

Motion Making Required Findings and  
Statement of Consistency with Comprehensive Plan  
F-1546

I move that the Board make the following four required findings based upon the material and competent evidence presented in Special Use Permit request, F-1546, to cross Residential Single Family (RS-40) zoned land to access General Industrial (GI) zoned land:

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved;
2. That the use meets all required conditions and specifications;
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
4. That the location and character of the use, if developed according to the application and plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with Legacy.

I further move that the following statement be adopted in support of a **Motion to Approve** the request for Special Use Permit and Zoning Map Amendment F-1546:

The proposed request for a Special Use Permit and Zoning Map Amendment are in conformance with the Legacy Comprehensive Plan and the Northeast Rural Area Study and are reasonable and in the public interest because:

1. the zoning proposal is consistent with the purpose statement of the requested zoning district;
2. RS-40 is a suitable zoning district for property located within the Rural Growth Management Area.

Based on the foregoing affirmative findings in support of the Special Use Permit and the Statement of Consistency with the Comprehensive Plan, I move that the Special Use Permit and Zoning Map Amendment F-1546 be approved.

Motion Making Required Findings and  
Statement of Consistency with Comprehensive Plan  
F-1546

I move that the following statement be adopted in support of a **Motion to Deny** the Special Use Permit and Zoning Map Amendment F-1546:

The Board is unable to make the four required findings based upon the material and competent evidence presented in the Special Use Permit request under F-1546, to cross general industrially (GI) zoned land to access residentially (RS-40) zoned land, because the proposed use, if developed according to the application and plan submitted could substantially injure the value of adjoining or abutting residentially zoned property. Therefore, the Special Use Permit should be denied.

I further move that the following statement be adopted in support of a Motion to Deny Zoning Map Amendment F-1546:

The proposed zoning map amendment is in conformance with the recommendations of the Legacy Comprehensive Plan, however, it is not reasonable or in the public interest because the proposed rezoning would result in the loss of some undeveloped GI zoned property.

Based on the inability to make the four required findings and the Statement of Consistency with the Comprehensive Plan, I move that Zoning Docket F-1546 be denied, that issuance of the General Use Zoning Map Amendment and Special Use Permit be denied.

**FORSYTH COUNTY**  
**BOARD OF COMMISSIONERS**

**MEETING DATE:** July 28, 2014      **AGENDA ITEM NUMBER:** \_\_\_\_\_

**SUBJECT:-**

- A. Public Hearing on Zoning Petition of Arthur Kibler and Diane Kibler from GI to RS40 and Special Use Permit for Access: Property is Located on the West Side of Belews Lake Drive, South of NC 65 (Zoning Docket F-1546)
- B. Ordinance Amending the Forsyth County Zoning Ordinance and Official Zoning Map of the County of Forsyth, North Carolina
- C. Approval of Special Use Permit for Access to RS40 Zoned Land Across RS9 Zoned Land
- 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 and special use permit.

**ATTACHMENTS:-**     YES       NO

**SIGNATURE:** \_\_\_\_\_      **DATE:** \_\_\_\_\_  
County Manager

COUNTY ORDINANCE - GENERAL USE

Zoning Petition of Arthur Kibler and Diane Kibler, Docket F-1546

AN ORDINANCE AMENDING  
THE FORSYTH COUNTY  
ZONING ORDINANCE AND THE  
OFFICIAL ZONING MAP OF THE  
COUNTY OF FORSYTH,  
NORTH CAROLINA

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

Portion of PIN # 6980-48-6271 as depicted on the survey titled "Site Plan for special use permit ' Arthur L. Kibler and Diane J. Kibler", drawn by Land Solutions and dated April 28, 2014.

Section 2. This ordinance shall become effective upon adoption.

COUNTY ORDINANCE - SPECIAL USE PERMIT

Special Use Permit of Arthur Kibler and Diane Kibler,  
Docket F-1546

AN ORDINANCE ISSUING A SPECIAL USE  
PERMIT FOR ACCESS TO RS40 ZONED LAND  
ACROSS GI ZONED LAND

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BE IT ORDAINED by the Board of Commissioners of Forsyth County as follows:

Section 1. The Board of Commissioners hereby makes an affirmative finding as follows,  
based upon the material and competent evidence presented at the public hearing:

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved;
2. That the use meets all required conditions and specifications;
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and,
4. That the location and character of the use, if developed according to the application and plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with *Legacy*.

Section 2. The Forsyth County Board of Commissioners hereby issues a special use permit for Access to RS40 zoned land across GI zoned land in accordance with Section 6-1.5 of the Zoning Ordinance of the *Unified Development Ordinances* to Arthur Kibler and Diane Kibler to be established on the following described property:

Portion of PIN #s 6980-48-6271 and 9226 as depicted on the survey titled "Site Plan for special use permit ' Arthur L. Kibler and Diane J. Kibler", drawn by Land Solutions and dated April 28, 2014.

Section 3. This Ordinance is adopted after approval of the site plan entitled Arthur Kibler and Diane Kibler and identified as Attachment "A" of the Special Use Permit issued by the Board of Commissioners the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ to Arthur Kibler and Diane Kibler.

Section 4. The Board of Commissioners hereby directs the issuance of a Special Use Permit pursuant to Section 6-1.5 of the Zoning Ordinance of the *Unified Development Ordinances* for a development to be known as Arthur Kibler and Diane Kibler. Said Special Use Permit and site plan with associated documents are attached hereto and incorporated herein.

Section 5. This Ordinance shall be effective from and after its adoption.

COUNTY - SPECIAL USE PERMIT

SPECIAL USE PERMIT

Issued by the Board of Commissioners  
of Forsyth County

The Board of Commissioners of Forsyth County issues a Special Use Permit for the site shown on the site plan map included in this zoning petition of Arthur Kibler and Diane Kibler, (Zoning Docket F-1546). The site shall be developed in accordance with the plan approved by the Board and bearing the inscription: "Attachment A, Special Use Permit for Access to RS40 zoned land across GI zoned land, approved by the Forsyth County Board of Commissioners the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_" and signed, provided the property is developed in accordance with requirements of Section 2-5.2 of the Zoning Ordinance of the *Unified Development Ordinances*, and other applicable laws, and the following additional conditions be met:

- **PRIOR TO THE ISSUANCE OF GRADING PERMITS:**
  - a. Developer shall obtain a driveway permit from NCDOT.
- **PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS:**
  - a. Developer shall install all requirements of the NCDOT driveway permit.

**CITY-COUNTY PLANNING BOARD  
STAFF REPORT**

<b>PETITION INFORMATION</b>	
<b>Docket #</b>	F-1546
<b>Staff</b>	Gary Roberts, Jr. AICP
<b>Petitioner(s)</b>	Arthur Kibler and Diane Kibler
<b>Owner(s)</b>	Same
<b>Subject Property</b>	Portion of PIN #s 6980-48-6271 and 9226
<b>Address</b>	The subject property does not have an address assignment.
<b>Type of Request</b>	<p>General use rezoning from GI to RS40 and a special use permit for a access to RS40 zoned property across GI zoned property.</p> <p><b>NOTE:</b> 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> <p>Approval of a special use permit depends upon an affirmative finding of all Findings of Fact as found in the Other Applicable Plans and Planning Issues section below.</p>
<b>Neighborhood Contact/Meeting</b>	The application indicates that no neighborhood meeting has been held.
<b>Zoning District Purpose Statement</b>	The RS40 District is primarily intended to accommodate single family detached dwellings on large lots in areas without access to public water and sewer services. The district is established to promote single family detached residences where environmental features, public service capabilities, or soil characteristics necessitate very limited development. This district is intended for application in GMAs 4 and 5 and appropriate protected watershed areas. This district may also be applicable to older, larger lot development in GMAs 2 and 3 developed prior to the effective date of this Ordinance.
<b>Applicable Rezoning Consideration from Chapter B, Article VI, Section 6-2.1(R)</b>	<p><b>(R)(1) - Is the proposal consistent with the purpose statement(s) of the requested zoning district(s)?</b></p> <p>Yes, the subject property is located within GMA 5.</p>
<b>GENERAL SITE INFORMATION</b>	
<b>Location</b>	West side of Belews Lake Drive, south of NC 65
<b>Jurisdiction</b>	Forsyth County
<b>Site Acreage</b>	± 1.33 acres
<b>Current Land Use</b>	The site is currently undeveloped.



<b>Surrounding Property Zoning and Use</b>	<b>Direction</b>	<b>Zoning District</b>		<b>Use</b>
	North	GI		Undeveloped property
	East	AG & GI		Undeveloped property
	South	GI		Single family home and boat storage
	West	GI		Undeveloped property
<b>Physical Characteristics</b>	The site has a gentle slope downward toward the southwest.			
<b>Proximity to Water and Sewer</b>	Public water is available to the portion of the site which fronts on Belews Lake Drive; however, public sewer is not available.			
<b>Stormwater/ Drainage</b>	No known issues.			
<b>Watershed and Overlay Districts</b>	The site is not located within a water supply watershed but is south of the Dan River, WS IV Water Supply Watershed.			
<b>Analysis of General Site Information</b>	The site does not have access to public sewer service; otherwise, it appears to have no development constraints.			
<b>SITE ACCESS AND TRANSPORTATION INFORMATION</b>				
<b>Street Name</b>	<b>Classification</b>	<b>Frontage</b>	<b>ADT Count</b>	<b>Capacity/LOS D</b>
Belews Lake Drive	Local Street	25'	N/A	N/A
<b>Proposed Access Point(s)</b>	The portion of the subject property proposed for RS40 zoning would be accessed by a 25' wide driveway connection onto Belews Lake Drive if the accompanying special use permit for access is approved.			
<b>Trip Generation - Existing/Proposed</b>	<p><u>Existing Zoning: GI</u> No trip generation is available for the proposed general use zoning which has no site plan.</p> <p><u>Proposed Zoning: RS40</u> 40,016 sf = 1 unit x 9.57 (SFR Trip Rate) = 10 Trips per Day</p>			
<b>Sidewalks</b>	There are no sidewalks located in the general area.			
<b>Analysis of Site Access and Transportation Information</b>	The proposed rezoning site does not have frontage on a publically maintained road. Therefore, the second part of this request is for a special use permit to access (potential) residentially zoned property across GI zoned property. This access consists of a 25' wide strip which connects the subject property to Belews Lake Drive. Staff does not anticipate any transportation related issues associated with this request.			
<b>CONFORMITY TO PLANS AND PLANNING ISSUES</b>				
<b>Legacy GMA</b>	Growth Management Area 5 – Rural Area			
<b>Relevant Legacy Recommendations</b>	<ul style="list-style-type: none"> <li>Limit public investment in the Rural Area to preserve farmland, open space, and rural character. The area is intended to remain very-low density residential and agricultural in character.</li> </ul>			
<b>Relevant Area Plan(s)</b>	<i>The Northeast Rural Area Study</i> (prepared for the Forsyth County Board of Commissioners in 2012).			

<b>Area Plan Recommendations</b>	The <i>Northeast Rural Area Study</i> does not include site specific recommendations. However, the study generally recommends minimizing the rezoning of land to more intensive residential development. The plan also encourages rurally-compatible design and landscaping of residential development to minimize the impact of new developments on the community's rural and scenic character.
<b>Site Located Along Growth Corridor?</b>	The site is not located along a Growth Corridor.
<b>Site Located within Activity Center?</b>	The site is not located within an Activity Center.
<b>Other Applicable Plans and Planning Issues</b>	<p>For special use permits (SUP) requiring approval by the Elected Body, certain findings have to be met. Findings of the Planning Board accompanying a favorable recommendation shall include:</p> <p><b><u>Planning Board Findings:</u></b></p> <ol style="list-style-type: none"> <li>a. The development is in conformity with <i>Legacy</i>. (Yes)</li> <li>b. Water and sewer service are available in adequate capacity. (<i>Public water is available to the portion of the site which fronts on Belews Lake Drive, public sewer is not available. However, depending upon the soil type, the subject property is large enough to utilize a septic system as approved by the Forsyth County Health Department</i>).</li> <li>c. Where buildings greater than thirty-five (35) feet in height are proposed within the City of Winston-Salem limits, there is adequate access for aerial fire-fighting equipment. (<i>NA, the site is located within unincorporated Forsyth County</i>)</li> <li>d. Streets and highways, both within and in the vicinity of the development, are of such design and traffic-carrying capacity that the development will not create a traffic hazard. (Yes)</li> <li>e. General layout and design of the development meet all requirements of this Ordinance. (Yes)</li> <li>f. Adequate, safe and convenient provision is made for vehicular and pedestrian movement on the site with particular attention paid to the needs of public safety equipment and personnel (fire, police, etc) and service vehicles and personnel (sanitation, postal delivery, etc). (Yes)</li> <li>g. The Planning Board may recommend to the Elected Body conditions as identified in Section 6-1.3(A)(1) for the issuance of the special use permit to reduce impacts associated with the project. (<i>See "SITE-SPECIFIC RECOMMENDED CONDITIONS OF APPROVAL" section below</i>)</li> </ol>

	<p>The Elected Body shall issue a special use permit only when the Elected Body makes an affirmative finding as follows:</p> <p><b><u>Elected Body Findings:</u></b></p> <p>a. That the use will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved. <i>(Yes)</i></p> <p>b. That the use meets all required conditions and specifications. <i>(Yes)</i></p> <p>c. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and, <i>(Yes)</i></p> <p>d. That the location and character of the use, if developed according to the application and plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with <i>Legacy</i>. <i>(Yes)</i></p>					
Addressing	There are no addressing 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					
Analysis of Conformity to Plans and Planning Issues	(R)(4) - Is the requested action in conformance with <i>Legacy</i> ?					
	Yes					
<p>The subject request consists of two parts. The first part is the general use rezoning request from GI to RS40 and the second part is a special use permit request which would provide access from Belews Lake Drive to said property across GI zoned property.</p> <p>The subject property, which is undeveloped, was zoned for industrial use during the comprehensive County zoning in 1967 along with many other properties in the general area. However, the site is located within <i>Legacy's</i> Rural Area where public sewer is generally not provided and low density residential and agricultural uses are recommended. Therefore, staff is supportive of the proposed rezoning. Staff is also supportive of the special use permit request for access as, in staff's opinion, it meets the above mentioned Findings of Fact.</p>						
RELEVANT ZONING HISTORIES						
Case	Request	Decision & Date	Direction from Site	Acreage	Recommendation	
					Staff	CCPB
F-1540	RS40 to GI	Approved 10-28-13	Included portion of current site	1.3	Approval	Approval
F-895	I3 (GI) to R6 (RS40)	Approved 7-25-88	Included portion of current site	1.3	Approval	Approval

<b>CONCLUSIONS TO ASSIST WITH RECOMMENDATION</b>	
<b>Positive Aspects of Proposal</b>	<b>Negative Aspects of Proposal</b>
RS40 is a suitable district for property located within the Rural Growth Management Area.	The proposed rezoning would result in the loss of some undeveloped GI zoned property.
The special use permit request meets the required findings.	
<b>SITE-SPECIFIC RECOMMENDED CONDITIONS OF APPROVAL</b>	
The following proposed conditions are from interdepartmental review comments and are proposed in order to meet codes or established standards, or to reduce negative off-site impacts.	
<ul style="list-style-type: none"> <li>• <b><u>PRIOR TO THE ISSUANCE OF GRADING PERMITS:</u></b> <ul style="list-style-type: none"> <li>a. Developer shall obtain a driveway permit from NCDOT.</li> </ul> </li> <li>• <b><u>PRIOR TO THE ISSUANCE OF OCCUPANCY PERMITS:</u></b> <ul style="list-style-type: none"> <li>a. Developer shall install all requirements of the NCDOT driveway permit.</li> </ul> </li> </ul>	

**STAFF RECOMMENDATION:**

**REZONING: Approval**

**SPECIAL USE PERMIT: 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.**

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**CITY-COUNTY PLANNING BOARD  
PUBLIC HEARING  
MINUTES FOR F-1546  
JUNE 12, 2014**

**PUBLIC HEARING**

FOR: None

AGAINST: None

**WORK SESSION**

MOTION: Clarence Lambe moved approval of the zoning petition.

SECOND: Paul Mullican

VOTE:

FOR: Unanimous

AGAINST: None

EXCUSED: None

MOTION: Clarence Lambe moved that the required Planning Board Findings of Fact are met and certified that the site plan (including staff recommended conditions) meets all code requirements if the petition is approved.

SECOND: Paul Mullican


VOTE:

FOR: Unanimous

AGAINST: None

EXCUSED: None

According to information furnished by the Office of the Tax Assessor on June 27, 2014, 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

F-1546 Attachment A  
**EXISTING GI USES ALLOWED**

**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  
Services B

F-1546 Attachment A  
**EXISTING GI USES ALLOWED**

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  
Transmission Tower  
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

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

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

F-1546 Attachment B  
**PROPOSED RS40 USES ALLOWED**

**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  
Transmission Tower (see UDO)

**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-1546 Attachment B  
**PROPOSED RS40 USES ALLOWED**

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

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

F-1546

To the review board and county commissioners,

RECEIVED  
JUN 02 2014

We, the undersigned and close neighbors to Arthur Kibler at 8158 Belews Lake Drive, Belews Creek, NC 27009 support his efforts to re-zone part of his property to RS-40 for a new residential home site.

ADDRESS

SIGNATURE

DATE

8208 Belews Lake Dr  
Belews Creek, NC 27009

*Thomas [Signature]* 5/25/14

8595 Belews Lake Dr  
Belews Creek, N.C. 27009

*David [Signature]* 7/25/14

8191 Belews Lake Dr  
Belews Creek NC 27009

*[Signature]* 02/29/14

8256 Nautical Pt Drive  
Belews Creek, NC 27009

*Cheryl [Signature]* 5/29/14

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\* Have we any dissenters as of this date?

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