private.
• These units will back right into the street.
• Submitted drawing illustrating what the units will look like.
• When you consider the quality of what is being offered and the overwhelming support for the project by the people who live there, please vote to allow this project.

Larry E. Wilson, 115 Wilchester Lane, Kernersville, NC 27284

• I adjoin the property.
• I support this proposal.

SUMMARY STATEMENT OF CONDITIONS BASED UPON SPECIAL USE DISTRICT DESIGNATION

The developer volunteered that 8.72 acres of the site be reserved as recreation area where the UDO only requires 0.13 acre. Also, the developer offered building elevations which require architectural features, building finishes, and landscaping treatment in excess of the requirements of the UDO.

Planning staff recommends the following conditions which are beyond the standards of the UDO: provide public streets with sidewalks along one side of all public streets, including along Old Salem Road; install large variety trees street trees at 30 foot spacing along both sides of all public streets (as per the recommendation of the Union Cross/Southeast Forsyth County Area Plan).
Lee Hope, 115 Ben Nevis Drive, Kernersville, NC 27284
  • Everyone I've talked to is strongly in favor of a gated community with private streets. We are not interested in seeing a stub street that would go up to a metro activity center for the simple reason that it would unacceptably increase traffic and actually reduce security in the area.
  • The way this development is planned, it would be nothing but an extreme asset.
  • I strongly urge you approve it as submitted by the petitioner.

One of the previous speakers addressed the issue and stated that there is a difference of 30-50 feet in slope so trying to get that connected as a practical matter doesn't seem very realistic. Submitted petitions in support.

Gayle Hampton, 1299 Old Salem Road, Kernersville, NC 27284
  • This is a needed type of home in the Kernersville area. It's going to be gated, upscale, and I'm strongly in favor of it.

Charlie Reed, 113 Cheviot Drive, Kernersville, NC 27284
  • I live west of the subject property.
  • This proposed development will help our community. Please approve it.

AGAINST: None

WORK SESSION

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

1. Carol Eickmeyer: I have a hard time with a private street that doesn't make allowances for the future possibility that it might want to become public. Is there going to be a guard at the gate? How do police get in? How do ambulances get in? Is private also private trash pick-up? How does it work?

Jeff Hunter, 472 Edison Place, Kernersville, NC 27284
  • Garbage disposal will be private. The entrance to the gate will be similar to building where we have boxes where the emergency folks can get in the gates. The residents will use a card or a code.
  • For meter readers, UPS trucks, etc., we'd have to make arrangements for them to have access.

Some one from the audience stated that the topography along the streets makes it difficult for trees to be planted. The recreation area for the development is 5,600 square feet and there are plenty of walking trails and recreation areas. Staff noted that the trails are not shown on the plan.

2. Jimmy Norwood: If Kernersville had a problem, why aren't they here? Gary Roberts: Their comments are included in the staff report.
3. Gary Roberts: In the steepest area, there's about a 15-20 foot increase at the most and there's about 180' to traverse that. I've spoken with Connie Curtis and Russell Byrd and they both feel that's a do-able situation. Jimmy Norwood indicated that he believes two different areas are being discussed.

4. Carol Eickmeyer: It looks like a nice development but it also looks like a future problem because it isn't annexed yet, but it will be. I feel very uncomfortable that we send something that we know isn't quite what the community that's going to be receiving it wants in the end.

MOTION: Paul Mullican moved approval of the zoning map amendment, certified that the site plan meets all code requirements, recommends staff conditions, and that the following additional conditions apply: It will be a gated community. The street will be private (street trees and sidewalks internal to the project will not be required.) The petitioner will grant an easement for the sidewalk along Old Salem Road.

SECOND: Jimmy Norwood

VOTE:
FOR: Clark, King, Lambe, Mullican, Norwood, Smith
AGAINST: Eickmeyer, Glenn
EXCUSED: None

Written Comments by Planning Board Members:

Carol Eickmeyer: I voted against this petition because it does not include connectivity by way of stub streets or a public road - as requested by Kernersville. We set a poor example of cooperation with neighboring communities when we totally ignore their requests.

According to information furnished by the Office of the Tax Assessor, the subject property was in the name of L E Pope Building Co., Inc. and Arbor Dev. Corp. as of January 25, 2005.

______________________
A. Paul Norby, AICP
Director of Planning