

Motion and
Statement of Consistency with Comprehensive Plan
F-1540

I move that the following statement be adopted in support of a **Motion to Approve** Zoning Map Amendment F-1540:

The proposed general use zoning map amendment is not in conformance with the recommendations of the Legacy Comprehensive Plan, however, it is reasonable and in the public interest because:

1. Although the site is within the Rural Growth Management Area where rezoning to more intensive districts is typically not encouraged, this site is unique because it has a history of industrial zoning and is surrounded by other GI zoned properties; and
2. The GI district has a minimum contiguous area of five acres in light of adjacent properties; and
3. The proposed General Industrial (GI) Zoning District is compatible with the uses permitted on the adjacent GI zoned properties and other properties in the vicinity; and

Based on the foregoing Statement, I move adoption of F-1540.

Second:

Vote:

Motion and
Statement of Consistency with Comprehensive Plan
F-1540

I move that the following statement be adopted in support of a **Motion**
to Deny Zoning Map Amendment F-1540:

The proposed general use zoning map amendment is not in conformance with the recommendations of the Legacy Comprehensive Plan and is not reasonable or in the public interest because:

1. The rezoning request would expand industrial zoning within the Rural Growth Management Area where rezoning to more intensive districts is not encouraged.

Based on the foregoing Statement, I move denial of F-1540.

Second:

Vote:

FORSYTH COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: October 28, 2013 **AGENDA ITEM NUMBER:** -A&B

SUBJECT:-

- A. Public Hearing on Zoning Petition of Arthur Kibler and Diane Kibler from RS40 to GI: Property is Located on the West Side of Belews Creek Drive, South of NC 65/Belews Lake Road (Zoning Docket F-1540)

- B. Ordinance Amending the Forsyth County Zoning Ordinance and Official Zoning Map of the County of Forsyth, North Carolina

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 - GENERAL USE

Zoning Petition of Arthur Kibler and Diane Kibler, Docket F-1540

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 RS40 to GI the zoning classification of the following described property:

PIN #6980-48-9226

Section 2. This ordinance shall become effective upon adoption.

**CITY-COUNTY PLANNING BOARD
STAFF REPORT**

PETITION INFORMATION			
Docket #	F-1540		
Staff	Gary Roberts, Jr. AICP		
Petitioner(s)	Arthur Kibler and Diane Kibler		
Owner(s)	Same		
Subject Property	PIN #6980-48-9226		
Address	The site is adjacent to 8158 Belews Lake Drive		
Type of Request	General use rezoning from RS40 to GI		
Proposal	<p>The petitioner is requesting to amend the Official Zoning Maps for the subject property from RS40 (Residential, Single Family district; 40,000 sf minimum lot size) to GI (General Industrial district).</p> <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. With a General use, all uses in the District must be considered.</p>		
Continuance History	The subject request was continued from the August 8, 2013 Planning Board meeting to the September 12, 2013 Planning Board meeting.		
Neighborhood Contact/Meeting	The application does not indicate if a neighborhood/community meeting has been held.		
Zoning District Purpose Statement	The GI District is primarily intended to accommodate a wide range of assembling, fabricating, and manufacturing activities. The district is established for the purpose of designating appropriate locations and establishing development regulations for uses which may have significant environmental impacts or which require special measures to ensure compatibility with adjoining properties. The district is established to provide locations for major developments in GMAs 1, 2 and 3.		
Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(R)	(R)(1) - Is the proposal consistent with the purpose statement(s) of the requested zoning district(s)?		
	Although the site is located within GMA 5, the subject property, along with the adjacent properties, have a history of industrial zoning.		
GENERAL SITE INFORMATION			
Location	West side of Belews Creek Drive south of NC 65/Belews Lake Road		
Jurisdiction	Forsyth County		
Site Acreage	± 1.3 acres		
Current Land Use	The site is currently undeveloped.		
Surrounding Property Zoning and Use	Direction	Zoning District	Use
	North	GI	Undeveloped
	East	AG	Undeveloped

	South	GI	Single family home and boat storage	
	West	GI	Undeveloped	
Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(R)	(R)(2) - Is/are the use(s) permitted under the proposed classification/request compatible with uses permitted on other properties in the vicinity?			
	Yes, the industrial uses permitted in the proposed GI district are compatible with the uses permitted on the adjacent GI zoned properties.			
Physical Characteristics	The site has a gentle slope downward toward the northeast.			
Proximity to Water and Sewer	Public water is available to the site; however, public sewer is not available.			
Stormwater/ Drainage	No known issues.			
Watershed and Overlay Districts	The site is not located within a water supply watershed but is south of the Dan River, WS IV Water Supply Watershed.			
Analysis of General Site Information	The site does not have access to public sewer service; otherwise, it appears to have no constraints.			
SITE ACCESS AND TRANSPORTATION INFORMATION				
Street Name	Classification	Frontage	ADT Count	Capacity/LOS D
Belews Lake Drive	Local street	25'	NA	NA
Proposed Access Point(s)	Because this is a general use request with no site plan, the exact location of access points is unknown. The site is currently accessed from Belews Lake Drive.			
Trip Generation - Existing/Proposed	<p><u>Existing Zoning: RS40</u> 1.3 acres x 43,560 / 40,000 = 1 unit x 9.57 (SFR Trip Rate) = 10 Trips per Day</p> <p><u>Proposed Zoning: GI</u> No trip generation is available for the proposed general use zoning which has no site plan.</p>			
Sidewalks	There are no sidewalks located in the general area.			
Analysis of Site Access and Transportation Information	The site has the required minimum of 25' of access onto a public street. It is also very close to Belews Creek Road/NC 65 which is classified as a major thoroughfare. Staff does not anticipate any transportation related issues associated with this request.			
CONFORMITY TO PLANS AND PLANNING ISSUES				
Legacy GMA	Growth Management Area 5 - Rural Area			
Relevant Legacy Recommendations	<ul style="list-style-type: none"> Identify appropriate areas of the county to locate rural commercial/service areas. Analyze uses appropriate to those locations and develop design standards that will relate to the surrounding rural character. Carefully review commercial uses that, due to scale or function, may be inappropriate for a rural setting. 			

Relevant Area Plan(s)	<i>Northeast Rural Area Study (2012)</i>
Area Plan Recommendations	<ul style="list-style-type: none"> The <i>Northeast Rural Area Study</i> does not include site specific recommendations. However, the study generally recommends considering limited commercial uses at suitable locations to provide basic retail services to the local community and users of the area's recreational amenities.
Addressing	There are no address number or street naming concerns.
Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(R)	(R)(3) - Have changing conditions substantially affected the area in the petition?
	No
	(R)(4) - Is the requested action in conformance with <i>Legacy</i>?
	See comments below.
Analysis of Conformity to Plans and Planning Issues	The subject property, along with many other properties in the general area, was zoned for industrial use during the comprehensive County zoning in 1967. In 1988, the site was rezoned for residential use; however, the site is currently vacant. Although the site is within the Rural Growth Management Area where rezonings to more intensive districts are typically not encouraged, this site is unique because it has a history of industrial zoning and is practically surrounded by other GI zoned properties. The GI district has a minimum contiguous area of five acres. This requirement is met in light of said adjacent properties. Planning staff supports this request.

RELEVANT ZONING HISTORIES

Case	Request	Decision & Date	Direction from Site	Acreage	Recommendation	
					Staff	CCPB
F-895	I3 (GI) to R6 (RS40)	Approved 7-25-88	Current site	1.3	Approval	Approval
F-550	R6 (RS40) to I2-S (LI-S)	Approved 6-9-80	900' south	4.05	Approval	Denial

CONCLUSIONS TO ASSIST WITH RECOMMENDATION

Positive Aspects of Proposal	Negative Aspects of Proposal
The site has a history of industrial zoning.	The request would expand industrial zoning in what is otherwise a low density residential/rural part of Forsyth County.
The proposed GI zoning is compatible with the zoning pattern in the general area.	
The site is surrounded by GI zoning.	

STAFF RECOMMENDATION: Approval

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.**

**CITY-COUNTY PLANNING BOARD
PUBLIC HEARING
MINUTES FOR F-1540
SEPTEMBER 12, 2013**

PUBLIC HEARING

FOR: None

AGAINST: None

WORK SESSION

MOTION: Clarence Lambe moved approval of the zoning petition.

SECOND: Paul Mullican

VOTE:

FOR: Tommy Hicks, Arnold King, Clarence Lambe, Darryl Little, Barry Lyons, Lynne Mitchell, Paul Mullican, Brenda Smith, Allan Younger

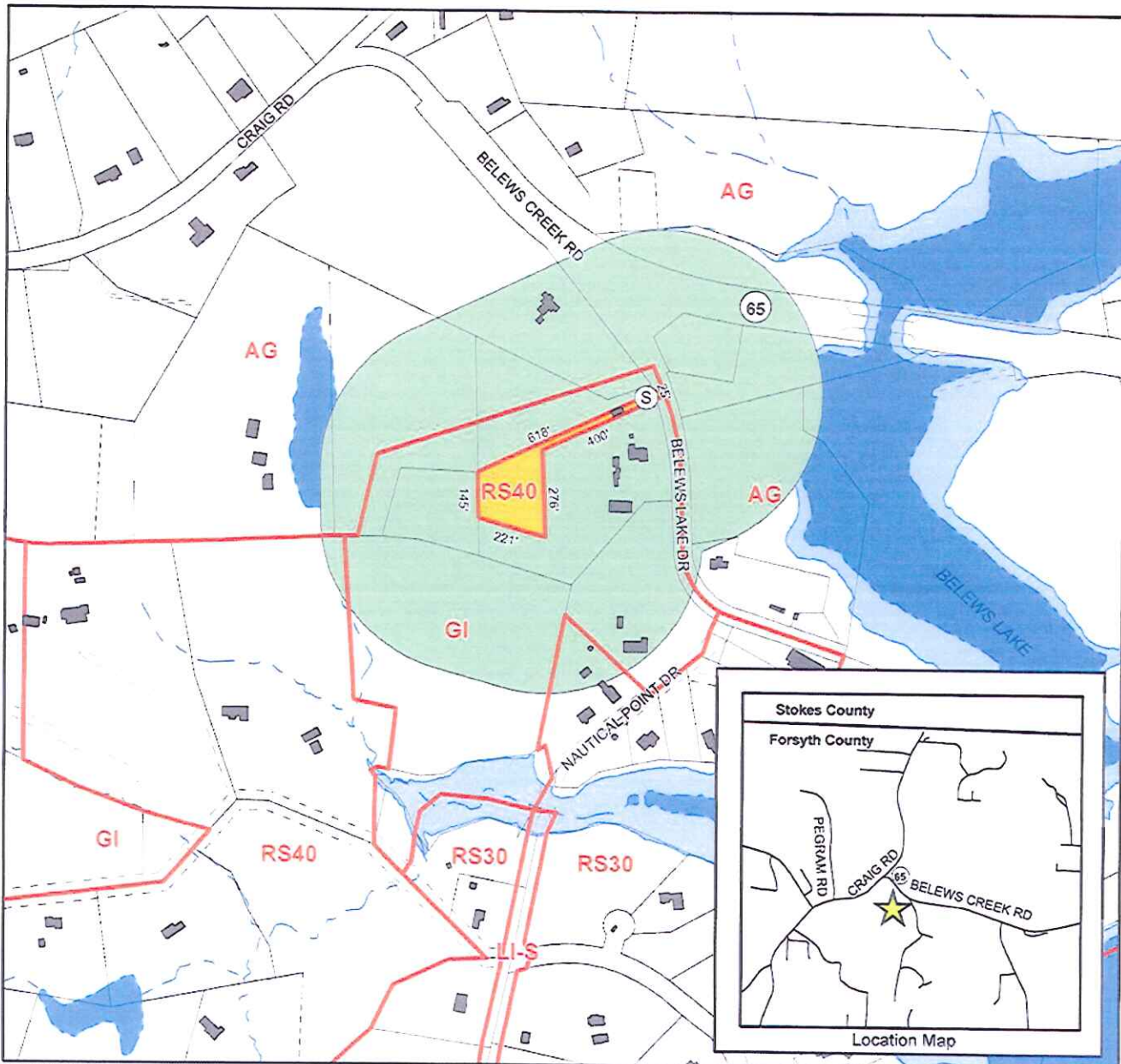
AGAINST: None

EXCUSED: None

According to information furnished on September 25, 2013 the subject property was in the name of Arthur L. Kibler and Diane Jeanne Kibler Revocable Living Trust.



A. Paul Norby, FAICP
Director of Planning and Development Services



DOCKET #: F1540
 (Continued from August 8, 2013)

PROPOSED ZONING:
 GI

EXISTING ZONING:
 RS40

PETITIONER:
 Arthur L. Kibler and Diane Kibler
 for property owned by Same

- Subject property
- 500' notification radius

SCALE: 1" represents 500'
STAFF: Roberts
GMA: 5
ACRES: 1.30
NEAREST BLDG: 210' east
MAP(S): 684906

Printed: 07/10/2013

F-1540 Attachment A
EXISTING RS40 USES ALLOWED
Forsyth County Jurisdiction Only

USES ALLOWED WITH A PERMIT FROM THE ZONING OFFICER (Z)

Adult Day Care Home
Agricultural Production, Crops
Agricultural Production, Livestock
Child Day Care, Small Home
Church or Religious Institution, Neighborhood
Family Group Home A
Kennel, Outdoor
Police or Fire Station
Recreation Facility, Public
Residential Building, Single Family
Swimming Pool, Private

USES ALLOWED WITH REVIEW BY THE PLANNING BOARD (P)

Cemetery
Church or Religious Institution, Community
Golf Course
Landfill, Land Clearing/Inert Debris, 2 acres or less
Library, Public
Planned Residential Development
School, Private
School, Public
Utilities

USES ALLOWED WITH SPECIAL USE PERMIT FROM ZONING BOARD OF ADJUSTMENT (A)

Bed and Breakfast
Borrow Site
Child Day Care, Large Home
Dirt Storage
Fishing, Fee Charged
Habilitation Facility A
Manufactured Home, Class A
Manufactured Home, Class B
Manufactured Home, Class C
Nursing Care Institution
Park and Shuttle Lot
Recreational Vehicle Park
Riding Stable
Shooting Range, Outdoor
Transmission Tower

F-1540 Attachment A
EXISTING RS40 USES ALLOWED
Forsyth County Jurisdiction Only

**USES ALLOWED WITH SPECIAL USE PERMIT FROM ELECTED
BODY (E)**

Access Easement, Private Off-Site
Landfill, Land Clearing/Inert Debris, greater than 2 acres
Landfill, Sanitary
Parking, Off-Site, for Multifamily or Institutional Uses

F-1540 Attachment B
PROPOSED GI USES ALLOWED
Forsyth County Jurisdiction Only

USES ALLOWED WITH A PERMIT FROM THE ZONING OFFICER (Z)

Academic Biomedical Research Facility
Adult Establishment
Agricultural Production, Crops
Agricultural Production, Livestock
Animal Feeding Operation
Animal Shelter, Public
Arts and Crafts Studio
Asphalt and Concrete Plant
Banking and Financial Services
Building Contractors, General
Building Contractors, Heavy
Building Materials Supply
Bulk Storage of Petroleum Products
Child Care, Drop-In
Church or Religious Institution, Community
Church or Religious Institution, Neighborhood
Correctional Institution
Fish Hatchery
Fuel Dealer
Golf Course
Government Offices, Neighborhood Organization, or Post Office
Kennel, Indoor
Kennel, Outdoor
Manufacturing A
Manufacturing B
Manufacturing C
Motor Vehicle, Body or Paint Shop
Motor Vehicle, Rental and Leasing
Motor Vehicle, Repair and Maintenance
Motor Vehicle, Storage Yard
Offices
Park and Shuttle Lot
Parking, Commercial
Police or Fire Station
Postal Processing Facility
Recreation Facility, Public
Recreation Services, Indoor
Recreation Services, Outdoor
Recycling Center
Recycling Plant
Restaurant (with drive-through service)
Restaurant (without drive-through service)
School, Vocational or Professional
Services A

F-1540 Attachment B
PROPOSED GI USES ALLOWED
Forsyth County Jurisdiction Only

Services B
Shooting Range, Indoor
Signs, Off-Premises
Solid Waste Transfer Station
Storage and Salvage Yard
Storage Services, Retail
Storage Trailer
Terminal, Bus or Taxi
Terminal, Freight
Testing and Research Lab
Utilities
Veterinary Services
Warehousing
Wholesale Trade A
Wholesale Trade B

USES ALLOWED WITH REVIEW BY THE PLANNING BOARD (P)

Airport, Private
Heliport
Landfill, Construction and Demolition
Landfill, Land Clearing/Inert Debris, 2 acres or less
Landfill, Land Clearing/Inert Debris, greater than 2 acres
Meat Packing Plant
Motor Vehicle Dismantling and Wrecking Yard
Transmission Tower

USES ALLOWED WITH SPECIAL USE PERMIT FROM ZONING BOARD OF ADJUSTMENT (A)

Airport, Public
Borrow Site
Dirt Storage
Helistop
Landfill, Sanitary
Shooting Range, Outdoor

USES ALLOWED WITH SPECIAL USE PERMIT FROM ELECTED BODY (E)

Access Easement, Private Off-Site
Hazardous Waste Management Facility
Mining, Quarry, or Extractive Industry
Shelter for Homeless

RECEIVED

AUG 27 2013

Winston-Salem Planning Board

August 23, 2013

I, Joyce K. Wall, support Mr. Arthur L. Kibler's request to change his RS40 land designation to GI designation as it was originally designated. My residence, on Belews Lake Drive, is his closest neighbor to the south.

Signed: Joyce K. Wall

Address: 8191 Belews Lake Dr.

F-1540

RECEIVED

AUG 27 2013

Winston-Salem Planning Board

August 23, 2013

This letter is in response and support for Mr. Arthur L. Kibler's request to change his RS40 land designation to GI designation as it was originally designated. My residence, to the north of his property, is his closes neighbor.

Signed: David Shattley

Address: 8595 Belknap Creek Rd,

F-1540

Gary Roberts

From: Steve Jarvis <ssjarvis88@triad.rr.com>
Sent: Tuesday, September 03, 2013 9:31 PM
To: Gary Roberts
Cc: Chris Fry
Subject: Docket #F-1540. Rezoning from RS40 to GI

Please be advised that we OPPOSE to the rezoning of said property on Docket F-1540 from RS40 to GI. We are concerned about our neighbor's pond and how it will be affected by the runoff from buildings, parking lots, etc.

Furthermore, we are afraid of the domino effect this will cause if this goes through. More will come. So will increased traffic, decreased property values, etc.

Thank you for your consideration of this request.

Steve and Sandy Jarvis
7300 Craig Road
Belews Creek, NC

Gary Roberts

From: jenbennett@triad.rr.com
Sent: Tuesday, September 03, 2013 10:17 PM
To: Gary Roberts
Cc: Chris Frye
Subject: Docket #F-1540

I would like to express my desent to the rezoning of the property on Belews Lake road. I have asked the city for specifics regarding the intended use and can not get an answer. Our neighborhood has seen significant deterioration based on the existing lite industrial properties such as water runoff and a complete deterioration of the road due to heavy tractor trailer use.

Please do not approve this rezoning as our neighborhood and quality of life are in danger.

Thank you,
Jennifer Bennett

Chris Frye

From: Brenda Swearingin <bswearingin@gmail.com>
Sent: Tuesday, September 03, 2013 10:34 PM
To: Gary Roberts
Cc: Chris Frye
Subject: Docket F-1540

To whom it may concern:

I am opposed to the rezoning of the property in Belews Creek and referenced as F-1540 in the subject line of this e-mail. Both businesses in our neighborhood have had significant negative impacts on our neighborhood, with respect to physical damage to road and property, environmental water erosion issues, and quality of life for a neighborhood of families with young children.

The road is already damaged beyond the capacity of the neighborhood's ability for immediate needed repairs, and the businesses have been unresponsive to assist with damages that are in large part due to truck and construction vehicles directly related to their operations. Prior to approval, clearing of the proposed site has already damaged the state-maintained road coming into our neighborhood. Construction in between Highway 65 and Nautical Point Drive for previous businesses changed water flow patterns enough to cause runoff to flow into at least one home. And lastly, the increase in traffic will be detrimental to quality of family life and recreation in our neighborhood.

Please consider this opposition to this proposal.

Sincerely,
Brenda Swearingin

Chris Frye

From: dncottrell@triad.rr.com
Sent: Monday, September 02, 2013 9:13 PM
To: Gary Roberts
Cc: Chris Frye
Subject: re: Docket #F-1540 / From RS40 To GI

Our names are John and Donna Cottrell. We reside at 8481 Belews Creek Road, P.O. Box 33, in Belews Creek, NC 27009. We bought our land 30 years ago because of the quiet, rural, serene area and have enjoyed watching the wildlife that a country atmosphere provides. In 1999, we had to come before the planning board and the commissioners and fight against a proposed shopping center that would have sat adjacent to our land and Mr. Kibler's. Our biggest concern then and now is a 2-acre man-made pond that we have shared with Duke Energy since 1983. We ended up hiring Geo Science to help us prove our point regarding how storm water runoff from parking lots and buildings could environmentally hurt our pond since there is not a stream or artisan spring (As Mr. Kibler once claimed) feeding it. Mr. Kibler's land to be rezoned sits even closer to the pond than the other property we fought against and not knowing for sure what he might build could possibly hurt the pond even more so. The wildlife in the area depend on this pond as well as our animals. In 1999, Geo Science stated, "Stormwater run-off from the proposed development may adversely affect the quantity and quality of a significant portion of the input into the pond. There can be little doubt that the hydrology of the area will be permanently altered by the development, the question is the degree to which the alteration affects the pond."

We know Mr. Kibler's rebuttal will be, "I own part of the pond also". On July 4th, 2013 they expanded the pond onto their property with a track hoe by trespassing on property that we are leasing from Duke Energy. They did this without any permission or permits. Even after calling the Sheriff's, we were not able to stop them because Duke Energy needed to be the ones present to make them stop what they were doing. Once I got in touch with Erosion and Sediment Control and explained my concern regarding our pond, they came out immediately and then turned their attention to the trees that had been cut down. Come to find out, they needed a permit to cut down trees on the property they have that's already zoned GI.

They also cut down every tree on their property which will affect how the storm water runoff can hurt the pond. The whole time they had construction going on, they didn't have a silt fence up to protect the pond either. They had to be told to put one up. An environmentalist told us that you want to leave as many trees as possible along with soil and underbrush to filter out heavy metals and solids from entering the pond.

We are also concerned about the domino affect this rezoning could have for this area, along with increased traffic and noise. Our home property values will decrease as well because of the commercialism. Personally for us, instead of looking at a pond with beautiful trees surrounding it, we are now seeing boat storage buildings and not sure what else we may be looking at in the future.

Thank you for your time and consideration.--John and Donna Cottrell

Chris Frye

From: wmevans <wevans6@mac.com>
Sent: Monday, September 02, 2013 9:55 PM
To: Gary Roberts; Chris Frye
Subject: Regarding docket F-1540 Belews Creek

September 1, 2013

To Whom it May Concern:

I am against docket F-1540 on Belews Lake Drive in Belews Creek, NC, for the following reasons:

1. Impact on the environment near the pond. The applicant hasn't applied with the NCDENR (North Carolina Division of Environmental Resources) for a permit according to its web site here <http://portal.ncdenr.org/web/wq/swp/ws/401/publicnotices>. State recommendations and in most, if not all, localities it is required to maintain a riparian buffer along a body of water. The applicant has already bulldozed trees and vegetation along the pond that is not a buffer of 50 feet. The previous application hearing was postponed because said applicant was fined twice before for such violations; and we there is no reason to believe that the applicant's disrespect of the environment and governing laws will change in the future. The trees around the pond have been cut down (which is not his property. It is owned by Duke Energy).
2. The adjoining boat storage property seems to NOT be full so it suggests such further general industrial zoning that would include boat storage or similar uses in that particular area is unnecessary as private landowners could be affected by lights at night, and noise related to said property.; including environmental hazards.
3. There is erosion along the pond where the applicant has cut trees and other vegetation already.
4. Land adjacent to the northern part of property was denied rezoning previously by the Forsyth County planning board in 1999. It seems that there would be some research into why this zoning was denied and that some sense of consistency would be honored by the planning board.
5. The entry point to the neighborhood is very close to the drive of the applicant's rezoning request. There are small children who ride their bicycles up and down Belews Lake Drive near the entrance of the proposed drive. Concern for safety of the residents, children and entering traffic having just turned into the neighborhood while there is traffic entering the street close to the entrance, causing potential accidents.

Sincerely,

Janet Evans
8280 Nautical Point Drive
Belews Creek, NC 27009
(336)558-4839

Chris Frye

From: Gary Brown <gtbrown66@yahoo.com>
Sent: Monday, September 02, 2013 10:17 PM
To: Gary Roberts; Chris Frye
Subject: Docket f1540

To whom it may concern,

My name is Gary Brown I live at 8040 Montgomery Ridge Rd. in Belews Creek, NC.

I would like to voice my concern with the proposed rezoning associated with F1540. The property named on this docket, sits at the entrance to our neighborhood. We already have several parcels of land with zoning not conducive to a peaceful community, in-which anyone would want to raise a family. This proposal only servers to exacerbates an undesirable situation.

Gary Brown
336-409-0839