

**PARTIAL MINUTES OF THE
ZONING COMMISSION
March 18, 2019**

Z-19-03-012: A rezoning request from R-5 Residential Single-Family-5) to CD-C-M (Conditional District Commercial Medium) for the property located as 2801 North Church Street, generally described as west of North Church Street and north of New Street, approximately 0.20 acres. (Denied)

Mr. Carter provided the zoning and background information on the property and surrounding properties and noted the conditions associated with the request.

Speakers From the Floor

Valerie Sullivan, Keller Williams Realty on behalf of James and Betty New, 1501 Highwoods Boulevard, Greensboro stated this property has been Cooks Machine Shop since about 1969. The owners are now selling it and would like the zoning changed to commercial. She has talked to the neighbors behind the property and they have no problems. The other neighbors she spoke to adjacent are the Scales who are present tonight. Currently there is a chain link fence on the back between the two properties and the Scales are concerned about putting a privacy fence up and what kind of noise would be there.

Chair Lester asked if anyone else wanted to speak in favor of the request and no one came forward. Chair Lester then asked if anyone wished to speak in opposition to the request Samuel Scales, 2803 North Church Street, Greensboro, stated he has lived in the house adjacent to this property with a chain link fence. He does not have a problem with the use of it being changed but is concerned with future types of business, with cars parked there for extended lengths of time. He asked if there could be a barrier put in. He stated that he was not notified what type of business until recently and just wanted to know if a barrier for privacy could be placed. He stated he was also concerned about possible paint fumes as he and his wife have asthma and can't be subjected to any kinds of paints and things of that nature. These are his concerns.

Chair Lester inquired if there was anyone else who wished to speak in opposition to the request and no one came forward. Chair Lester asked if the applicant wished to respond to the opposition.

Rebuttal

Ms. Sullivan stated as far as she knew the new business would be just repair work on motors like the current business. The motors would be brought inside to be repaired and there should not be a lot of in and out. There should also not be any paint fumes as far as she is aware. Chair Lester inquired of Mr. Scales if he wished to speak to respond.

Opposition

Mr. Scales stated the only thing he wants to know is if there's going to be anything that could possibly cause them to have any health issues. Burning wood causes issues when attempting to do yardwork themselves. He does not have a problem with the request as he won't stand in the way of progress but at the same time is concerned with health.

Chair Lester asked the staff if they could respond to these concerns since the Commission is here to just look at the rezoning. Mr. Kirkman stated there are other uses for auto repair, minor or major, that fall under the Commercial Medium category. Some of that could include body work and those type of things. He noted the site is pretty small and if there was an expansion of the existing building, parking needs to be accounted for and also landscaping in those cases. If there is outdoor storage, it would have to be screened by code and any new outdoor storage would also be addressed. He could not speak specifically to some of the operation since the ordinance doesn't specify indoor/outdoor uses in most cases. There is a possibility a vehicle

service use that could be a little more intense but if they increase the building or have outdoor activities, there are provisions in the ordinance to mitigate impacts from those uses.

Mr. Blackstock inquired if the current use was rebuilding engines for cars. Ms. Sullivan replied that what is there right now is Cooks Machine Shop which is equipment for machines such as ball bearing, metal, and things of that nature and has currently been there for the past 20 years. Mr. Holston asked if there are currently any materials being stored outside as a part of the machine shop or is everything done on inside. Ms. Sullivan advised that is correct. Mr. Holston asked will it be the same with the new business and Ms. Sullivan stated from what she understands it will be the same. Mr. Holston asked will there be vehicles stored outside. Ms. Sullivan stated maybe but what she understands is the engines will be brought to them and does not believe there will be vehicles there because the motor would already be out. Mr. Holston asked is there room to store vehicles on site. Ms. Sullivan stated there are probably 12 parking spaces and the building itself is about 1600 square feet

Zoning Commission Discussion and Action

Chair Lester inquired if there were any other questions of the applicant or Mr. Scales. Seeing none, Chair Lester closed the public hearing.

Ms. Mazzurco asked to clarify that the existing zoning was R-5 and the existing use had been then for 20 years. Mr. Kirkman stated that yes the current zoning is R-5 but the repair use has been there since the 1970s. The current is use considered nonconforming due to the zoning.

Ms. Mazzurco stated she was stuck because it's in an R-5 neighborhood, and they would be rezoning to CD-C-M in an R-5 neighborhood. She was perplexed and asked if that was not considered a spot zoning.

Mr. Kirkman then provided some further background to try and address Ms. Mazzurco's question. He stated that prior to 1992 which is when the City adopted its first unified development ordinance, some of the residential zoning districts, such as RES-120, allowed for some local serving commercial uses. North Church Street has several examples where there are older convenience stores, or offices, or vehicular repair places that were legal at the time they were established and then as zoning changed over time, they maintained their operations. That is the situation here where it was most likely, based on the information available, established legally. When the 1992 ordinance was adopted, the residential districts prohibited all commercial uses at that point in time but this continued operation and maintained its rights to be there. If the zoning is changed to Commercial Medium, it's still a very limited site with .02 acres on there. If there are expansions or changes of use they would have to address parking, landscaping, and other things that will come into place with the current ordinance to address some of those impacts. Outdoor storage, for instance, is required to be screened from residential uses.

Mr. Holston noted his concern about the lack of barrier between this property and the other property because it is an R-5, it's non-confirming but is still R-5. Mr. Kirkman responded they either have a scenario where they tear down the existing structure and try to rebuild a new structure or they're reusing the property to a use that's different than what is there today, a change of use. Under either of those scenarios, they City would apply the current ordinance requirements that require screening for outdoor storage. It may also require the establishment of a landscape buffer that does not exist now and address any parking deficiencies that come up. Mr. Holton asked based on the conversation this evening, if the plan usage triggered a landscape buffer. Mr. Kirkman replied if they're maintaining uses that are similar to what's going on currently it would not trigger any other standards. If they begin to do something else, outdoor storage for example, they would be required to meet those screening requirements. Mr. Holston asked as it is in this case, could the applicant have offered a condition for a landscape buffer or fencing. Mr. Kirkman responded the applicant could have offered a condition for some kind of

opaque fence or something else along the property boundary. It's not required today as the chain link is an allowed material for fencing on the property.

Chair Lester then asked Mr. Kirkman for the City's recommendation.

Mr. Kirkman stated this property is designated currently as Mixed Use Commercial on the City's Generalized Future Land Use Map. The Mixed Use Commercial designation promotes a mix of uses, of which various commercial uses remain predominant, but where residential, services, and other uses are complementary.

The proposed request does support the Comprehensive Plan's Economic Development goal to promote a healthy and diversified economy and the Reinvestment/Infill goal to promote sound investment in Greensboro's urban areas. The proposed CD-C-M district, as conditioned, accommodates a variety of uses within the Commercial-Medium district except for the uses prohibited on the list. Staff recommends approval of the request.

Chair Lester noted it seemed Mr. Scales was in agreement with the continuation of the current use and it is acceptable to him. If there were changes it could possibly benefit him from the zoning designation restrictions. In reviewing everything, he would be in favor of the request. Mr. Holston expressed that it is currently an R-5 zoning with a non-conforming use. It does not sound like the use is changing significantly enough for things such as barriers to be put in place. He is aware that the opposition was in a sense supporting the request but still feels like some type of conditions were need to protect the adjacent residential property. He is uncomfortable at this point voting yes because there are no conditions and it is an R-5 and the use, if it stays as is, still doesn't protect the next-door neighbor.

Ms. Mazzurco concurred that can't support this request. Ms. Mazzurco asked staff what happens in two months when the neighbor four doors down wants to open up a business under CD-C-M. She feels the Commission would be opening Pandora's box. Will not support this because of the lack of conditions and it feels like spot zoning to her. She asked staff if they could facilitate the business with a Special Use Permit like is done with Bed and Breakfasts that go into residential neighborhoods.

Mr. Kirkman responded that Special Use Permits would only be an option if shown on the permitted use table in the Land Development Ordinance. Those are instances where a use may fit in a district but needs to have a higher level of scrutiny about how it fits into the context. If this was a single-family residence and then going to commercial use, there would be a conversation of the impact, and things in the ordinance that may mitigate some of those impacts on here. This is an existing non-conforming use that has been there for many years. Noted to the Commission the zoning to the immediate south is Commercial Medium zoning. There are a variety of doctor offices and other facilities there. There is industrial zoning across the street with various small scaled businesses. The context in this zoning area is not necessarily all residential on this particular block. Immediately north and west are single-family residential uses. The lot is located along a major thoroughfare so the issue of spot-zoning would not necessarily come into the conversation. What are the main impacts to adjacent neighbors is the question the Commission is trying to get answers to.

Mr. Kirkman then restated that with the size of the lot they are somewhat limited in what they could do in terms of the size and scale of activities on there. Probably the best option is to use the existing building for whatever use is on there. If they try to tear that down and rebuild, it would trigger some things such as landscape buffers and other things that the site probably would not be able to accommodate for much of the building site but the ordinance does provide some provisions. With outdoor storage if it doesn't exist today, it would trigger the modern standards which require a screening with that.

Mr. Engle pointed out there is at least one condition on the request that says “no vehicular access to Church Street”. They can’t tear the building down and create another fronting business to Church Street. He tried to put a paint booth in a 100-year-old warehouse that was 70,000 square feet and it was very difficult. They would have all kinds of challenges, as he did. The facility that’s been there since the ‘60s would have to be brought up to code. That would mean bathrooms, insulation, lighting, and everything else. He is in support of the request because they own the land, and it’s right next to CD-C-M. It is in a neighborhood with a gas station across the street. It is an old neighborhood and that’s the way it was

Mr. Engle advised in regards to agenda item Z-19-03-012, the Greensboro Zoning Commission believes that its action to recommend approval of the zoning amendment, for the property located at 2801 North Church Street from R-5 (Residential Single Family-5) to CD-C-M (Conditional District Commercial Medium) to be consistent with the adopted Connections 2025 Comprehensive Plan and considers the action taken to be reasonable and in the public interest for the following reasons:

The request is consistent with the Comprehensive’s Plan’s Reinvestment/Infill goal to promote sound investment in Greensboro’s urban areas, including Center City, commercial and industrial areas, and neighborhoods and is consistent with the Economic Development goal to promote a healthy, diversified economy with a strong tax base and opportunities for employment, entrepreneurship and for-profit and non-profit economic development for all segments of the community, including under-served areas such as East Greensboro. The request also includes conditions that limits potential negative impacts to the surrounding area.

Motion by Mr. Engle, seconded by Mr. Marshall. Commission voted 4-4. (Ayes: Lester, Marshall, Alford, Engle, Nays: Holston, and Mazzurco, Nays: 2, Mazzurco, Dansby-Byrd, Blackstock, and Holston). Counsel Jones confirmed that a tie vote results in a denial of the request.

Chair Lester announced the denial constituted final action unless appealed in writing to the Planning Department within 10 days. Anyone may file such appeal and all zoning appeals will be subject to a public hearing at the April 16, 2019 City Council Meeting. All adjoining property owners will be notified of any such appeal.