

**Proposed Zoning Map Amendment  
Staff Report  
August 4, 2008**

**Case #:** ZP-867-08

**Request:** This proposal is to rezone 19.6 acres from Residential-30 (R-30) to Conditional Use-Heavy Commercial (CU-HC) to allow for a variety of non-residential uses on the site. The specific allowable uses that that are being requested are:

- mini-storage
- cultural exhibits and libraries;
- daycares;
- churches;
- restaurants;
- small neighborhood business office uses such as law firms, medical or dental offices, or insurance agencies;
- retail sales and service establishments such as a convenience store with or without gas sales), grocery store, pharmacy, service station, dry cleaning or laundry, or video rental;
- financial services; or
- parks.

**Location:** The site is located at the northwestern corner of the intersection of Bud Lipscomb Road and Old Stage Road (2401 Bud Lipscomb Road).

**Present Zoning:** Residential-30 (R-30)

**Proposed Zoning:** Conditional Use-Heavy Commercial (CU-HC)

**Existing Land Uses:** Agricultural

**Applicant:** Wayne Mauldin

**Design Firm:** Mauldin-Watkins Surveying

**Owner:** Edna Ogburn

**PIN #:** 0695-08-9566

**Surrounding Zoning Districts and Land Uses**

Direction	Land Use	Zoning
North	Agricultural and wooded	Residential-30 (R-30)
East	Old Stage Road, agricultural, wooded and residential	Residential-30 (R-30)
South	Bud Lipscomb Road, fire station, residential and agricultural	Residential-30 (R-30)
West	Agricultural and residential, abandoned garage	Heavy Commercial (HC) Residential-30 (R-30)

Commissioner Paul Coble made a motion that the above resolution be adopted. Commissioner Betty Lou Ward seconded the motion, and upon vote, the motion carried this 4th day of August 2008.

**PUBLIC COMMENTS:**

Mr. Daniel and Ms. Angela McCarty came forward to speak about a future school site. They live at 2613 Forestville Road. Ms. McCarty said a proposed high school would be in their front yard. There is a high school that is not even open yet nearby their property, and they live on a two lane road. Heritage High is down the road and two miles down the road is Wake Forest High. There are two middle schools nearby. The roads can't handle another high school when a number of schools are two miles apart. There is a lot of property out towards Rolesville in the 401 Highway area. The residents of their neighborhood cannot get out of their driveway because of the traffic now. The community has outgrown the roads and it is impossible to get in and out of this area. The property being looked at has stone as high as their two story house which is a lot more stone than the other school site that has been addressed. The area can't handle it with all the construction and rock removal that would be involved.

A short recess was called by the Chairman.

✓ **PUBLIC HEARING ON PETITION ZP-867-08 TO REZONE 19.6 ACRES LOCATED AT 2401 BUD LIPSCOMB ROAD FROM RESIDENTIAL-30 (R-30) TO CONDITIONAL USE-HEAVY COMMERCIAL (CU-HC) TO ALLOW FOR A VARIETY OF NON-RESIDENTIAL USES ON THE SITE**

Chairman Bryan stated this was a request for a public hearing on Petition AP-867-08 to Rezone 19.6 acres located at 2401 Bud Lipscomb Road from Residential-30 (R-30) to Conditional Use-Heavy Commercial (CU-HC) to allow for a variety of non-residential uses on the site. He introduced Keith Langford, Wake County Planning Staff, for a report on the item. Mr. Langford stated the petitioner, Wayne Mauldin, has indicated their primary use on this site would be mini-storage. Property owner is Edna Ogburn. The petitioner's conditions:

1. Only the following uses shall be permitted:

Mini-storage

Day Cares

Restaurants

Retail Sales and Service establishments such as a convenience store with or without gas sales, grocery store, pharmacy, service station, dry cleaning or laundry, or video rental

Cultural exhibits and libraries

Churches

Financial Services

Small neighborhood business office uses such as law firms, medical or dental offices, or insurance agencies

Parks

2. All freestanding pole lights limited to 30 ft with lower decorative lighting to be installed on the buildings.

3. Storage of hazardous materials prohibited

4. Any outdoor storage will be located on the inside of the project and

screened by buildings required buffering

5. Mini-storage area shall not exceed 12 acres
6. Height of the buildings shall not exceed 30 feet
7. The same materials (or material similar in appearance) shall be used in the construction of each building
8. A traffic impact analysis shall be provided in the future with a request for any other approved use.

Mr. Langford provided a site proposal and an aerial photo was provided. He reviewed the surrounding land uses and land use zoning history. The proposed rezoning meets the County's land use plan. The property is located within the Town of Fuquay-Varina's Long Range Urban Service Area and is located with a 59-acre parcel-based neighborhood activity center. The Town of Fuquay-Varina's ordinance classifies mini-storage as an industrial use and not as a commercial use. Therefore, they would not consider the proposed mini-storage use as appropriate for this location. Wake County has allowed mini-storage as an appropriate use in neighborhood activity centers with a special use permit. This site is not located in the area that Fuquay-Varina has requested to be reclassified as ETJ area, nor is it located within the area that they have requested to reclassify land from LRUSA to SRUSA. This area will remain LRUSA. Any future site plan would be required to comply with the Activity Center Design Guidelines as set forth in the Land Use Plan. Planning Staff will work with the applicant on Fuquay-Varina's concerns. This is a two-step conditional use rezoning process. They must first receive the conditional use rezoning from the Board of

Commissioners and then the Planning Board must review a Planned Compliance Permit for most uses.

He reported this site complies with the County's Transitional Urban Development Standards and Requirements. Any future development on this site would have to meet requirements of the Unified Development Ordinance. The property is proposed to be served by individual well and septic systems. The petitioner has indicated that easements will be dedicated to accommodate connections to municipal water and sewer should they become available in the future. There is no FEMA regulated floodplain on this site. There are some flood hazard soils and required stream buffers near the Old Stage Road frontage of the property that would have to be protected during development.

There are a couple of minor drainageway buffers along the rear of the site that likewise would need to be protected during development. There are some small farm ponds.

As for transportation, any driveway improvements would have to be approved by the North Carolina Department of Transportation. The Traffic Impact Analysis (TIA) is required for development that generates more than 1,000 trips per day or more than 100 peak-hour trips, as determined by the Institute of Transportation Engineers' Trip Generation Manual. The TIA must be submitted during the site plan approval process, if necessary. The petitioner's proposed primary use of mini-storage is a low traffic generating use.

Mr. Langford provided the staff analysis. Planning Staff concerns

discussed with the applicant were about development potential of this site given its elongated configuration and noted that approval of the rezoning is not a guarantee of the development potential of this parcel. There are requirements that could potentially impact future development of this site.

Staff found that the rezoning is consistent with the County Land Use Plan. The proposed uses are allowed within the designated Neighborhood Activity Center and the rezoning complies with the Transitional Urban Development policies. The proposed rezoning complies with the TUD regarding transportation facilities and would not be detrimental to public health, safety and general welfare and would address a public need. A detailed plan and a Planned Compliance Permit must be approved by the Planning Board prior to development for most of the proposed uses.

Commissioner Ward asked if residents in the nearby neighborhood were notified of this hearing. Mr. Langford said they were notified. Chairman Bryan asked how the County is supposed to address Fuquay-Varina's concerns. Mr. Langford said that staff has discussed it with Fuquay-Varina and they did not object to the use. This area will remain in the county's jurisdiction for quite some time. The proposal was sent to them for their comments. They offered no comments except they would consider it differently than the county would consider it. Commissioner Brown noted their letter in the agenda package.

Mr. Langford said they said they would not consider it for a neighborhood activity center. Commissioner Ward questioned the county's regulations not as strong as Fuquay-Varina. Mr. Langford said he thought they were speaking generally. Commissioner Brown asked Ms. Wilson to speak to this as well as Mr. John Miller.

Ms. Wilson said this area was identified in the County's plans as a neighborhood activity center. They will have to apply for the mini storage but it would also allow for other uses such as a heavy commercial use. Not all zoning codes match across the county. They will be asked to participate in the special use permit process.

Chairman Bryan said there seems to be inconsistency in some of the County's definitions compared to Fuquay-Varina. Ms. Wilson said the request is for multiple uses and if the Board feels a use should not be there, it could be removed from the list. She said they were looking at it for the zoning classification which would allow all the specific uses. Mr. John Miller, Planning Board Chairman, said the Planning Board did look at the uses but they were looking specifically at the zoning of the land. They will have to go back to the Planning Board with their proposal. Commissioner Brown asked if staff would work with Fuquay-Varina. Ms. Wilson said they would notify property owners when the application came in and would be allowed to review the site plan.

Commissioner Gardner asked for a broader map to help identify the site in relationship to other activity centers. He asked if neighborhood

activity centers are zoned heavy commercial. Ms. Wilson said they are zoned residential. If this Board feels the ministorage is not appropriate, this Board could make that decision. Commissioner Gardner asked what happens if the Town of Fuquay Varina does not feel this is appropriate use for the area. Ms. Wilson said they do not plan to develop it for 15 to 20 years and they are planning partners. There was continued discussion about Fuquay-Varina's concerns. Mr. Miller reported that the day they heard this request no one from Fuquay Varina was present.

Chairman Bryan opened the public hearing.

Mr. Wayne Baldwin, PO Box 444, Fuquay Varina, said they went and talked with Fuquay-Varina when they started the process. They were told Fuquay-Varina had not plan to use this property. The Fuquay-Varina ordinance only allows mini-storage in certain areas and the County's ordinance allows for mini-storage as well as heavy commercial in the same area. They are looking at zonings and not looking at the use. They were told it did not meet their zoning ordinance. He said they stopped farming and were looking for a supplement to their farming. They will own and operate the mini-storage. They have talked with the County and picked out uses that would not be detrimental to the neighborhood so they picked out the mini-storage. They have had alot of people want to rent the tobacco barns.

Rudy Ogborn, son of the farmer who owns this property, said they have struggled with finding something that the property could be used for their mother.

Planning Board Recommendation was unanimous to move forward on this request. Planning staff recommendation was for approval of the rezoning petition which was consistent with the County's Land Use Plan.

Chairman closed the public hearing.

Commissioner Coble said it is more appropriate to ask the question about all the uses versus one use in rezoning cases. The use could change based on other factors.

Paul Coble motioned, seconded by Tony Gurley, to adopt the ordinance approving the requested zoning map amendment to rezone 19.6 acres located at 2401 Bud Lipscomb Road from Residential-30 (R-30) to Conditional Use-Heavy Commercial (CU-HC) to allow for a variety of non-residential uses on the site.

Commissioner Ward said she would support this request because the petitioner will work closely with staff.

The motion passed unanimously.

**ORDINANCE AMENDING THE WAKE COUNTY ZONING MAP TO  
REZONE 19.6 ACRES AT 2401 BUD LIPSCOMB ROAD FROM**

**RESIDENTIAL-30 (R-30) ZONING TO CONDITIONAL USE- HEAVY  
COMMERCIAL (CU-HC)**

WHEREAS, the requested proposal is to rezone 19.6 acres located at the northwestern corner of the intersection of Bud Lipscomb Road and Old Stage Road, being parcel # 0695-08-9566 from Residential-30 (R-30) to Conditional Use-Heavy Commercial (CU-HC);

WHEREAS, the proposed rezoning is consistent with the Fuquay-Varina/Garner Area Land Use Plan, which designates a Neighborhood Activity Center at this location;

WHEREAS, the proposed uses (see petitioner's conditions) are allowed within the designated Neighborhood Activity Center (NAC);

WHEREAS, the proposal complies with the Land Use Plan's Transitional Urban Development policies (TUDs) regarding the provision of water and sewer easements;

WHEREAS, the proposal complies with the Transitional Urban Development policies (TUDs) regarding the provision of transportation facilities;

WHEREAS, any future development on this parcel will have to comply with any and all applicable development regulations even though the elongated configuration of the lot may limit its development potential;

WHEREAS, a detailed site plan and a Planned Compliance Permit must be approved by the Planning Board prior to development for any of the proposed uses;

WHEREAS, the proposal is consistent with the Wake County Land Use Plan;

WHEREAS, the proposed uses would not be detrimental to the public health, safety and general welfare and would address a public need;

WHEREAS, on June 18, 2008, the Wake County Planning Board voted 7-0 to recommend that the Board of Commissioners approve the proposed zoning map amendment with the petitioner's proposed conditions; and

WHEREAS, the Wake County Board of Commissioners held a duly-noticed public hearing to consider amending the Zoning Map to rezone the entire area, or part of the area, to the classification requested, or to a more restrictive classification.

NOW, THEREFORE, BE IT ORDAINED BY THE WAKE COUNTY BOARD OF COMMISSIONERS:

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**SECTION I**

The proposed rezoning is found to be consistent with the Fuquay-Varina/Garner Area Land Use Plan and otherwise promotes the public health, safety, and general welfare, and the Wake County Zoning Map is hereby amended to rezone the property described above from Residential-30 (R-30) to Conditional Use-Heavy Commercial (CU-HC) zoning.

**SECTION II**

In making this petition, the owner freely offers the following conditions to be applied to the Conditional Use-Heavy Commercial (CU-HC):

1. All free standing pole lights will be limited to 30 feet maximum height with lower decorative lighting to be installed on buildings.
2. The storage of hazardous materials shall be prohibited in all storage units.
3. Any outdoor storage will be located on the inside of the project and screened by other buildings and required buffering.
4. The mini-storage area shall not exceed 12 acres in size.
5. The height of buildings shall not exceed 30 feet.
6. Only the following uses shall be permitted on the property:
  - a. cultural exhibits and libraries
  - b. daycare
  - c. church
  - d. restaurant
  - e. law firm
  - f. small neighborhood business office
  - g. parks
  - h. medical or dental office
  - i. self-service/mini-storage
  - j. financial services
  - k. insurance agency

- l. video rental
  - m. dry cleaning or laundry
  - n. service station
  - o. schools
  - p. retail sales and services
  - q. grocery or convenience store with or without gas sales
  - r. pharmacy
7. The same materials (or material similar in appearance) shall be utilized in the construction of each building
8. A traffic impact analysis will be provided in the future with any approved use.

**SECTION III**

This amendment shall become effective upon adoption of this ordinance.

Commissioner Paul Coble made a motion that the above ordinance be adopted. Commissioner Tony Gurley seconded the motion, and upon vote, the motion carried this 18th day of August 2008.

**NORTH CAROLINA DEPARTMENT OF TRANSPORTATION'S  
SECONDARY ROADS CONSTRUCTION PROGRAM FOR WAKE  
COUNTY**

Mr. Reid Elmore, District Engineer of the North Carolina Department of Transportation, introduced Mr. Wally Bowman, Mr. Brandon Jones,