DOCKET #: F1425

PROPOSED ZONING:
HB-S (Multiple Business Uses)

EXISTING ZONING:
LB

PETITIONER:
Francis D. Harris III and wife Debra T. Harris for property owned by Same

SCALE: 1” represents 400’

STAFF: Roberts

GMA: 3

ACRE(S): 0.65

MAP(S): 624826
January 25, 2005

Francis D. Harris III and Debra T. Harris
6916 August Drive
Clemmons, NC  27012

RE:  ZONING MAP AMENDMENT F-1425

Dear Mr. & Mrs. Harris:

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

A. Zoning map amendment of Francis D. Harris III and Debra T. Harris from LB to HB-S [Arts and Crafts Studio; Convenience Store; Food and Drug Store; Furniture and Home Furnishing Store; General Merchandise Store; Hardware Store; Motorcycle Dealer; Nursery Lawn and Garden Supply Store, Retail; Outdoor Display Retail; Restaurant (without drive-through service); Retail Store, Specialty or Miscellaneous; Banking and Financial Services; Car Wash; Funeral Home; Medical or Dental Laboratory; Medical and Surgical Offices; Motor Vehicle, Rental and Leasing; Non-Store Retailer; Offices, Miscellaneous; Professional Office; Service, Personal; Recreation Services, Indoor; Recreation Services, Outdoor; Library, Public; Museum or Art Gallery; School, Vocational or Professional; and Parking, Commercial]: property is located on the east side of Peter’s Creek Parkway south of Bridgton Road (Zoning Docket F-1425).

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 Francis D. Harris III and Debra T. Harris, Docket F-1425

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 LB to HB-S [Arts and Crafts Studio; Convenience Store; Food and Drug Store; Furniture and Home Furnishing Store; General Merchandise Store; Hardware Store; Motorcycle Dealer; Nursery Lawn and Garden Supply Store, Retail; Outdoor Display Retail; Restaurant (without drive-through service); Retail Store, Specialty or Miscellaneous; Banking and Financial Services; Car Wash; Funeral Home; Medical or Dental Laboratory; Medical and Surgical Offices; Motor Vehicle, Rental and Leasing; Non-Store Retailer; Offices, Miscellaneous; Professional Office; Service, Personal; Recreation Services, Indoor; Recreation Services, Outdoor; Library, Public; Museum or Art Gallery; School, Vocational or Professional; and Parking, Commercial] the zoning classification of the following described property:

Beginning at a new iron pin in the eastern right-of-way of Peters Creek Parkway the northwestern corner of Lot 5-D of Tax Block 3868; thence with the eastern right-of-way of Peters Creek Parkway, north 5° 07' 24" east 176.40 feet to a new iron pin; thence on a new line, south 84° 36' 40" east 165.46 feet to a new iron rod in the center of a 34' access easement, thence with the center of the 34' access easement, south 5° 23' west 179.90 feet to a new iron pin in the northern line of Lot 5-D of Tax Block 3868; thence with lot 5-D north 83° 23' 38" west 164.69 feet to the place of beginning and containing 29,402 square feet more or less.
Together with and including an easement for ingress, egress and regress over and across easements described in Road Maintenance Agreement recorded in Book 2515, Page 91.

The above described property lying in Southfork Township, Forsyth County, North Carolina is the southwestern portion of Lot 5-K of Tax Block 3868. See Deed Book 2515, Page 95.

Section 2. This Ordinance is adopted after approval of the site plan entitled Francis D. Harris III and Debra T. Harris, and identified as Attachment A of the Special Use District Permit issued by the Forsyth County Board of Commissioners the _____ day of _________________, 20______ to Francis D. Harris III and Debra T. Harris.

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 Francis D. Harris III and Debra T. Harris. 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 Francis D. Harris III and Debra T. Harris (Zoning Docket F-1425). 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 [Arts and Crafts Studio; Convenience Store; Food and Drug Store; Furniture and Home Furnishing Store; General Merchandise Store; Hardware Store; Motorcycle Dealer; Nursery Lawn and Garden Supply Store, Retail; Outdoor Display Retail; Restaurant (without drive-through service); Retail Store, Specialty or Miscellaneous; Banking and Financial Services; Car Wash; Funeral Home; Medical or Dental Laboratory; Medical and Surgical Offices; Motor Vehicle, Rental and Leasing; Non-Store Retailer; Offices, Miscellaneous; Professional Office; Service, Personal; Recreation Services, Indoor; Recreation Services, Outdoor; Library, Public; Museum or Art Gallery; School, Vocational or Professional; and Parking, Commercial], 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 either obtain a variance from the Zoning Board of Adjustment for the streetyard requirement or install the streetyard prior to issuance of Occupancy Permit.
• PRIOR TO THE ISSUANCE OF BUILDING PERMITS
  a. Developer shall record a negative access easement in the Office of the Register of Deeds along the full frontage of Peters Creek Parkway.
  b. Cross access easements must be recorded as shown on approved site plan.

• PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS
  a. Developer shall complete any improvements, as required by the Winston-Salem and the North Carolina Departments of Transportation.
  b. Trees required within any streeyards, bufferyards and motor vehicle parking areas shall be large variety trees as defined in UDO Section 3-4.10, where no conflict occurs with over head utility lines.

• OTHER REQUIREMENTS
  a. Signage shall be limited to one (1) monument sign with a maximum height of six (6) feet and a maximum area of 36 square feet.
  b. All on site lighting shall be a maximum of 15 feet tall and shall be of the “shoebox” type or otherwise designed not to cast direct light on adjacent properties.
  c. Security fencing shall be of a black or green vinyl finish.
  d. Temporary modular office to be replaced with larger permanent office, as shown on site plan, within three years of the Issuance of a Certificate of Occupancy for said temporary office.
ZONING STAFF REPORT

DOCKET #: F-1425
STAFF: Gary Roberts

Petitioner(s): Francis D. Harris III and Debra T. Harris
Ownership: Same

REQUEST

From: LB Limited Business District
To: HB-S Highway Business District (Arts and Crafts Studio; Convenience Store; Food and Drug Store; Furniture and Home Furnishing Store; General Merchandise Store; Hardware Store; Motorcycle Dealer; Nursery Lawn and Garden Supply Store; Retail Outdoor Display Retail; Restaurant without Drive Through Service; Retail Store, Specialty or Miscellaneous; Banking and Financial Services; Car Wash; Funeral Home; Medical or Dental Laboratory; Medical and Surgical Offices; Motor Vehicle, Rental and Leasing; Non-Store Retailer; Offices, Miscellaneous; Professional Office; Service, Personal; Recreation Services, Indoor; Recreation Services, Outdoor; Library, Public; Museum or Art Gallery; School, Vocational or Professional; Parking, Commercial)

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

Acreage: 0.67 acre

LOCATION:

Street: East side of Peter’s Creek Parkway south of Bridgton Road.
Jurisdiction: Forsyth County

SITE PLAN

Proposed Use: Motor vehicle sales.
Square Footage: 784± sf (temporary); 1,200± sf (final).
Building Height: One story.
Parking: Required: Two spaces; Proposed: Two spaces.
Bufferyard Requirements: None required. Variance is requested for the streetyard along Peters Creek Parkway.
Vehicular Use Landscaping Standards Requirements: UDO standards apply.
PROPERTY SITE/IMMEDIATE AREA

Existing Structures on Site: Site is undeveloped.
Adjacent Uses:
- North- Small scale commercial operations zoned LB.
- East- Wilshire Golf Course parking lot and single family homes zoned LB and RS-9.
- South- Clubhouse for Wilshire Golf Course zoned RS-9.
- West- Multifamily residential (under construction) zoned RM-12-S.

GENERAL AREA

Character/Maintenance: Mixture of well maintained single family homes, a golf course and a small commercial node along a major thoroughfare.
Development Pace: Moderate to rapid.

HISTORY

Relevant Zoning Cases:

1. W-2688; RM-12-S (Multifamily) to Site Plan Amendment; approved May 3, 2004; Southwest corner of Peter’s Creek Parkway and Bridgton Road; 21.45 acres; Planning Board and staff recommended approval.

2. W-1181; R-5 to R-2-S (Residential Building, Multifamily) converted to RM-12-S in the UDO; approved August 6, 1984; Southwest corner of Peter’s Creek Parkway and Bridgton Road; 21.45 acres; Planning Board and staff recommended approval.

PHYSICAL FEATURES/ENVIRONMENTAL REVIEW

Impact on Existing Features: This proposal will significantly increase the amount of impervious surface on the site.
Topography: Gentle slope upward from the southwest section of the site the northeast section of the site.
Streams: South Fork Muddy Creek is located approximately 700 feet south of the subject property.
Vegetation/habitat: No vegetation is present on the subject property. The vegetation shown on City-County Planning Board Topographic Maps has previously been removed.
Environmental Resources Beyond The Site: Other than potential impacts associated with increased stormwater runoff, this proposal should not have significant off site environmental impacts.
Water Supply Watershed: The subject property is not located in a water supply watershed.
TRANSPORTATION

Direct Access to Site: Peters Creek Parkway; Bridgton Road.
Street Classification: Peters Creek Parkway – Major Thoroughfare; Bridgton Road – Minor Thoroughfare.
Average Daily Traffic Count/Estimated Capacity at Level of Service D (Vehicles per Day):
  Peters Creek Parkway between Bridgton and Fishel Roads = 13,000/32,400
  Bridgton Road between Peters Creek Parkway and Follansbee Road = 1,800/16,100
Trip Generation/Existing Zoning: LB
  No trip generation rate available – property is vacant and zoning is general use
Trip Generation/Proposed Zoning: HB-S
  1,200/1,000 x 37.50 (Car Sales Trip Rate) = 45 Trips per Day
Planned Road Improvements: None
Interior Streets: Access easement connects the subject property to Peters Creek Parkway and Bridgton Road.
Sidewalks: None.
Transit: None.

CONFORMITY TO PLANS

GMP Area (Legacy): Suburban Neighborhoods (GMA 3).
Relevant Comprehensive Plan Recommendation(s): Legacy recommends that new commercial development be clustered at activity nodes rather than stretched out along transportation corridors. The design of a site should accommodate pedestrians as well as the automobile. Most parking should be to the side or rear of a site where possible and buildings should face the street.
Area Plan/Development Guide: The subject property is not within the boundaries of an area plan or development guide.

ANALYSIS

The subject request is to rezone 0.65 acre of undeveloped property from LB to HB-S. The property is located on the east side of Peter’s Creek Parkway south of Bridgton Road. The site is near the southern end of a small LB zoned commercial node which consists of a convenience store, a car wash and a dry cleaners. Single family homes and the Wilshire Golf Course are located further to the east and to the south. A large multifamily development is currently being constructed across Peters Creek Parkway.

The HB-S site plan depicts a 1,200 square foot building with the rest of the site being devoted to display area. Although the request includes over 30 potential uses, the anticipated use is for used car sales. The existing LB district permits a relatively extensive list of uses including all of those being requested, with the exception of Outdoor Display Retail. The previously mentioned adjacent businesses are consistent with the intent of the LB district and are oriented toward serving the daily or service needs of the growing residential base which surrounds them. Additionally, the character of this small commercial center does not easily encourage a pattern for strip commercial development along this major thoroughfare.
According to the purpose statement of the LB district, it is established to provide locations for businesses which serve nearby residents. While the existing uses in the area meet this purpose, the subject request is clearly intended to serve a much broader area. Staff is concerned the proposed use would significantly alter the character of this business node and the nearby residential developments. The proposed request would essentially cover the site with an auto sales lot. From an appearance standpoint this use is inherently more cluttered than the existing establishments and is orientated toward serving the broader community as opposed to the needs of the nearby residents. By introducing HB-S zoning into this area, staff is also concerned that additional highway oriented businesses will be encouraged in this immediate area.

Peters Creek Parkway serves as a major commuting facility for and gateway into Forsyth County. Extensive HB and HB-S zoned property already serve the broader area further north and south of the subject property. The LB and the HB districts serve different needs. It is Planning staff’s opinion the subject request would be detrimental, over the long term, to the surrounding business establishments, and surrounding neighborhood areas along Peters Creek Parkway.

FINDINGS

1. Legacy recommends that new commercial development be clustered at activity nodes rather than stretched out along transportation corridors.

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

3. The existing LB district includes a wide array of commercial, office and institutional uses.

4. The subject property is part of an existing, appropriately scaled, commercial node which serves the daily and service needs of the growing residential base of the surrounding area.

5. Peters Creek Parkway serves as a major commuting facility for and gateway into Forsyth County.

6. The LB district is intended to provide locations for businesses which serve nearby residents while the purpose of the HB district is to “…. cater primarily to passing motorists.”

7. The subject request would be detrimental, over the long term, to the surrounding business establishments and neighborhoods along this portion of Peters Creek Parkway.

STAFF RECOMMENDATION

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

- **PRIOR TO THE ISSUANCE OF GRADING PERMITS**
  a. Developer shall either obtain a variance from the Zoning Board of Adjustment for the streetyard requirement or install the streetyard prior to issuance of Occupancy Permit.

- **PRIOR TO THE ISSUANCE OF BUILDING PERMITS**
  a. Developer shall record a negative access easement in the Office of the Register of Deeds along the full frontage of Peters Creek Parkway.
  b. Cross access easements must be recorded as shown on approved site plan.

- **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS**
  a. Developer shall complete any improvements, as required by the Winston-Salem and the North Carolina Departments of Transportation.
  b. Trees required within any streetyards, bufferyards and motor vehicle parking areas shall be large variety trees as defined in UDO Section 3-4.10, where no conflict occurs with overhead utility lines.

- **OTHER REQUIREMENTS**
  a. Signage shall be limited to one (1) monument sign with a maximum height of six (6) feet and a maximum area of 36 square feet.
  b. All on site lighting shall be a maximum of 15 feet tall and shall be of the “shoebox” type or otherwise designed not to cast direct light on adjacent properties.
  c. Security fencing shall be of a black or green vinyl finish.
  d. Temporary modular office to be replaced with larger permanent office, as shown on site plan, within three years of the Issuance of a Certificate of Occupancy for said temporary office.

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**SUMMARY STATEMENT OF CONDITIONS BASED UPON SPECIAL USE DISTRICT DESIGNATION**

At the request of Planning staff the petitioner has agreed to the following conditions which are beyond the standards of the UDO: install large variety trees within any required streetyards, bufferyards and motor vehicle parking areas; limit on-site lighting to a maximum of 15 feet tall and of the “shoebox” type or otherwise designed not to cast direct light on adjacent properties; limit signage to one (1) monument sign with a maximum height of six (6) feet and a maximum area of 36 square feet; and use security fencing with a black or green vinyl finish.
Gary Roberts presented the staff report.

**PUBLIC HEARING**

FOR:

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

- There was some question about the uses. As I understand it, the property is now zoned LB. All the uses requested are currently uses that can be used in LB, except two. So they can go get a building permit for those uses without any zoning, without a negative access easement to Peters Creek Parkway if they can get a driveway permit which the other businesses here have done. The two uses that are not in LB are Outdoor Display Retail, automobile, trucks, and Motor Vehicle Maintenance and Repair. My client has just told me that he is not interested in Motor Vehicle Maintenance and Repair so you can drop that use from the request. (Use has been dropped.)
- Mr. & Mrs. Harris operate Investment Cars further up Peters Creek Parkway. Their site is too small and they don't own it. They own this site. They went through their due diligence as best they could. They were told by unnamed parties that they could use it for this purpose. They even went so far as to get a grading permit which was issued by Inspections for this purpose.
- Then someone noticed that they can't have a car lot in this Growth Management Area (GMA 3) under this zoning. Unfortunately they had already bought the property.
- Peters Creek Parkway is a four-lane highway. The business will not be able to grow at this site because there isn't room.
- I can't think of another use which can utilize the site without using Peters Creek Parkway. Their access is off Bridgeton.
- We all have cars and use cars. These people sell cars. It is appropriate to grant zoning for them with a site plan and with a buffer on the residential side even though it's a business access for the golf course.

AGAINST: None

**WORK SESSION**

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

1. Under current conditions, there is access to Peters Creek Parkway. The petitioner has agreed to a negative access easement.
2. Uses near this site include a dry cleaning facility and a car wash.
3. The petitioner would prefer to have a larger sign than is permitted under the site plan conditions, but is willing to meet the condition if necessary.
4. Most surrounding businesses have larger signs.
5. The neighboring golf course has a history of flooding.
6. One member expressed concern about the aesthetics of this use.
7. Average traffic on the petitioner's existing lot is 10-20 vehicles per day. On average the petitioners have 40 cars on the lot at any one time.
8. The petitioner agreed to limit the size of the sign to six feet in height and 36 square feet in area.

MOTION: Dara Folan moved approval of the zoning map amendment, certified that the site plan meets all code requirements and recommends staff conditions with the deletion of the use "Motor Vehicle Repair and Storage" and restricting the length of time that the modular unit may be located on the site to a maximum of three years from the time the Certificate of Occupancy is issued for the modular unit.
SECOND: Clarence Lambe
VOTE:
   FOR: Clark, Eickmeyer, Folan, Glenn, King, Lambe, Norwood, Smith
   AGAINST: None
   EXCUSED: None

Written Comments by Planning Board Members:

Carol Eickmeyer: Reluctantly - because of the view corridor - it's still a used car lot.

According to information furnished on December 3, 2004, the subject property was in the name of Francis D. Harris III and Debra T. Harris.

_____________________
A. Paul Norby, AICP
Director of Planning