DOCKET #: F1443

PROPOSED ZONING: HB-S (Multiple Uses)

EXISTING ZONING: RS40 and HB-S

PETITIONER: Mark A. White and Mary B. White for property owned by Same

SCALE: 1" represents 500'

STAFF: King

GMA: 5

ACRE(S): 3.57

MAP(S): 654902
November 17, 2005

Mark A. White and Mary B. White
7610 Walnut Cove Road
Walnut Cove, NC  27052

RE:  ZONING MAP AMENDMENT F-1443

Dear Mr. White and Mrs. White:

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
     Steve Calaway, 1330 Ashley Square, Winston-Salem, NC  27103
FORSYTH COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: _______________________ AGENDA ITEM NUMBER: ______

SUBJECT:-

A. Public Hearing on Zoning Map Amendment of Mark A. White and Mary B. White from RS-40 and HB-S (Fuel Dealer; General Merchandise Store; Motor Vehicle Repair and Maintenance; and Storage Services, Retail) to HB-S (Fuel Dealer; General Merchandise Store; Motor Vehicle Repair and Maintenance; and Storage Services, Retail): property is located on the northwest side of Walnut Cove Road north of Grubbs Road (Zoning Docket F-1443).

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 Mark A. White and Mary B. White, Docket F-1443

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-40 and HB-S (Fuel Dealer; General Merchandise Store; Motor Vehicle Repair and Maintenance; and Storage Services, Retail) to HB-S (Fuel Dealer; General Merchandise Store; Motor Vehicle Repair and Maintenance; and Storage Services, Retail) the zoning classification of the following described property:

Tax Block 5121, Tax Lots 6, 7B, 8B, and 103

Section 2. This Ordinance is adopted after approval of the site plan entitled Mark A. White and Mary B. White, and identified as Attachment A of the Special Use District Permit issued by the Forsyth County Board of Commissioners the _____ day of ________________, 20____ to Mark A. White and Mary B. White.

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 Mark A. White and Mary B. White. 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 Mark A. White and Mary B. White (Zoning Docket F-1443). 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 (Fuel Dealer; General Merchandise Store; Motor Vehicle Repair and Maintenance; and Storage Services, Retail), 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. Developer shall obtain a driveway permit from NCDOT; additional improvements may be required prior to issuance of driveway permit.

• **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS:**
  a. The access gate shall be a minimum of 20 feet wide.
  b. Developer shall provide a paved handicap accessible route as required by the Inspections Division.

• **OTHER REQUIREMENTS:**
  a. Any freestanding signage shall be limited to one monument sign with a maximum height of six feet.
  b. All on site lighting shall be a maximum of 18 feet tall and shall be of the “shoebox” type or otherwise designed not to cast direct light on adjacent properties.
PETITION INFORMATION

<table>
<thead>
<tr>
<th>Docket #</th>
<th>F-1443</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff</td>
<td>Aaron King</td>
</tr>
<tr>
<td>Petitioner(s)</td>
<td>Mark A. White and Mary B. White</td>
</tr>
<tr>
<td>Owner(s)</td>
<td>Same</td>
</tr>
<tr>
<td>Subject Property</td>
<td>Tax Lot 6, 7B, 8B, and 103 /Tax Block 5121</td>
</tr>
<tr>
<td>Type of Request</td>
<td>Special Use Rezoning request to add land to an existing HB-S site.</td>
</tr>
</tbody>
</table>
| Proposal  | The petitioner is requesting to amend the Official Zoning Maps for the subject property from HB-S and RS-40 to HB-S. The petitioner is requesting the following uses:  
- Fuel Dealer; General Merchandise Store; Motor Vehicle Repair and Maintenance; and Storage Services, Retail |

Zoning District Purpose Statement

The HB District is primarily intended to accommodate retail service and distributive uses. The district is established to provide locations for establishments which require high visibility and good road access, or which cater primarily to passing motorists. However, the district is not intended to encourage or accommodate strip commercial development. Developments in this district generally have substantial front setbacks. This district is intended for application in Growth Management Areas 2, 3, and 4.

Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(S)

(S)(1) - Is the proposal consistent with the purpose statement(s) of the requested zoning district(s)?

No, the request is located within GMA 5 (Rural Area). The purpose statement also mentions that the district is appropriate for “establishments which require high visibility and good road access, or which cater primarily to passing motorists.” The addition of self storage units does not appear to be a use that requires “high visibility.”

GENERAL SITE INFORMATION

<table>
<thead>
<tr>
<th>Location</th>
<th>Northwest side of Walnut Cove Road north of Grubbs Road</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jurisdiction</td>
<td>Forsyth County</td>
</tr>
<tr>
<td>Site Acreage</td>
<td>Approximately ± 3.57 acres</td>
</tr>
<tr>
<td>Current Land Use</td>
<td>The front portion of the site is used as a service station with fuel pumps. The western portion of the site currently contains two rental storage buildings.</td>
</tr>
</tbody>
</table>

Surrounding Property Zoning and Use

<table>
<thead>
<tr>
<th>Direction</th>
<th>Zoning District</th>
<th>Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>RS-40</td>
<td>Single family home</td>
</tr>
<tr>
<td>East</td>
<td>RS-40</td>
<td>Single family homes</td>
</tr>
<tr>
<td>South</td>
<td>RS-40</td>
<td>Single family homes; undeveloped land</td>
</tr>
<tr>
<td>West</td>
<td>RS-40</td>
<td>Single family homes</td>
</tr>
</tbody>
</table>
### Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(S)

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

The majority of property in the surrounding area is zoned residential. The use of the property for storage buildings is a low intensity use, when compared to other commercial uses allowed in the HB district. However, the additional commercial development and associated security lighting may provide some negative impacts to surrounding residential properties.

### Physical Characteristics

The subject property contains a drainage area that slopes down generally from west to east. There are no wetlands identified on the property; however a tributary of Cooleyco Creek runs adjacent to the northern portion of the site.

### Proximity to Water and Sewer

The subject property will not be served by public water or public sanitary sewer.

### Stormwater/Drainage

No known issues

### Watershed and Overlay Districts

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

### Analysis of General Site Information

The subject property is approximately 3.5 acres in size and is located on the northwest side of Walnut Cove Road. It currently contains a service station and two rental storage buildings with the rear portion of the property being undeveloped. The property has two existing access points onto Walnut Cove Road.

### SITE ACCESS AND TRANSPORTATION INFORMATION

<table>
<thead>
<tr>
<th>Street Name</th>
<th>Classification</th>
<th>Frontage</th>
<th>ADT Count</th>
<th>Capacity/LOS D</th>
</tr>
</thead>
<tbody>
<tr>
<td>Walnut Cove Road</td>
<td>Major Thoroughfare</td>
<td>+/- 300 feet</td>
<td>4,800</td>
<td>11,100</td>
</tr>
</tbody>
</table>

**Proposed Access Point(s)**

The site plan proposes two access points onto Walnut Cove Road.

**Planned Road Improvements**

The Thoroughfare Plan recommends that Walnut Cove Road be constructed as a two-lane cross section with 11-12’ wide lanes and a minimum 4’ wide paved shoulder.

**Trip Generation - Existing/Proposed**

Existing Zoning: HB-S & RS-40

1.6 acres (RS-40) x 43,560 / 40,000 = 1 unit x 9.57 (SFR Trip Rate) = 10 Trips per Day

5,000 / 1,000 x 2.5 (Mini-Warehouse Trip Rate) = 12 Trips per Day

2 Fueling Stations x 168.56 (Gas Service Station Trip Rate) = 337 Trips per Day

**Existing Zoning = 359 Total Trips per Day**

Proposed Zoning: HB-S

19,200 / 1,000 x 2.5 (Mini-Warehouse Trip Rate) = 48 Trips per Day
2 Fueling Stations x 168.56 (Gas Service Station Trip Rate) = 337 Trips per Day  

**Proposed Zoning = 385 Trips per Day**

<table>
<thead>
<tr>
<th>Sidewalks</th>
<th>None existing or proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transit</td>
<td>No</td>
</tr>
<tr>
<td>Analysis of Site Access and Transportation Information</td>
<td>The subject property is located on Walnut Cove Road which is classified as a Major Thoroughfare. Walnut Cove Road is currently a two lane cross section with no curb and gutter. The site plan indicates that the two existing access points will be retained. The request should generate a minor increase in traffic.</td>
</tr>
</tbody>
</table>

**Generalized Recommended Conditions**

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

- Obtain a driveway permit from NCDOT

**CONFORMITY TO PLANS AND PLANNING ISSUES**

<table>
<thead>
<tr>
<th>Legacy GMA</th>
<th>GMA 5 (Rural Area)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Relevant Legacy Recommendations</td>
<td>Legacy 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 recognizes this area to have the most undeveloped land where much of the future residential, commercial, and industrial development should occur.</td>
</tr>
<tr>
<td>Relevant Area Plan(s)</td>
<td>The subject property is not located within the boundaries of an area plan or development guide.</td>
</tr>
<tr>
<td>Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(S)</td>
<td>(S)(3) - Have changing conditions substantially affected the area in the petition? No</td>
</tr>
<tr>
<td></td>
<td>(S)(4) - Is the requested action in conformance with Legacy? No</td>
</tr>
</tbody>
</table>

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

The subject request would rezone approximately 1.65 acres from RS-40 to HB-S. The surrounding area is primarily composed of RS-40 and AG zoning as this property is located within a very rural portion the County. *Legacy* recommends not intensifying the zoning within GMA 5 (Rural Area). This request was evaluated by the County Attorney who believed the proposed rezoning, if challenged, could be considered by the courts to be an illegal spot zoning based on current case law.

**RELEVANT ZONING HISTORIES**

<table>
<thead>
<tr>
<th>Case</th>
<th>Request</th>
<th>Decision &amp; Date</th>
<th>Direction from Site</th>
<th>Acreage</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>F-1356</td>
<td>RS-40 to HB-S</td>
<td>Withdrawn at the March 25, 2002 County Commissioners Meeting</td>
<td>South</td>
<td>1.04 acres</td>
<td>Denial</td>
</tr>
<tr>
<td>F-1311</td>
<td>RS-40 to HB-S</td>
<td>Approved July 10, 2000</td>
<td>Subject Property</td>
<td>1.87 acres</td>
<td>Denial</td>
</tr>
<tr>
<td>F-976</td>
<td>R-6 to B-3-S</td>
<td>Approved</td>
<td>South</td>
<td>0.75</td>
<td>Denial</td>
</tr>
<tr>
<td>Building</td>
<td>Square Footage</td>
<td>Placement on Site</td>
<td>Layout</td>
<td></td>
<td></td>
</tr>
<tr>
<td>----------</td>
<td>----------------</td>
<td>-------------------</td>
<td>--------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>F-856 R-6 to B-3-S</td>
<td>Approved September 28, 1987</td>
<td>West 0.62 acres</td>
<td>Denial Denial</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

***Note: All of the zoning cases listed above were considered by the County Attorney to be spot zonings which may not be supported by the courts, based on case law.***

### SITE PLAN COMPLIANCE WITH UDO REQUIREMENTS

<table>
<thead>
<tr>
<th>Building</th>
<th>Square Footage</th>
<th>Placement on Site</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>23,871 sf</td>
<td>Various Locations</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Parking</th>
<th>Required</th>
<th>Proposed</th>
<th>Layout</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>29 spaces</td>
<td>29 spaces</td>
<td>NA</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Building Height</th>
<th>Maximum</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>60 feet</td>
<td>1-story</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Impervious Coverage</th>
<th>Maximum</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>85%</td>
<td>60%</td>
</tr>
</tbody>
</table>

**UDO Sections Relevant to Subject Request**
- Section 2-1.3(I) HB District
- Section 2-5.52 Use Conditions- Motor Vehicle Repair and Maintenance

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

**Analysis of Site Plan Compliance with UDO Requirements**
The site plan submitted, as of this writing, does not meet UDO requirements. It shows five self storage buildings in addition to the two storage buildings and service station currently existing. The site plan also indicates that the proposed storage buildings will be served by a gravel access drive. The westernmost 1/3 of the property will remain undisturbed. Staff is awaiting revisions to the site plan that meet UDO requirements.

**Generalized Recommended Conditions**
- Existing gate shall be a minimum of 20’ wide
- Signage condition
- Lighting Condition

**CONCLUSIONS TO ASSIST WITH RECOMMENDATION**

<table>
<thead>
<tr>
<th>Positive Aspects of Proposal</th>
<th>Negative Aspects of Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>The request would provide a self storage facility in a rural portion of the County.</td>
<td>The request is not in conformance with the recommendations of Legacy.</td>
</tr>
<tr>
<td>The request could be considered an illegal spot zoning by the courts as per the County Attorney.</td>
<td>This request would intensify a use that was previously considered a spot zoning that may not be supported by the courts, as per the County Attorney.</td>
</tr>
</tbody>
</table>
SITE-SPECIFIC RECOMMENDED CONDITIONS OF APPROVAL

• 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.

• PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS:
  a. The access gate shall be a minimum of 20 feet wide.

• OTHER REQUIREMENTS:
  a. Any freestanding signage shall be limited to one monument sign with a maximum height of six feet.
  b. All on site lighting shall be a maximum of 18 feet tall and shall be of the “shoebox” type or otherwise designed not to cast direct light on adjacent properties.

STAFF RECOMMENDATION: DENIAL

NOTE: These are staff comments only; final recommendations on projects are made by the City-County Planning Board, with final decisions being made by the appropriate Elected Body, who may approve, deny, table or request modification for any project. THE APPLICANT OR REPRESENTATIVE IS STRONGLY ENCOURAGED TO ATTEND THE PUBLIC HEARINGS WHERE THE CASE WILL BE CONSIDERED BY THE PLANNING BOARD AND THE ELECTED BODY.

Aaron King presented the staff report.

PUBLIC HEARING

FOR:

Steve Calaway, 1330 Ashley Square, Winston-Salem, NC 27103
  • Half of this site is already zoned HB-S. He's asking to build five storage buildings for a total of 142 units.
  • If you've ever looked at a bufferyard after a case has been approved, this is a perfect example of one.
  • There's no opposition to Mr. White's request.
  • There are a lot of farms and a lot of homes in rural settings in this area.
  • This service station is a six-bay, serious tire and automotive center. It serves this entire community, I think. There are almost no sewage needs - just a bathroom for the 5-6 people who work here.
  • The storage units currently at this site have been at 100% occupancy almost since they've been built. There is a waiting list for vacant storage units.
  • This is a need for this area.
  • The site plan reserves a lot of woods to further buffer the adjoining areas.
• A spot zoning verdict does not automatically mean you shouldn't allow something. There are legal spot zones and illegal spot zones. If there exists reasonable basis for the zoning, whether spot or not, they can be legal.
• The petitioner has shown he does things very well and that's probably why he has no opposition.
• His next door neighbor had opposition, but no one seems to be opposed to Mr. White's request.

AGAINST: None

WORK SESSION

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

1. This request is to add storage units to the rear of the garage.
2. This use does supply a need for this area.
3. The units will not be visible from the street.
4. It was the opinion of the County Attorney that this could be considered an illegal spot zoning if challenged in court.

MOTION: Paul Mullican moved approval of the zoning map amendment, certified that the site plan meets all code requirements and recommends staff conditions with the additional condition that the handicapped requirements be met.
SECOND: Clarence Lambe
VOTE:
  FOR: Clark, Curtis, Eickmeyer, Folan, King, Lambe, Mullican, Smith
  AGAINST: None
  EXCUSED: None

According to information furnished on October 6, 2006, the subject property was in the name of Mark A. White, Mary B. White, Mary White, Mark Anthony White, and Mary Alice White. The site plan preparer has informed staff that Mark A. White and Mark Anthony White are the same person and that Mary B. White, Mary White, and Mary Alice White are the same person.

A. Paul Norby, AICP
Director of Planning