



DOCKET #: F1356

PROPOSED ZONING:
HB-S (Outdoor
Display Retail)

EXISTING ZONING:
RS40

PETITIONER:
David W. Southern
and Faye C. Southern

SCALE: 1" represents 200'

STAFF: Reed

GMA: 5

ACRE(S): 1.04

MAP(S): 654902



January 23, 2002

David W. Southern and Faye C. Southern
7570 Walnut Cove Road
Walnut Cove, NC 27052

RE: ZONING MAP AMENDMENT F-1356

Dear Mr. & Mrs. Southern:

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
Donald Purdue, 611 Rapid Run Lane, Walnut Cove, NC 27052
Rodney Crouse, 7522 Walnut Cove Road, Walnut Cove, NC 27052
Dwayne Beeson, 6597 Dennis Road, Walnut Cove, NC 27052

FORSYTH COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: _____ **AGENDA ITEM NUMBER:**

SUBJECT:-

Zoning map amendment of David W. Southern and Faye C. Southern

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:-

SUMMARY OF INFORMATION:-

Zoning map amendment of David W. Southern and Faye C. Southern from RS-40 to HB-S (Outdoor Display Retail): property is located on the northwest side of Walnut Cove Road (Zoning Docket F-1356).

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

ATTACHMENTS:- YES NO

SIGNATURE: _____ **DATE:** _____

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COUNTY ORDINANCE - SPECIAL USE

Zoning Petition of David W. Southern and Faye C. Southern, Docket F-1356

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 to HB-S (Outdoor Display Retail) the zoning classification of the following described property:

Tax Block 5121, Tax Lot 5

Section 2. This Ordinance is adopted after approval of the site plan entitled David Southern, and identified as Attachment A of the Special Use District Permit issued by the Forsyth County Board of Commissioners the _____ day of _____, 20____ to David W. Southern and Faye C. Southern.

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 David Southern. 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 David W. Southern and Faye C. Southern (Zoning Docket F-1356). 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 (Outdoor Display 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 ANY PERMITS**
 - a. Obtain a driveway permit from the North Carolina Department of Transportation (NCDOT). Additional conditions may be required by NCDOT.
- **PRIOR TO THE ISSUANCE OF BUILDING PERMITS**
 - a. Developer shall record a bufferyard easement for the proposed off-site type IV bufferyard along the southwest property line as shown on the site plan.
- **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS**
 - a. A cross access drive easement shall be recorded to allow cross access between the subject site and the property to the southwest in the event that property is rezoned to a business zoning district. Said easement shall be at least 25 feet wide and be located approximately 40 feet back from the right-of-way line.
- **OTHER REQUIREMENTS**
 - a. Signage shall be limited to one (1) five (5) foot free-standing monument sign with a maximum copy area of thirty six (36) square feet.

ZONING STAFF REPORT

DOCKET # F-1356
STAFF: David Reed

Petitioner(s): David W. Southern and Faye C. Southern
Ownership: Same

REQUEST

From: RS-40 Residential Single Family District; minimum lot size 40,000 sf
To: HB-S Highway Business District (Outdoor Display Retail)

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

Acreage: 1.04 acres

LOCATION

Street: Northwest side of Walnut Cove Road.
Jurisdiction: Forsyth County.

SITE PLAN

Proposed Use: Outdoor Display, Retail.
Square Footage: 500 square feet.
Building Height: Single story.
Parking: Required: 1 space; proposed: 2 spaces.
Bufferyard Requirements: A type IV bufferyard is required adjacent to RS-40 zoning.
Vehicular Use Landscaping Standards Requirements: UDO standards apply.

PROPERTY SITE/IMMEDIATE AREA

Existing Structures on Site: Site is vacant.

Adjacent Uses:

- Northeast - Storage Services, Retail and other business uses, zoned HB-S.
- Southeast - Norfolk and Western Railroad and single family homes, zoned RS-40.
- Southwest - Single family homes, zoned RS-40.
- Northwest - Single family homes, zoned RS-40.

GENERAL AREA

Character/Maintenance: Well maintained single family homes and business uses.

Development Pace: Slow; however, the adjoining site was rezoned in July 2000. It is noted that these requests could be the catalyst for more rapid development.

PHYSICAL FEATURES/ENVIRONMENTAL REVIEW

Impact on Existing Features: Intense commercial development adjacent to existing single family homes.

Topography: Some steep slopes in the rear of the property.

Streams: None.

Vegetation/habitat: Some vegetation on the site.

Floodplains: None.

Wetlands: None.

Natural Heritage Sites: This site is approximately one-half mile to the northwest from the Grubbs Road Lake Wetland. The subject property, while close to the wetland mentioned above, should have no impact on the wetland because they are located in separate drainage basins.

Water Supply Watershed: Site is not within the boundaries of a water supply watershed.

Compliance with Federal/State requirements for wetland/stream protection: Compliance with the State and local Erosion Control provisions will be required for this project.

TRANSPORTATION

Direct Access to Site: Walnut Cove Road.

Street Classification: Major thoroughfare.

Average Daily Traffic Count/Estimated Capacity at Level of Service D (Vehicles per Day):

Walnut Cove Road between Dennis Road and Mabe Road = NC/11,100

Trip Generation/Existing Zoning: RS-40

$1.04 \times 43,560/40,000 = 1 \text{ unit} \times 9.57 \text{ (SFR Trip Rate)} = 9 \text{ trips per day}$

Trip Generation/Proposed Zoning: HB-S

$500/1,000 \times 37.5 \text{ (New Car Sales Trip Rate)} = 18 \text{ trips per day}$

Sight Distance: Good.

Transit: None.

HISTORY

Relevant Zoning Cases:

1. F-1311; RS-40 to HB-S (Fuel Dealer; General Merchandise Store; Motor Vehicle Repair and Maintenance; and Storage Services, Retail); approved July 10, 2000; northwest side of Walnut Cove Road/US 311 northeast of Dennis Road; 1.87 acres; Planning Board

recommended approval, staff recommended denial. Note: The County Attorney issued an opinion that this case constituted a potential spot zone that may not be supported by the courts, given current case law.

2. F-976; R-6 to B-3-S (Welding or other metal working); approved September 24, 1990; south side of Grubb Road between Dennis - Walnut Cove Road/US 311 and Pine Hall Road; 0.75 acre; Planning Board and staff recommended denial. Note: The County Attorney issued an opinion that this case constituted a potential spot zone that may not be supported by the courts, given current case law.
3. F-856; R-6 to B-3-S (Motor vehicles, repair or storage); approved September 28, 1987; south side of Walls Lake Road, west of Dennis - Walnut Cove Road and north of Stoney Point Road; 0.62 acre; Planning Board and staff recommended denial. Note: The County Attorney issued an opinion that this case constituted a potential spot zone that may not be supported by the courts, given current case law.

CONFORMITY TO PLANS

GMP Area (*Legacy*): Rural Area.

Relevant Comprehensive Plan Recommendation(s): *Legacy* calls for the Rural Area to remain in very low density residential and agricultural uses for the 20-year time horizon of the plan. The Rural Area is located beyond the area that can be provided with public sewerage and other services in a cost effective manner. Priorities are for protection of farmland, natural areas and rural character in this area.

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

ANALYSIS

The subject petition would rezone approximately one acre from RS-40 to HB-S (Outdoor Display Retail). The site is located on the northwest side of Walnut Cove Road northeast of Dennis Road in a rural part of the county. The property is adjacent to another HB-S property which was rezoned on July 10, 2000 for the following uses: Fuel Dealer; General Merchandise Store; Motor Vehicle Repair and Maintenance; and Storage Services, Retail. That zoning (zoning docket F-1311) was approved despite the fact that the County Attorney issued an opinion that this case constituted a potential spot zone that may not be supported by the courts, given current case law. No neighbors participated in the public hearing process.

Certain business uses can coexist in rural residential and agricultural areas if they are neighborhood serving in nature and limited in scale. Outdoor Display Retail is not considered a neighborhood serving use and would attract customers from outside the immediate area. The subject petition would expand the impact of the business uses in this rural area by setting a precedent for more business rezonings and making nearby properties less desirable for residential

uses. An existing single family home is located approximately 20 feet from the proposed business zoning. Although the owner of that home is the petitioner and is not concerned about the impact, the home will be very difficult to market as a dwelling in the future if the subject Outdoor Display Retail use is established here.

The site is in the Rural Area of the *Legacy* Growth Management Plan. The plan calls for the Rural Area to remain in very low density residential and agricultural uses for the 20-year time horizon of the plan. The plan explains that the Rural Area is beyond the area that can be provided with public sewerage and other services in a cost effective manner and therefore it is not advisable to expand the business zoning at this location. Establishing a business concentration in such a rural location is also contradictory to the comprehensive plan objective of transit supportive land use patterns and designs.

The proposed site plan is dominated by a gravel display area and includes a proposed 500 square foot building. The plan also proposes the required 15 foot bufferyard adjacent to the neighboring single family home be located on the single family home property through a bufferyard easement. These aspects of the site design make for a rather harsh transition to surrounding land and create even more pressure to rezone that property at some point in the future. Staff has communicated to the petitioner some minor site plan changes requested by the Interdepartmental Site Plan Review Committee.

In conclusion, staff is of the opinion that the proposed rezoning would not fit in with the general rural area nor would the proposed Outdoor Display Retail use be neighborhood serving in nature. Furthermore, staff contends the rezoning would undermine the goals and recommendations of the comprehensive plan and recommends denial of the rezoning.

The County Attorney has issued an opinion that this case constituted a potential spot zone that may not be supported by the courts given current case law.

FINDINGS

1. The subject petition would rezone approximately one acre from RS-40 to HB-S (Outdoor Display Retail).
2. Certain business uses can coexist in rural residential and agricultural areas if they are neighborhood serving in nature and limited in scale.
3. The site is in the Rural Area of *Legacy* which calls for the Rural Area to remain in very low density residential and agricultural uses.
4. The proposed site plan is dominated by a gravel display area and proposes the required 15 foot bufferyard adjacent to the neighboring single family home be located on the single family home property.

5. Staff is of the opinion that the proposed rezoning would not fit in with the general rural area nor would the proposed Outdoor Display Retail use be neighborhood serving in nature.
6. The rezoning would undermine the goals and recommendations of the comprehensive plan and staff recommends denial of the rezoning.

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 ANY PERMITS**
 - a. Obtain a driveway permit from the North Carolina Department of Transportation (NCDOT). Additional conditions may be required by NCDOT.
- **PRIOR TO THE ISSUANCE OF BUILDING PERMITS**
 - a. Developer shall record a bufferyard easement for the proposed off-site type IV bufferyard along the southwest property line as shown on the site plan.
- **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS**
 - a. A cross access drive easement shall be recorded to allow cross access between the subject site and the property to the southwest in the event that property is rezoned to a business zoning district.
- **OTHER REQUIREMENTS**
 - a. Signage shall be limited to one (1) five (5) foot free-standing monument sign with a maximum copy area of thirty six (36) square feet.

David Reed presented the staff report.

PUBLIC HEARING

FOR:

David Southern, 7571 Cove Drive, Walnut Cove, NC 27052

I am a plumber and my brother owns a car lot. I want to put a car lot here. I've got storage units for people I've never met right next to me. I'd rather look at my own stuff.

When I moved there and was talking about doing this, nothing was said about this being a problem.

I'm sure there are illegal car lots all along this road. I'm trying to do this the right way.

I wasn't living here when the mini warehouses were approved, or I would have been opposed.

I'll go out of my way to do whatever it takes to make this work. This is my first step.

AGAINST:

Donald Purdue, 611 Rapid Run Lane, Walnut Cove, NC 27052

This is directly across from my home. We don't want this in the neighborhood. It would be a bad look on the neighborhood, bring unwanted traffic, and hurt the value of our property.

I don't want to have to get up in the morning and look at a used car lot.

Rodney Crouse, 7522 Walnut Cove Road, Walnut Cove, NC 27052

I live near this site. There's one house between mine and Mr. Southern's property.

To my understanding, he didn't talk to the neighbors about this. I learned about it in the Journal.

One of the persons here today had a young child wake her last night after 10:30 because he couldn't sleep because of the noise made by Mr. Southern's cars on this lot.

The storage building was wanted because of the distance to similar facilities.

Dwayne Beeson, 6597 Dennis Road, Walnut Cove, NC 27052

I live directly behind Mr. Southern. Every time I walk out on my back porch I see Mr. Southern's yard. I don't want to look at a used car lot.

I'm opposed to this request.

WORK SESSION:

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

1. The County Attorney's opinion was based on the larger area, not based on one business use next to this site. Her opinion was that the overwhelming majority of the area was RS-40 and AG type uses.

MOTION: Kem Schroeder moved denial of the zoning petition.

SECOND: Philip Doyle

VOTE:

FOR: Avant, Bost, Clark, Doyle, King, Norwood, Powell, Schroeder, Snelgrove

AGAINST: None

EXCUSED: None

SITE PLAN MOTION: Kem Schroeder certified that the site plan meets all code requirements and recommends staff conditions.

SECOND: Philip Doyle

VOTE:

FOR: Avant, Bost, Clark, Doyle, King, Norwood, Powell, Schroeder, Snelgrove

AGAINST: None

EXCUSED: None

According to information furnished by the Office of the Tax Assessor, the subject property was in the name of David W. Southern and Faye C. Southern as of December 6, 2001.

A. Paul Norby, AICP
Director of Planning