DOCKET #: F1434
(Continued from 6/9/05 CCPB meeting)

PROPOSED ZONING:
HB-S - TWO PHASE
(Shopping Center)

EXISTING ZONING:
RS9

PETITIONER:
Barbara Lynn Bocholis,
Martha Jean Mabry, Jack
Shields, and Gregory
Michael Ciener for
property owned by Same

SCALE: 1” represents 600’
STAFF: King
GMA: 3
ACRE(S): 31.20
MAP(S): 666846, 672846
August 3, 2005

Raymond L. Krawiec
J & R Ventures, Inc.
424-D W. Mtn. Street
Kernersville, NC  27284

RE:  ZONING MAP AMENDMENT F-1434

Dear Mr. Krawiec:

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
     Barbara Lynn Bocholis, 111 Patio Court, Kernersville, NC  27284
     Martha Jane Mabry, 1550 Union Cross Road, Kernersville, NC  27284
     Jack Shields, 4115 Glenn High Road, Winston-Salem, NC  27107
     Gregory Michael Ciener, 525 Oaklawn Avenue, Winston-Salem, NC  27104
FORSYTH COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: ________________________ AGENDA ITEM NUMBER: _______

SUBJECT:-

A. Public Hearing on zoning map amendment of Barbara Lynn Bocholis, Martha Jane Mabry, Jack Shields, and Gregory Michael Ciener from RS-9 to HB-S (Shopping Center - TWO PHASE): property is located on the southwest corner of I-40 and Union Cross Road (zoning docket F-1434).

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 motion for the rezoning petition resulted in a tie vote.

ATTACHMENTS:-  X  YES  NO

SIGNATURE: ___________________________________ DATE: _______________

County Manager
COUNTY ORDINANCE - SPECIAL USE

Zoning Petition of Barbara Lynn Bocholis, Martha Jane Mabry, Jack Shields, and Gregory Michael Ciener, Docket F-1434

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-9 to HB-S (Shopping Center - TWO PHASE) the zoning classification of the following described property:

Tax Lots 7R, 7U, 7W, 7Y, and 116, Tax Block 5632

Section 2. This Ordinance is adopted after approval of the site plan entitled The Shoppes at Glenn Crossing, and identified as Attachment A of the Special Use District Permit issued by the Forsyth County Board of Commissioners the _____ day of ________________, 20____ to Barbara Lynn Bocholis, Martha Jane Mabry, Jack Shields, and Gregory Michael Ciener.

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 The Shoppes at Glenn Crossing. 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 Barbara Lynn Bocholis, Martha Jane Mabry, Jack Shields, and Gregory Michael Ciener (Zoning Docket F-1434). 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 (Shopping Center - TWO PHASE), 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 ANY PERMITS
  a. Developer shall record a negative access easement across the frontage of Union Cross Road for outparcels 1 and 2, and tracts 2, 3, and 4. A negative access easement shall be recorded along the frontage of Glenn Hi Road for tracts 4 and 5.
  b. Developer shall provide a public access easement to the western boundary of the site to allow connection by future development to the west.

• PRIOR TO THE ISSUANCE OF GRADING PERMITS
  a. Developer shall have a stormwater management study submitted for review by the Public Works Department of the City of Winston-Salem.

• PRIOR TO THE ISSUANCE OF BUILDING PERMITS
  a. Developer shall extend off-site sewer from the Nottinghill subdivision to the south side of I-40.

• PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS
  a. Developer shall install a minimum two (2) foot high earthen berm which is landscaped along the frontages of all public and private streets.
• OTHER REQUIREMENTS
  a. No building or structure erected on Tracts 2, 3, 4, or 5 or on Outparcels 1 or 2 shall exceed a building height of more than 27 feet or with architectural features not more than 34 feet.
  b. No exterior amplification, exterior loudspeakers, or similar devices (including a customer call system) that are audible outside the boundaries of the subject Tract or Parcel, other than reasonable drive-up or drive-through facilities shall be installed.
  c. All storage tanks and trash containers located on any Tract or Parcel shall be screened from view from any public street in a manner architecturally compatible with the buildings located on that Tract or Parcel.
  d. All buildings shall use brick as the main exterior treatment, including the rear and sides. Other materials such as siding, stucco, etc are allowed as complimentary elements.
  e. Development shall be conducted in phases as follows:
     a. Upon approval of this rezoning request, construction for infrastructure may begin.
     b. Construction on Tracts 2-9 shall begin no earlier than March 1, 2006.
     c. Construction on Outparcels 1 and 2 shall begin no earlier than March 1, 2006.
     d. Construction on Tract 1 shall begin no earlier than March 1, 2007.
  f. The following HB uses shall not be allowed on the subject property: services, indoor; club or lodge, school, vocational or professional; public library; funeral home; outdoor display retail; boarding or rooming house; motorcycle dealer; bed and breakfast; building contractors, general; motor vehicle rental and leasing; motor vehicle, repair and maintenance; motor vehicle, body or paint shop; motor vehicle, storage yard; storage services, retail; testing and research lab; warehousing; golf course; golf driving range; recreation facility, public; recreational vehicle park; riding stable; theater, drive-in; academic medical center; adult day care center; animal shelter, public; cemetery, licensed; cemetery, unlicensed; child care, drop-in; child care, sick children; church or religious institution, community scale; church or religious institution, neighborhood scale; college or university; correctional institution; dirt storage; habilitation facility C; hospital or health center; landfill, land clearing and inert debris; landfill, construction and demolition; school, private; school, public; stadium, coliseum, or exhibition building; borrow site; storage and salvage yards; helistop; parking, commercial; terminal, bus or taxi.
  g. No structure of a temporary nature shall be allowed on the property except that during construction, a construction trailer may be utilized.
  h. No temporary signage shall be allowed except that new business announcements signs may be used during the construction phase.
  i. Freestanding signage for the shopping center shall be limited to two signs with a maximum height of 18 feet and a maximum copy area of 100 square feet each, per side. One such sign shall be allowed at the main entrance on Union Cross Road and one sign shall be allowed at the entrance on Glenn Hi Road. Freestanding signage for each outparcel shall be limited to one monument sign with a maximum height of five (5) feet.
j. On tracts 2-9, 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. On tract 1, all lighting shall be of the "shoebox" type or otherwise designed not to cast direct light on adjacent properties.

k. All utility lines shall be entirely underground, provided however, equipment such as transformers; junction boxes and meters may be located above ground.

l. All lots shown on the site plan are TWO-PHASE lots that require a Final Development Plan to be approved. Reasonable conditions may be added to said Final Development Plans in accord with UDO Section 6-2.2(D)(2)(b). Site plans submitted for all second phase approvals shall demonstrate the use of building design and architectural elements which compliment development on other parcels within the site. All proposed buildings in the development shall have similar design and materials and shall be substantially consistent with the architectural renderings (Exhibits A, B, and C) submitted by the developer.

m. Developer shall install 5’ wide sidewalks along the frontages of Union Cross Road and Glenn Hi Road as well as the frontages of internal public and private streets serving the subject property to the specifications of the City of Winston-Salem Public Works Department. Sidewalks shall also connect from the street to the buildings.

n. All landscaping for the subject property shall meet UDO requirements and shall be consistent throughout the subject property, regarding planting species and layout.

o. As volunteered by the developer, the entire development will have no more than 160,000 square feet of total building area and no individual store shall be large enough to require a review under DESIGN REQUIREMENTS FOR LARGE SCALE RETAIL DEVELOPMENTS (75,000 Square foot Single tenant) of Chapter B, Article III, Section 3-12.1 of the UDO.
ZONING STAFF REPORT

DOCKET #  F-1434
STAFF:    Aaron King

Petitioner(s): Barbara Lynn Bocholis, Martha Jean Mabry, Jack Shields, and Gregory Michael Ciener
Ownership: Same

REQUEST

From: RS-9  Single Family Residential District; 9,000 sf. lot size
To: HB-S  Highway Business District (Shopping Center – TWO PHASE)

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

Acreage: 31.20

CONTINUANCE HISTORY

This request was continued from the June 9, 2005 Planning Board meeting to the July 14, 2005 meeting.

LOCATION:

Street: Southwest corner of I-40 and Union Cross Road.
Jurisdiction: Forsyth County.

SITE PLAN

Proposed Use: Shopping Center – TWO PHASE.
Square Footage: Unknown; to be determined in second phase.
Building Height: 60 feet in the HB district.
Parking: Unknown; to be determined in second phase.
Bufferyard Requirements: A type III bufferyard required along the western property line, and a 20’ landscaped streetyard along the northern property line is also required in the Thoroughfare Overlay (TO) district.

PROPERTY SITE/IMMEDIATE AREA

Existing Structures on Site: The subject property contains a single family home located near the northeast corner of Union Cross Road and I-40.
Adjacent Uses:
North- Interstate 40.
East- Single family homes; zoned RS-20 and AG; Veterinary clinic; zoned NB-S.
South- Glenn High School; zoned IP.
West- Mostly undeveloped land and single family subdivisions; zoned RS-9.
GENERAL AREA

Character/Maintenance: The surrounding area east of I-40 is still mostly rural in character, consisting of single family homes on large lots. The Dell site is located approximately one mile south on Union Cross Road and ½ mile west on Temple School Road. Construction of that facility has added additional development pressure to this area.

Development Pace: Moderate to rapid.

HISTORY

Relevant Zoning Cases:

1. F-1261; AG and NB-S (Veterinary Services) to NB-S (Veterinary Services); approved May 24, 1999; east side of Union Cross Road north of Glenn Hi Road; 0.98 acre; Planning Board and staff recommended approval.

2. F-1253; NSB-S (Multiple Business Uses – TWO PHASE) to NSB-S [Convenience Store; Car Wash; Restaurant (without drive-through service); and Motor Vehicle, Repair and Maintenance]; approved January 11, 1999; east side of Union Cross Road northeast of the westbound off-ramp from Interstate 40 to Union Cross Road, across from the intersection of Pecan Lane and Union Cross Road; 1.34 acres; Planning Board and staff recommended approval.

3. F-1197; AG to NB-S (Veterinary Services); approved July 7, 1997; east side of Union Cross Road north of Glenn Hi Road; 0.96 acre; Planning Board and staff recommended denial.

4. F-1131; RS-9 to HB-S [Convenience Store; and Restaurant (without drive-through services)]; denied November 13, 1995; northwest corner of Union Cross Road and Pecan Lane, north of the I-40/Union Cross Road interchange; 1.01 acres; Planning Board and staff recommended denial.

5. F-1024; R-5 to B-3-S (Shopping Center – TWO PHASE); approved April 27, 1992; northeast corner of I-40 and Union Cross Road; 12.13 acres; Planning Board and staff recommended approval.

PHYSICAL FEATURES/ENVIRONMENTAL REVIEW

Topography: The subject property is relatively flat.
Streams: A small portion of a tributary of Fiddler’s Creek is located just west of the subject property.
Vegetation/habitat: The majority of the property is currently a grassy field in agricultural production.
Environmental Resources Beyond The Site: Site is adjacent to the Abbots Creek Watershed.
Property on the east side of Union Cross Road, drains into Abbots Creek, a protected water supply watershed draining into Lake Thom-a-Lex.
Water Supply Watershed: The subject property is not located within a water supply watershed.
TRANSPORTATION

Direct Access to Site: Union Cross Road; Glenn Hi Road
Street Classification: Union Cross Road – Major Thoroughfare; Glenn Hi Road – Minor Thoroughfare

Average Daily Traffic Count/Estimated Capacity at Level of Service D (Vehicles per Day):
- On Union Cross Road between Hedgecock Road and Glenview Drive = 14,000/11,100
- On Glenn Hi Road between Union Cross Road and Nottinghill Drive = 5,000/11,100

Trip Generation/Existing Zoning: RS-9
31.20 acres (RS-9) x 43,560 / 9,000 = 151 units x 9.57 (SFR Trip Rate) = 1,445 Trips per Day

Trip Generation/Proposed Zoning: HB-S (Shopping Center – TWO PHASE)
The TIS submitted with this request estimates 17,899 trips per day to be generated by the proposed development.

Planned Road Improvements/Thoroughfare Plan: The Thoroughfare Plan recommends that Glenn Hi Road be upgraded to a three-lane roadway (40 feet wide) with outside lanes (2.5’) for bicycle/share the road use and 6-12 foot sidewalks on either side. The same construction type is recommended for the eastward Glenn Hi Road extension also. Union Cross Road (between Wallburg Road and Old Salem Road) is recommended to be a four lane roadway (50-52 feet wide) with outside lanes (2.5’) for bicycle/share the road use, 6-12 foot sidewalks on either side and a 16 foot raised median. Union Cross Road is currently being widened to a temporary three-lane configuration pending further widening which will take place within approximately five years.

Sight Distance: Good.

Interior Streets: The proposed site plan provides an adequate network of interior streets. The interior streets are designated to be private streets; however, the site plan does not provide a public street connection from Union Cross Road to the western property line.

Traffic Impact Study recommended: A Traffic Impact Study (TIS) has been submitted for this project. The TIS did not account for the employees of the Dell facility, and also required other corrections or revisions. As of this writing, a revised TIS has been produced, and submitted to WSDOT for review.

Connectivity of street network: The proposed interior street layout does a good job of providing connectivity within the project as well as to Union Cross Road and Glenn Hi Road. However, there is no interconnection proposed to the undeveloped property to the west.

Sidewalks: None existing or proposed.
Transit: None
Bicycle Route: None

CONFORMITY TO PLANS

Growth Management Plan Area (Legacy): Suburban Neighborhoods (GMA3)
Relevant Comprehensive Plan Recommendation(s): Legacy calls for commercial development to be focused at compact activity nodes.

Relevant Development Guide Recommendation(s): The site, located at the southwest quadrant of Union Cross Road and I-40, is designated in the Union Cross/Southeast Forsyth County Area Plan for Traditional Neighborhood Development where residential and
commercial buildings, public spaces and institutional uses are mixed in a compact, pedestrian-oriented arrangement. Larger scale commercial development to service the surrounding area is to be located at the proposed Community Activity Center located at the northeast quadrant of the intersection of Union Cross Road and I-40.

ANALYSIS

The subject request would rezone 31.20 acres of property located at the southwest corner of Union Cross Road and Interstate 40 from RS-9 to HB-S (Shopping Center- TWO PHASE). The property is currently an undeveloped field that has a relatively flat terrain. It is located in an area that is fairly rural in character, composed of undeveloped land, single family homes, a public high school, and a neighborhood-scale business.

The site plan submitted with this request is very vague in providing detail about the project. It indicates that there will be three proposed entrances to the shopping center. Two of the entrances will be located on Union Cross Road, one of them being a full access signalized intersection with Glenview Drive and the other being a limited access driveway located further south. The third entrance is a full access entrance on Glenn Hi Road located on the southwestern corner of the property. The site plan proposes a layout of eight tracts generally averaging between one and three acres in size, plus an additional larger 11.06 acre tract. These parcels will be served by a network of private streets, with one public street running east-west from Union Cross Road to the buffer along the western edge of the site, and then turning north. No other details are given concerning building configuration, landscaping, signage, or consistency of design.

Since the establishment of the Alliance Business Park located on Temple School Road, this area of the County has begun to receive increased development pressure. This increased pressure makes well planned development especially important in order to ensure adequate road capacity and provide for compatible land uses. In 2004, the County Commissioners and the City Council adopted the Union Cross/Southeast Forsyth County Area Plan (UCSAP) to help guide growth in this portion of the County. The Alliance Business Park is identified in the UCSAP, and is located on property designated for a future business park. There are five such parks shown in the approved plan totaling 1,869 acres; three of them having frontage on Union Cross Road. The subject property of this request is located within the UCSAP and is recommended for development as a Traditional Neighborhood Development (TND). The TND concept calls for residential and commercial buildings, public spaces and institutional uses to be mixed in a compact, pedestrian-oriented arrangement. TND-type development is strategically important in that it will provide housing and carefully designed commercial services in close proximity to the new jobs that will be generated in these business parks.

Staff has many concerns regarding this project. The first concern is that the proposal is not in conformance with the adopted area plan. A TND with well designed and integrated commercial uses would be more suitable for this location with the existing surroundings. Staff believes that commercial land use can occur in a TND style setting at this location and mesh well with the surrounding uses. A TND style development with commercial uses along the road frontage(s) transitioning to multifamily and back to single family residential could be a viable option.
Examples of this are the Vernon Farms development located on Kerner'sville Road, portions of the Brookberry Farm mixed use development, the Northern Quarters mixed use development on Hanes Mill Road, and the Hillcrest mixed use development on Stratford Road. The subject rezoning request proposes no residential opportunity or mixture of uses. The development of Dell or the Alliance Business Park does not change the viability of the UCSAP land use plan, in staff’s opinion. The UCSAP recommends the northeast quadrant of the I-40/Union Cross interchange for larger scale commercial use. It does not recommend the typical “four corners” of commercial development for each quadrant.

Another concern with this request is the lack of any meaningful detail on the submitted plan which would address the issues of design quality, consistency, or compatibility with its surroundings. The proposed site plan is essentially a “blank slate” with some streets and parcels outlined. The developer has not volunteered any site plan features, conditions, or design guidelines to address: sidewalks, lights, trees/landscaping, signage, negative access easements, crosswalks to accommodate the neighboring high school students, or elements of consistent building design throughout the project. Such design elements would at least provide the basic framework for making the site more walkable, one of many components of a TND project. Other recent shopping center projects that have been approved by the County Commissioners provide far more detail than what is being offered in this case. They are: Glenwood Shopping Center (F-1284, April 2000), Wallburg Landing (F-1332, February 2001), and Oliver’s Crossing (F-1343, August 2001).

Staff is also concerned with the impact that this development would have on the overall traffic network. Increased signalized intersections along Union Cross Road will slow circulation and reduce overall capacity. By intensifying the uses between I-40 and the Alliance Business Park site, Union Cross Road will become more congested and may not be as attractive of a location for potential tenants of the three proposed business parks. Currently, the section of Union Cross Road between Hedgecock Road and Glenview Drive carries an average daily trip count of 14,000. The “Level of Service D” capacity for this section is 11,100. NCDOT has commented on the interim three lane cross section that is being constructed. On Union Cross Road between I-40 and U.S. 311, there are nine existing intersections with three of these being signalized intersections. This request would add a fourth signalized intersection at Glenview Drive.

To further illustrate the impact that this commercial proposal could have on the traffic network in this area, the chart below reflects the amount of trips per day generated by different types of non-residential development, as indicated in recent rezoning staff reports.

<table>
<thead>
<tr>
<th>Project</th>
<th>Site Size</th>
<th>Trips Generated</th>
<th>Trips Per Acre</th>
</tr>
</thead>
<tbody>
<tr>
<td>Winston-Salem Alliance Business Park (Dell Site)</td>
<td>190.44 Acres</td>
<td>21,800 Trips/Day</td>
<td>114.5 Trips/Acre</td>
</tr>
<tr>
<td>Harper Hill Commons (no restaurant with drive through or bank)</td>
<td>106,650 square feet of retail space</td>
<td>5,197 Trips/Day</td>
<td>341 Trips/Acre</td>
</tr>
<tr>
<td>Robinhood Village (contains rest. w/ drive through and bank)</td>
<td>172,000 square feet of retail space</td>
<td>18,917 Trips/Day</td>
<td>875 Trips/Acre</td>
</tr>
</tbody>
</table>
As indicated above, larger commercial projects, while smaller in acreage, can generate traffic that is twice to over seven times the traffic generation rate for the type of economic development in a business park. With limited traffic carrying capacity, this could impact the ability of the area to accommodate significant additional primary economic growth beyond Dell.

This proposal has many outstanding issues. It is not in conformity with the adopted area plan, lacks any site plan design elements, and could consume much of the traffic capacity of the road network in this area. Staff believes that a TND-style development would be a much more appropriate development type for this area, which could include some carefully planned commercial uses that would mesh better with the surrounding land uses. For these reasons staff recommends denial of this request.

FINDINGS

1. The request would rezone 31.20 acres from RS-9 to HB-S (Shopping Center – TWO PHASE).

2. The request is not in conformance with the recently adopted Union Cross/Southeast Forsyth County Area Plan.

3. Compared to other shopping centers recently approved in the County, this request provides little site design detail. The site plan, as submitted, lacks design features needed to ensure a well planned development.

4. The proposed shopping center could consume much of the traffic carrying capacity of the road network in this area.

STAFF RECOMMENDATION

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

- 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 have a storm water management study submitted for review by the Public Works Department of the City of Winston-Salem.

- PRIOR TO THE ISSUANCE OF BUILDING PERMITS
  a. Developer shall extend off-site sewer from the Nottinghill subdivision to the south side of I-40.

PUBLIC HEARING - June 9, 2005

Aaron King presented the staff report.
FOR:

Stephen G. Calaway, 1330 Ashley Square, Winston-Salem, NC  27103

- I represent the owners and petitioners.
- Developing is a little bit tricky in Forsyth County. If we submit one site, we'll hear that we should submit a comprehensive plan for the area. If we submit a comprehensive plan, we only have two choices. We have to have ten or eleven users lined up, contracts in place, with their footprints to sell it, or we can't do it. That simply doesn't happen. The other way to do it is the way we did it with Alliance and Dell which is to do a comprehensive plan, TWO PHASE, lay out some tracks, get it approved, go out and market the property, come back for the second phase with a site plan with all the teeth and conditions and requirements of the ordinance. In a TWO PHASE, you have this opportunity, the Commissioners have it, then it comes back here in the second phase per tract or groups of tract, and recent history would say that when and if the Commissioners approve a TWO PHASE petition want to see the second phase. We submit to that.
- In this particular case, a lot has been done with the school system and with NCDOT. A traffic study was done by Mr. Davenport's company.
- The NCDOT has written a letter which I've presented to Mr. Norby. The ink is not yet dry. He distributed copies of letter. Generally, what I perceive the letter to say is what the Traffic Study says, that given the right-of-way on Union Cross Road, the additional right-of-way there, and the additional right-of-way on Glenn Hi Road, incidently most of that right-of-way is either shown on the site plan to be donated to NCDOT or already procured by Mr. Krawiec and given to NCDOT regardless of what happens in this case to the tune of $25-30,000. They have that right-of-way. They are in the process of constructing the third lane on Union Cross Road for Dell for Glenn High School and for all of us, no matter what happens in this case. It needed to be done and he stepped up and did it in cooperation with the people that he hadn't yet bought the land from, but he made sure that they were paid and conveyed the property or have agreed to convey it to NCDOT.
- This proposed project includes, it's real confusing, but the developer calls it his phase one. That's not phase one zoning. The first part of the development he proposes is the part nearest the school, the part furthest away from I-40, and the small tracts as shown on your site plan. That would include 41,500 square feet of retail space, 7,000 square feet of office space, and a 24-pump service station operation/convenience store operation.
- His second proposal for the development is the shopping center site which is closer to I-40, and that would be in the vicinity of 78,600 square feet. It is significant the developer has agreed and will submit as a condition that the first part, those smaller tracts, they would have no completed development there until 2007 which incidently coincides exactly with the first group of improvements by DOT for that road and for Dell and for Glenn Hi Road. The shopping center phase of it, or the part nearest I-40, we're talking 2009-2010 era and according to the traffic study and according to the highway people, they plan on having an additional lane on Union Cross by 2010. The Traffic Study and the NCDOT people say that following that time table, following those road improvements by the donated right-of-way like the three-lane at Union Cross, widen Glenn Hi Road, then later making up a wider Union Cross Road, that the traffic works. It not only works for this project, it works for Dell and it works for that other 1600 acres of industrial or business area out there.
• There's probably more change in the works for this Union Cross area that's either approved or proposed than there has been in the last 100 years. Roads are going to have to bend. My friend, Pete Atkins, who farmed that land that raised tobacco had to bend because of the changes in the tobacco business. The Willards are changing from farmers to something else as are these other people.

• I don't think you're going to find opposition like you might expect in this neighborhood, but with the jobs of that 1600-1700 acres and with those other houses, we simply have to plan for commercial services for them. If not they have to drive back to Winston or to Kernersville or somewhere else to eat lunch or bank or go to the service station or all the other things you have to do when you work in an area and then drive back and it just complicates the traffic even more.

• I think Glenn High School and the central office are on board with this project. We've talked with them at length and they haven't told us that they aren't on board. They sure appreciated the right-of-way.

• There was some comments in the staff report that sort scared me almost. Talking about this being a blank check. Well, that's what a TWO PHASE petition is to a degree. But believe me, the words on that check, the terms on that check, the lights, the sidewalks, all the other conditions, whether it's masonry, is considered case by case as it comes back and some of you don't let those things pass. They will be considered.

• I have the traffic engineer here. My client, Mr. Krawiec is here. Long also is here. Sandra Scales and her mother, Ms. Martha Mabry. Ms. Scales will come by to speak for her mother at this point. She is one of the owners of the property.

Sandra Scales, 1803 Willie Ellis Court, Greensboro, NC

• My mother lives at 1550 Union Cross Road in Kernersville.

• I've sat and listened to you all go back and forth with this situation. She's been trying to sell her property for the last five years. It's not going to sell unless it becomes commercial.

• If you have a mother who is 81 years old, would you want her to live on Union Cross Road when those truckers come zipping by? They have gotten that other lane almost in her front yard and if you widen it anymore they'll be in her front door. I don't think anybody would want their mother to live in these conditions. What they're proposing is a good plan. You already have a shopping center down the road. I don't see any problem with going on and approving this so they can move forward. Change is coming. Dell is there. We've given Dell all this money to build that plant with all those big trucks that are going to go by her house.

• They are putting dust in her house, she has allergies, her furniture is red with dust and that's going to continue. It really bothers me that this community would give Dell all that money and then deny these people the opportunity to develop this property.

• We had three houses. One house has been moved. The owner has money. I can't afford to move mother's house. We need you all to go ahead and develop this property, let them have this property because they're going to take it one way or the other.
Ray Krawiec, J & R Ventures, 1004 Hollow Creek Road, Kernersville, NC 27284

- We are the proposed owner/developers of this project. I use the word "owner" first because that's what we do and intend to do with what we do. We "own" it.
- Our terminology of "phase one" and "phase two" is very different in meaning than it is for you here. It refers to the stages in which this will be developed.
- We have worked with the NCDOT for more than one year.
- The stages we have set up in trying to work this out. Not only the lights, the streets, the turns, but trying to get more space and in actuality what you see today is not quite what we gave the land to happen. DOT said they didn't have time or money to make it happen. We wanted to see five lanes out there on Union Cross Road and a minimum of four lanes over there by the school for the school's benefit and for all those students coming out of there. They didn't have time. They didn't have money.
- The TIP study is on and will probably be completed this year. They have devoted $30 million to improving the Union Cross Road. It will start at the bridge. There will be a single point unit bridge which is three times the size it is today. It will be a six lane minimum divided highway from I-40 to Glenn Hi Road, four lane divided highway from Union Cross, from Glenn up to the US 311 area.
- To go along with that and to help the situation in traffic, we backed down and said, "You're starting in 2007 to build your six lane highway in front of us, starting at us. We'll drop back and won't build the shopping center portion until 2007. That will give us just about the same time for a completion date for that phase."
- The property is 30+ acres. Were we to build to the maximum for this site, we could put over 300,000 square feet there. We're putting somewhere between 150,000-160,000 square feet. That leaves a lot of open area for grass.
- I'll be more than happy to answer any questions anybody has.

AGAINST: None

WORK SESSION

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

1. Paul Norby noted that an e-mail was received from NCDOT and summarized that e-mail for the Planning Board. They noted that there will be some issues on Union Cross Road with or without this development in the interim. Mr. Norby also read part of the e-mail.

2. The Board discussed the proposed width of Union Cross Road. There appears to be a difference in understanding of information received from the NCDOT about this road.

3. The Board recognized Royal Henshaw, 4404 Lewis Road, East Bend, NC 27018 who made the following statements:
   - I'm with John Davenport Engineering, the company that did the traffic study.
• I wanted to point out the traffic numbers we were given by DOT for Dell. Dell was not required to do a traffic impact study. However, the NCDOT gave us the number of 300 trucks per hour. We are highly skeptical that they will approach that figure. However, even with that scenario, we find that the traffic will operate at an acceptable level.

4. Paul Norby reminded the Planning Board that Dell occupies a site which had been rezoned about a year prior to the construction date. When that rezoning occurred, there was a Traffic Impact Study. At that time, no one knew Dell would be the specific corporation utilizing the site, but when Dell’s site plan came forward, the Department of Transportation looked at the Traffic Impact Study to compare it to the Dell site plan.

5. Arnold King noted that if these plans are to wait as long as proposed here, he would appreciate having some time to consider this request. Staff and Planning Board members are currently discussing the situation at Union Cross with the DOT in regular meetings. In addition, there does seem to be some confusion about DOT’s plans for the area. It would be better to get all that cleared up before making a decision about this request. After further discussion and agreement by the petitioner, the Planning Board voted to continued the request.

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

PUBLIC HEARING - July 14, 2005

Aaron King presented the staff report.

FOR:

Steve Calaway, 1330 Ashley Square, Winston-Salem, NC 27103
• As you can tell, this is a work in progress. The timeline that we're willing to submit lines up with the timeline for the highway improvements as best we can determine.
• He explained the timeline.
• Discussed restrictive covenants for the site and explained some of the considerations which would be required, such as all brick construction, landscaping, undergrounded utilities.
• In response to a request from Arnold King for staff to have a chance to look at the restrictive covenants for the purpose of converting them to special use zoning conditions, Mr. Calaway agreed to allow a two-week continuance to the July 28th work session.
Ray Krawiec, 1004 Hollow Creek Road, Kernersville, NC 27284
• "That" side is totally restricted from any other uses because of the school.
• We will not allow any temporary signs (only announcement signs) during construction.

John Davenport, Davenport Engineering, 545 N. Trade Street, Winston-Salem, NC 27101
• Our firm conducted a traffic analysis for this project.
• After discussions with NCDOT, my client and I decided it would be better to have this project divided into two parts.
• My client is trying to work with NCDOT to avoid overstressing the network.

AGAINST: None

WORK SESSION

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

1. Arnold King reminded the Board that this case was continued from last month because there are discussions going on with DOT about road improvements. That is ongoing and no decisions will be finalized by next month at this time.

MOTION: Clarence Lambe moved continuance of the zoning map amendment and site plan to July 28, 2005.
SECOND: Dara Folan
VOTE:
 FOR: Clark, Curtis, Eickmeyer, Folan, Glenn, King, Lambe, Mullican, Smith
 AGAINST: None
 EXCUSED: None

WORK SESSION - July 28, 2005

NOTE: The public hearing was held and closed during the July 14, 2005 meeting. The Planning Board is in work session.

Paul Norby: Distributed handout summarizing the zoning request. The handout included a case map and a site plan as was revised during the original submission. At your last meeting, the petitioner handed out a list of restrictive covenants. As you know, we can't adopt restrictive covenants, but as best I understand it, the intent was to detail some of the conditions the petitioner was willing to submit as conditions. You asked us to look at that and report back at this meeting.

What we have done since that point is to take all the things which are appropriate for zoning conditions and write them in an appropriate manner. Not all the issues in the restrictive covenants are appropriate to be zoning conditions. At the end of last week, the petitioner also submitted a list of his proposed conditions. What we did was to take that and revise the chart entitled "F-1434 Conditions As Agreed to by the Petitioner". On the left are conditions which, as best we can determine, the petitioner has agreed to stated in the latest correspondence which he had with you. On the right side are comments from staff which we understand you wanted from us.
Following the chart is a list of the conditions as they normally appear in a zoning case. Behind that is a list of possible conditions which staff thought the Board may wish to consider. It took us this long to develop this, since we got the new list of proposed conditions from the petitioners at the end of last week.

Mr. Norby then reviewed each item on the chart.

Brenda Smith: Is a storm water study required since this site is in the County? Mr. Norby replied that such a condition is a standard condition for special use in the City or County.

Arnold King: We delayed this since we were handed the restrictive covenants at the last minute. I feel bad that we're now handing the petitioner this list at the last minute. I think the petitioner should be allowed to speak.

Paul Norby noted that staff thought things were straight a week ago, but were then given another handout so had to redo the work. Hence the last minute response today.

Raymond L. Krawiec:
We do have some problems with this.
On page 3, what is an all-brick structure? Does that mean you can't have windows? There can be architectural designs with metal in them. "All-brick" would mean sides, rear, front. We don't want metal buildings, etc. We're looking for all-brick structures, but we would like the freedom to incorporate other items in architectural design elements. The berm that was requested and we had talked in terms of was a two-foot berm.
#3 we have a problem with because we have one of the top four national corporations which is built on this property. March 1 would be better so we don't lose summer building opportunity.
"Other Requirements" #b; State law requires communications to the gas pumps from inside the service station. That will not be limited as long as the noise stays within the boundaries of the property, correct?
#f.3. - we would like it to read March instead of September.

A little further down Union Cross is a right-in, right-out with a concrete barrier. The roads on the plans were DOT plans. They were not drawn by us.

Other Requirements "b" - signage must meet code. I don't know if these numbers are the code numbers or not. But we want requirements to meet codes, not exceed them. We want each individual site to be able to submit their site for approval based on the codes.

Item "d" - 18 feet height limit for lighting could be a security problem for the shopping center areas.

Regarding lighting, an acceptable condition to the petitioner would be the 18 feet height on tracts 2-9 and the UDO language on tract one (lighting shall not extend beyond property lines).

I have a big problem with #f. There is a six-lane divided highway right along this site. Adding sidewalks will encourage people to walk in an area where they are likely to be hit. Students from the school will be tempted to cross the road and skateboard, etc.
Both the petitioner and Chairman expressed the opinion that sidewalks connecting to the adjoining neighborhood would be beneficial.

Paul Norby noted that this sidewalk condition is a standard condition recommended for commercial special use rezoning requests.

The land use plan for this area calls for mixed uses in this immediate area. That increases the need for sidewalks, even with a six-lane highway coming through the area. There would be a planting strip between the sidewalks and the highway, which is standard procedure for major roads (with the exclusion of freeways). We have proposed sidewalks for all commercial special use rezoning sites.

Lavastian Glenn: Kids are going to want to go down to the shopping center anyway, and sidewalks will make it safer for them.

There will be two signals along here and there will be crosswalks. Public transportation is certain to come to this area and there must be provisions for the loading/unloading areas.

Raymond L. Krawiec: Our concern is safety. The type of businesses we are dealing with putting in there at the present time are not inclined or meant to attract students. That was part of our thought process. We don't want to attract the students running across the street to eat at lunch or anything like that. You won't see any type of fast food restaurant in that area.

The fast food restaurant is down the street which some board members see as more reason to have the sidewalks.

Raymond L. Krawiec asked if the Board would go down the entire length of Peters Creek and put a sidewalk in there? The answer was, "In a heartbeat"!

Carol Eickmeyer asked staff to review staff's recommendation.

Paul Norby: Our overall recommendation was for denial, not because there isn't support in the adopted plan for commercial in the area, but the area is classified as TND (Traditional Neighborhood Development) which includes supportive and carefully integrated commercial uses. The assumption there is that supportive means upwards of 20-30% of the land area would be for commercial. However, this is a fairly large tract of 100% commercial with a number of outparcels.

There's examples of zoning cases in our area which have tried to incorporate commercial and residential and we've learned we will need commercial in more than just this immediate area. This size commercial tract without any residential component or any kind of mixed use environment is counter to the adopted plan. The other issue we were concerned with is something of this size in terms of commercial. The amount of traffic generation for this type of land use per acre compared to other economic development land uses would consume a lot of the capacity on roads which we are trying to build up to serve economic development that's already there or we would like to attract. We aren't saying this shouldn't be commercial, but to do it all at one shot would certainly take up a lot of capacity. We certainly applaud their working with
NCDOT. The third issue was that given what some of the other developers have been able to offer with carefully designed site plans, we felt there was not much detail offered in the proposal and we are concerned that we may not know what we will actually see until it is already there since there isn't any specificity about what is planned. That's always a struggle because you're trying to deal with spec buildings and don't know what's going to be on each tract. But we want to make sure we don't end up with a hodgepodge where each corporate franchise has its own design and there isn't coordination between them.

Arnold King asked for example of what more is needed. Paul Norby responded that a case at the last meeting was a good example. Even without the architectural renderings, Robinhood Village presented a well thought-through site plan with enough conditions to show how the site could develop.

Raymond L. Krawiec: If we had no concern for how this site develops, we would develop the entire 330,000 square feet of commercial which would be allowed. We're requesting less than half that amount.

Carol Eickmeyer: I wish you could take it one step further and incorporate some residential like some plans we've seen recently so that this site would then adhere to the TND (Traditional Neighborhood Development) which the Union Cross Area Plan calls for in this area.

Raymond L. Krawiec: That just wouldn't work here. There isn't a population to support that type of development here.

Paul Norby: There is no zoning restriction that would limit the square footage. If it isn't a condition, there's no guarantee.

We have a lot more primary economic development jobs coming into this area and Union Cross Road is the primary access. We hate to use so much traffic capacity for one site when we need commercial in other areas too. These types of uses generate far more traffic than economic development uses which generate office, industrial, or high-tech jobs.

Arnold King: I don't think we turn someone down that wants to do something now just in case someone wants to do something in the future. I personally would like to see this work. That's why we've gone to a lot of trouble to make sure we've got all the bases covered with conditions. I think it's the right location for commercial.

Brenda Smith: It seems like a lot of accommodations have been made.

Arnold King: Schools don't get built until the kids get there. I have trouble denying this because it's going to hurt the roads in the future.

In response to a question about the TND recommendation in the Union Cross Area Plan, Arnold King indicated he didn't think the recommendation made sense then and still doesn't. You can put residential anywhere in this county, but there are only a few places where commercial fits.
Paul Mullican: These developers do a lot of background work to determine the best use for the sites they select. These people are putting money into this and are not doing it just blind-sided. I don't have any problem with this.

Carol Eickmeyer: We're talking about a Union Cross Area Plan that just got published that calls for a TND in this area. It was agreed to by many, many people and the first major thing that comes out for consideration, we're arguing to not do it according to the plan which so many community members have said they want to follow. This request is a total disregard for the plan which a lot of people in the community agreed to. The fact that it is brick is a nice detail, but it's still nine parcels that aren't what the community said they wanted here.

Arnold King: I'm not sure the community ever agreed with it. It was a very divided opinion, it dragged on a year longer than it should have, and I think the community finally just gave up. Kernersville wasn't listened to. So I would not want to deny this based on that plan.

Paul Mullican noted that Dell itself has made a huge impact on this area.

MOTION: Paul Mullican moved approval of the rezoning request, certified that the site plan meets all code requirements and recommends staff conditions which include the following:

- Everything the petitioner agreed to as corrected during the meeting.
- Changing the date of September 1 to March 1.
- Changing the height of the berm to two feet.
- Maintaining staff’s recommendation for signage.
- Maintaining the wording for lighting in the shopping center area: "Casting no light on adjoining properties".
- Maintaining the requirement for sidewalks along Union Cross Road.

SECOND: Brenda Smith

Wesley Curtis asked if there was anything that will help achieve design compatibility throughout the site and Paul Norby explained that although not very detailed, there is a staff recommendation for a condition that would require second phase plans to be complementing to each other. Paul Norby added that it could be difficult to actually achieve such a broad statement and it would be up to the Planning Board to satisfy itself that this has been done when those plans come forward.

VOTE:
FOR: Wesley Curtis, Arnold King, Paul Mullican, Brenda Smith
AGAINST: Jerry Clark, Carol Eickmeyer, Dara Folan, Lavastian Glenn
EXCUSED: None (Clarence Lambe absent)

Written Comments Submitted by Planning Board Members:

Carol Eickmeyer: Against this development because we don't have a very clear, specific idea of what will be built. I do not agree with deviating from the Union Cross Development/Area Plan with so little specificity. This is the first project out of the gate - and it sets the tone for all future
deviations. If deviating, the requirements should be very strict for the appearance and content. Plus, the school should be protected from intense commercial development. There should be provision for office/medical at this space.

Dara Folan: Although this was a close decision for me, I voted against approval of this plan for several reasons. First, it is counter to the very recent adopted area plan. Second, traffic generation is a problem. Third, there is not much in this plan addressing design controls and ensuring the consistency of the appearance of all the buildings. I would have liked to have seen a more mixed use development.

Lavastian Glenn: I think it is important that special use projects demonstrate a higher level of detail. Planning is deliberate and strategic and although we want to encourage development and support the growth of business this board and the planning department is charged with ensuring what gets built is in line with the community vision (i.e., the adopted area plan) and that the petitioner try to the best of his/her ability to address the goals of the area plan and illustrate what the final product will be in concept.

Paul Mullican: 1) Dell has changed this area so much, I am not sure an area plan done a few years back, is viable. 2) Developer is only building half the square footage he could build of course with approval. He is making or building more of a village concept. 3) All building plans must come back to Planning Board for a decision.

According to information furnished by the Office of the Tax Assessor, the subject property was in the name of Barbara Lynn Bocholis, Martha Jane Mabry, Jack Shields, and Gregory Michael Ciener as of April 28, 2005.

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A. Paul Norby, AICP
Director of Planning