

**CITY-COUNTY PLANNING BOARD
STAFF REPORT**

PETITION INFORMATION	
Docket	W-3444
Staff	Gary Roberts, Jr., AICP
Petitioner(s)	Industry Hill Properties, LLC and IH850 Trade, LLC
Owner(s)	Same
Subject Property	Portion of PINs 6835-19-5455 and 6835-19-5350
Address	850 North Trade Street
Type of Request	Special Use Limited rezoning from LI to E-L
Proposal	<p>The petitioner is requesting to amend the Official Zoning Map for the subject property from LI (Limited Industrial) to E-L (Entertainment – Special Use Limited). The petitioner is requesting the following uses:</p> <ul style="list-style-type: none"> • Arts and Crafts Studio; Banking and Financial Services; Club or Lodge; Combined Use; Convenience Store; Entertainment Facility, Large; Food or Drug Store; Furniture and Home Furnishings Store; Hotel or Motel; Manufacturing A; Micro-Brewery or Micro-Distillery; Museum or Art Gallery; Offices; Police or Fire Station; Recreation Facility, Public; Recreation Services, Indoor; Recreation Services, Outdoor; Restaurant (without drive-through service); Restaurant (with drive-through service); Retail Store; Services, A; Shopping Center; Special Events Center; Storage Services, Retail; Theater, Indoor; Utilities; Veterinary Services; Warehousing; Wholesale Trade A; Residential Building, Multifamily; Residential Building, Townhouse; Residential Building, Twin Home; and Residential Building, Duplex <p>NOTE: General, Special Use Limited, and Special Use district zoning were discussed with the petitioner(s), who decided to pursue the rezoning as presented.</p>
Neighborhood Contact/Meeting	The petitioner’s neighborhood outreach summary is attached.
Zoning District Purpose Statement	The E District is primarily intended to accommodate a mixture of retail, office, residential, and entertainment (indoor and outdoor) related uses. This district is intended for application in GMAs 1 and 2.
Rezoning Consideration from Section 3.2.15 A 13	<p>Is the proposal consistent with the purpose statement(s) of the requested zoning district(s)?</p> <p>Yes. The site is located within GMA 2 and is adjacent to a variety of other zoning districts, including E and E-L.</p>

GENERAL SITE INFORMATION						
Location	North side of West Eighth Street, between North Trade Street and Oak Street					
Jurisdiction	Winston-Salem					
Ward(s)	North					
Site Acreage	± 1.67 acres					
Current Land Use	Combs Wholesale Produce Company is currently located on the site.					
Surrounding Property Zoning and Use	Direction	Zoning District			Use	
	North	LI			Vernon Packaging	
	East	E and E-L			Warehousing and entertainment uses	
	South	LI and CB			Fiddlin' Fish (brewery)	
	West	LI			Elliott Brothers Locksmiths	
Rezoning Consideration from Section 3.2.15 A 13	Is/are the use(s) permitted under the proposed classification/request compatible with uses permitted on other properties in the vicinity?					
	Yes. The permitted uses proposed for this E-L district are generally compatible with the broad mixture of uses permitted on the adjacent properties. However, some of the proposed uses – such as drive-through restaurants and convenience stores (i.e., gas stations) – are not compatible with the Central Business (CB) district (across West Eighth Street) or the pedestrian-oriented character of the area known as Industry Hill.					
Physical Characteristics	The developed site has a gentle slope downward toward the west.					
Proximity to Water and Sewer	Public water and sewer mains are located beneath West Eighth Street, North Trade Street, and Oak Street.					
Stormwater/ Drainage	No known issues.					
Watershed and Overlay Districts	The site is not located within a water supply watershed.					
Analysis of General Site Information	Existing conditions offer no constraints to the rezoning and potential redevelopment of this property.					
RELEVANT ZONING HISTORIES						
Case	Request	Decision & Date	Direction from Site	Acreage	Recommendation	
					Staff	CCPB
W-3441	LI to PB-L	Pending	Directly north	2.18	Approval	Approval
W-3274	LI to E-L	Approved 11/2/2015	Directly northeast	9.31	Approval	Approval
W-3187	CB, GB and PB to E	Approved 7/1/2013	Directly east	7.46	Approval	Approval

SITE ACCESS AND TRANSPORTATION INFORMATION				
Street Name	Classification	Frontage	Average Daily Trip Count	Capacity at Level of Service D
West Eighth Street	Boulevard	357 feet	9,600	19,500
North Trade Street	Minor Thoroughfare	164 feet	2,400	11,900
Oak Street	Local Street	179 feet	N/A	N/A
Proposed Access Point(s)	Because this is a Special Use Limited request without a site plan or access conditions, proposed access points are unknown. However, the site currently has access from all three adjacent streets.			
Trip Generation - Existing/Proposed	Staff is unable to estimate the existing or proposed trip generation because there is no site plan.			
Sidewalks	Sidewalks are located along all adjacent street frontages.			
Transit	WSTA Route 91 runs along North Trade Street, and Route 89 serves North Cherry Street approximately 300 feet west.			
Analysis of Site Access and Transportation Information	<p>The site has extensive frontage along three public streets with sidewalks, which appear to have ample capacity. The area is also served by transit.</p> <p>When new development occurs within the E district, the developers may be required to install pedestrian crosswalks at any location within the district where pedestrians cross public streets. Additional street lighting may also be required, along with a parking study to demonstrate how parking needs can be conveniently and efficiently accommodated.</p> <p>A City driveway permit will be required for any change of use or redevelopment of the site.</p>			
CONFORMITY TO PLANS AND PLANNING ISSUES				
Legacy 2030 Growth Management Area	Growth Management Area 2 - Urban Neighborhoods			
Relevant Legacy 2030 Recommendations	<ul style="list-style-type: none"> • Encourage reuse of vacant and underutilized commercial and industrial sites. • Make Downtown the dominant focus of economic and social life; a center of civic, entertainment and cultural activities; and a strong symbol of community pride and identity. • Consider requiring new buildings to be oriented to both public and internal streets and parking areas located internally on the site or behind buildings. • Encourage the development of new entertainment venues Downtown with larger facilities located near the northern edge. 			

Relevant Area Plan(s)	<i>North Central Winston-Salem Area Plan (2015)</i>
Area Plan Recommendations	<ul style="list-style-type: none"> The site is located within the North Trade Street Potential Mixed-Use Area. The plan recommends keeping a flexible outlook and supports the growth and expansion of industrial uses while supporting ventures that develop new or convert existing industrial buildings to residential uses or a mixture of residential, commercial, and office uses.
Site Located Along Growth Corridor?	The site is not located along a growth corridor.
Site Located within Activity Center?	The site is not located within an activity center.
Greenway Plan Information	The <i>Greenway Plan Update</i> proposes extending the Strollway along North Trade Street to Northwest Boulevard. This will be an on-street facility utilizing existing sidewalks. No further provisions are requested at this time.
Rezoning Consideration from Section 3.2.15 A 13	Have changing conditions substantially affected the area in the petition?
	Many of the nearby properties have experienced rezoning and/or reinvestment over the last several years.
	Is the requested action in conformance with <i>Legacy 2030</i>?
	Yes
Analysis of Conformity to Plans and Planning Issues	Since the creation of the E district (which allows Entertainment Facility, Large as a use by right) in 2012, there have been numerous E or E-L rezoning approvals in this general area.
	<p>The proposed zoning and list of requested uses are more consistent with the mixed-use/pedestrian-oriented goals of <i>Legacy</i> and the area plan than the existing LI zoning. However, some of the requested uses – specifically, Convenience Store (which is used to classify gas/fueling stations) and Restaurant (with drive-through service) – are inherently auto-focused and could work against efforts to improve and increase walkability in this area of Downtown. Staff recommends they not be included in the district.</p> <p>The request is consistent with <i>Legacy</i> in that it would encourage the development of new entertainment venues near the northern edge of Downtown, and it is consistent with the <i>North Central Winston-Salem Area Plan</i>, which supports a mixture of residential, commercial, and office uses on this site. Moreover, the request may facilitate additional development and street life in this area.</p>

CONCLUSIONS TO ASSIST WITH RECOMMENDATION	
Positive Aspects of Proposal	Negative Aspects of Proposal
The request is consistent with <i>Legacy</i> regarding the reuse of vacant and underutilized commercial sites.	The request eliminates existing zoning devoted specifically to industrial uses.
The request would allow more use flexibility on the site.	
The request is consistent with the <i>North Central Winston-Salem Area Plan</i> regarding the North Trade Street Potential Mixed-Use Area.	As submitted, the request includes two auto-oriented uses, which are generally not conducive to creating a pedestrian-oriented environment Downtown.
The request may result in additional lighting and pedestrian crosswalks being installed by the developer, depending upon future development.	

STAFF RECOMMENDATION: Approval, with removal of Convenience Store and Restaurant (with drive-through service)

NOTE: These are **staff comments** only; the City-County Planning Board makes final recommendations, and final action is taken by the appropriate Elected Body, which may approve, deny, continue or request modification to any request. **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.**

CITY-COUNTY PLANNING BOARD

PUBLIC HEARING

MINUTES FOR W-3444

JUNE 11, 2020

Gary Roberts presented the staff report.

Melynda Dunigan asked about the (Institutional) blue color on the area plan, and why it was there. Kirk Ericson stated that it likely is there based on ownership information. If the property was owned by one of the surrounding institutions at the time of the area plan, then staff would have coded it blue for Institutional use.

Jack Steelman asked when the Board would begin to see site plans of actual projects so that it would better be able to see how the puzzle will ultimately fit together. Aaron King stated that staff uses Special Use zoning as a tool to answer those questions. If a development is going in next to residential development, you would see a site plan come with it because staff needs to know how it will impact the adjacent residential. In this area, where there is a mixture of uses, staff did not see a need to go with a Special Use request. If there is a specific site, based on specific conditions that warranted it, staff would recommend a Special Use request. The proposals that staff has seen thus far did not warrant Special Use requests.

Melynda asked for clarification on the neighborhood contact due to the wrong parcel information being included in the staff report. Luke Dickey responded by stating that a letter was generated and sent, discussing what this site would be changed to and distinguishing between the two parcels shown. Mr. Dickey stated that he will check to make sure they did not re-forward the previous case information in error.

PUBLIC HEARING

FOR:

Luke Dickey, 601 N. Trade Street, Suite 200, Winston-Salem, NC 27101

- Directly to the north of this site is the case the Board heard last month requesting PB-L zoning. Part of the larger parcel on this site was in that request, so we're now moving forward with a LI to E-L request for rezoning.
- The *North Central Winston-Salem Area Plan* supports light industrial with a mixture of potential new development for residential or commercial and office uses. The E zoning district is supportive of that conversion. The request is taking out 42 of the 55 permitted uses that are under the current LI zoning. Rezoning to the E district adds 19 uses currently not permitted on the site, predominately consisting of retail and residential uses.

- The same information was sent out to the same neighbors as with the previous case. We received responses from two property owners. One is Mr. Klinedinst, who is on the phone today. We discussed his concerns with the request. The other owner was from the Oak Street Condominiums, and they sent an email to Gary and myself with regard to questions about what the E district is, and the noise ordinance requirements for that.
- I would like to discuss, as the staff report mentions, two uses that are still of concern for staff's recommendation for approval, and those are the Convenience Store and Restaurant (with drive-through). While we are talking about pedestrian-oriented developments, the area plan recommends this while still supporting the existing LI zoning. LI zoning does not have very pedestrian-oriented businesses within that. There is plenty of E zoning in this area. Most of it has been E limited. Directly across the street is also E. We wanted to maximize our opportunities for development, and to include those uses, since they are allowed in the E district.
- Additionally, as COVID-19 has shown, if you have a restaurant use in now, the ones that have been successful have been the ones with a drive-through. From a service standpoint, there aren't many convenience stores/gas pump stations within the Downtown area to service any of the residents. Most are located on the periphery, or further on down in other areas. That is not to assume that those uses would go on this site since we are just a Limited Use zoning request, but we wanted to keep the total amount of options for redevelopment of this site open for the property owner.

Chris Leak asked whether, with staff recommending approval with the exception of Convenience Store and Restaurant (with drive-through), Mr. Dickey knew if this was something that the petitioner was leaning toward, or if they wanted to include them simply because they want to. Mr. Dickey stated that they were not leaning towards those types of uses at this time, but wanted them in there to provide flexibility.

The applicant, Drew Gerstmyer, stated that there is no specific plan; they are just trying to maximize the options available, per the zoning.

Clarence Lambe asked staff to clarify whether doing E zoning in this area would eliminate permitted uses.

Aaron stated that the petitioner has asked for these particular uses (Convenience Store and Restaurant (with drive-through)). Staff suggested they remove them, and they are not in agreement with that, so the request includes those uses.

Clarence asked for clarification on how previous cases have been treated. Chris Murphy stated that there was Limited Use zoning to the east that eliminated a couple of nightclub-related uses because they were in close proximity to some churches, but he wasn't sure if other uses were removed from those requests. Clarence stated that he was in sympathy with the drive-through services request, as he felt the need would be around for quite some time.

Aaron added that, with respect to the use Restaurant (with drive-through), staff is not 100 percent opposed if a developer could bring in a uniquely designed building that addresses the corner and can accommodate drive-through service towards the rear. That intersection is framed up by Ramkat and the Big Winston Warehouse, and the petitioner is actually building a brand new office building on the southeast corner that would frame it up nicely. Just by their general nature, convenience stores and restaurants with drive-throughs are pulled back with intervening circulation and parking. Staff has concerns because those two uses do not lend themselves to framing that intersection and fostering that pedestrian environment.

Jack stated that this was a great example of why he would be interested in seeing a site plan.

Gary added that the other E-L zoning, the large 9-plus-acre zoning that was approved in 2015 directly northwest, did not include Restaurant (with drive-through); it did include Convenience Store.

AGAINST:

John Klinedinst, 836 Oak Street Condominiums, Winston-Salem, NC 27101

- I hesitate to say I'm speaking in opposition; I'm speaking with concerns. I'm very much in favor of the development of that property. As it is now, it's the back of a warehouse, and a lot of parking space that doesn't belong in an area that adjoins the central downtown area.
- Mr. King very well summed up my concerns about the current zoning request. I very much dislike the idea of a gas station and a convenience store combined, I dislike restaurant with a drive-through, and I also have serious concerns about a shopping center. A shopping center, to me, sounds like something that belongs on Peters Creek Parkway, not on a Downtown street. Eighth Street used to be the boundary of what was Downtown Winston-Salem; it's no longer that hard boundary. You guys have expanded the entertainment zone beyond that. You've nicely used old buildings that have a certain Downtown profile to them. To put a gas station, to put a shopping center, that's a real shame for the aesthetics of Downtown Winston-Salem. I very much would like to see you think of a way to rezone it to get a lot of these additional opportunities for the developer but take away the tendency that I see in this proposal to make it a suburban area and not a downtown central business area.
- The last comment I will make is that, at the last meeting, you did rezone the site just north of that to PB, and you did it with a lot of approval from the area residents. They gave the general site development plan that would be residential; it would have a fairly significant parking garage and residential development on that lot. That sounds like a great PB, where the buildings are going to be up to the sidewalk, it's going to be very walkable, you're going to have limited traffic, because people don't come and go from their apartments or condos, whichever it turns out to be, every half hour, every 15 minutes. If you put in a shopping center or convenience store or a drive-through restaurant, Eighth Street is going to become a nightmare. Traffic is already terrible at rush hour. That's when people would use a gas station, at rush hour.

I feel an overall need to preserve the downtown business flavor blended into entertainment. I wish that the Planning Department could come up with a different zoning category for that area that would allow flexible development but would not destroy the pedestrian nature they said they were trying to achieve in this area.

WORK SESSION

Clarence asked staff what would happen if the two permitted uses were taken away, and if the petitioner came back with a beautifully designed pedestrian-friendly drive-through restaurant plan.

Aaron stated that after hearing the discussion, if the petitioner is still not in agreement with removing those two uses, then per the City Attorney's office, the two options for the Board are to take action on what is submitted and recommend approval or denial. If the Board chooses to recommend denial, you can establish your reasons why. If the petitioner decided to remove those uses and, in the future, came back with something well-designed, they would be required to bring a Special Use site plan to staff showing some of the things discussed today.

There are plenty of instances where you can see restaurants with drive-throughs that can be situated in environments similar to this and not be set back from the street, with parking in front and lined up around the building. As an alternative, Jason Grubbs asked if the applicant would be willing to compromise by leaving off Convenience Store and keeping Restaurant (with drive-through).

In response to Jason's comments, Aaron stated that the Board could always ask the applicants if they are willing to remove the Convenience Store use. If the applicants are in agreement, that still leaves Restaurant (with drive-through) there, but there are no assurances it will be a well-designed, urban and pedestrian-oriented restaurant.

Mr. Gerstmyer stated that without knowing where things were headed, any limiting on what is allowed by right through E district just seems to close doors down the road, even though that is not the path they are heading down. He said that they are working on incorporating the other three corners on that intersection and Seventh Street up through Twelfth Street.

George Bryan stated that it was too easy to put a gas station on Martin Luther King Drive and interrupt the pedestrian flow of that area. The thinking has been that Martin Luther King Drive would divert traffic around the city, and it's understandable why a developer would want to put a gas station there, but it's not the right place when you've got Ramkat and people from all the bars walking in that section to restaurants. The area is already struggling with pedestrian movement across Martin Luther King Drive.

Melynda expressed concern that, if the rezoning were to allow the two objectionable uses discussed, it might set a precedent for other E rezonings in the future. The Board has to look to potential consequences beyond this one site. The limitations suggested here are very appropriate for this site.

Jack asked what the thoroughfare classification is for Martin Luther King Drive. Gary responded that Martin Luther King Drive was classified as a boulevard, which is comparable to a major thoroughfare. The capacity with that lane width is 19,500 cars per day, and right now the latest count is 9,600 cars per day. Jack asked if there are pedestrian-oriented sidewalks along one or

both sides of that street to provide for that pedestrian environment. Gary stated that there were sidewalks on both sides of Eighth Street, as well as on the adjacent streets.

MOTION: Clarence Lambe recommended that the Planning Board find that the request is consistent with the comprehensive plan.

SECOND: Jason Grubbs

VOTE:

FOR: George Bryan, Melynda Dunigan, Jason Grubbs, Tommy Hicks, Clarence Lambe, Chris Leak, Johnny Sigers, Brenda Smith, Jack Steelman

AGAINST: None

EXCUSED: None

MOTION: Clarence Lambe recommended denial of the zoning petition.

SECOND: George Bryan

VOTE:

FOR: George Bryan, Melynda Dunigan, Clarence Lambe, Chris Leak, Brenda Smith

AGAINST: Jason Grubbs, Tommy Hicks, Johnny Sigers, Jack Steelman

EXCUSED: None

Aaron King
Director of Planning and Development Services