

**MEETING OF THE  
ZONING COMMISSION  
April 13, 2015**

**Z-15-03-010** 3510-3516 West Friendly Avenue, 805, and 807 Hobbs Road (north of West Friendly Avenue, east of North Holden Road, and west of Hobbs Road) – An ordinance rezoning from R-3 (Residential Single-Family) to PUD (Planned Unit Development) with the following conditions: (1) Uses shall be limited to those permitted in the PUD district, **except** that the following uses shall not be permitted: billboards, eating and drinking establishments with drive-through facilities, animal shelters, community scale cultural and community uses, day care centers, educational facilities, governmental buildings, group care facilities, clubs and lodges, brewpubs, indoor shooting ranges, hotels and motels, bed and breakfasts, bars, night clubs, funeral homes and crematoriums, veterinary services and pet grooming, kennels, ABC stores, convenience stores with gas pumps, garden centers, pawn shops, sexually oriented businesses, self-storage, vehicle sales and service, and car washes. (2) There shall be no more than 45 residential units and 48,500 square feet of non-residential development. (3) All uses except single-family dwellings shall be limited to one point of access on Hobbs Road and no more than one point of access on West Friendly Avenue. (4) There shall be clearly defined pedestrian connections between residential and commercial buildings that are protected from vehicular traffic. (5) Freestanding signs shall be limited to one monument sign on Hobbs Road and one monument sign on West Friendly Avenue. Each sign shall be limited to a maximum of 12 feet in height. (6) Wall signs and monument signs shall not be internally illuminated. (7) Exterior lights shall not exceed 22 feet in height. (8) Vehicular use areas located between any building and West Friendly Avenue shall be set back at least 15 feet from the right-of-way and landscaped in general accordance with Type C buffer planting yard standards. (9) Building facades that are not separated from Hobbs or West Friendly Avenue by vehicular use areas shall provide the following: (a) Commercial and mixed-use buildings should have at least 35% fenestration (transparent openings) on the ground floor. (b) Entrances should be oriented to pedestrians with clearly defined access. (c) Windows on the ground floor of commercial and mixed-use buildings should be located not more than 36 inches from the ground. (d) Windows, bays, varying shades of brick, or other articulation shall be introduced at least every 15 feet to eliminate bland walls. (10) Building exteriors in the non-residential area, at a minimum, shall consist of 85% brick or stone veneer. In the residential area building exteriors shall be no less than 90% brick. (11) Residential buildings adjoining the northern property line shall not exceed two stories in height and shall not have balconies on the northern side of the buildings. (12) Loading and service areas and dumpsters shall be screened by masonry walls 8 feet in height. (13) Developer shall prepare a tree survey when addressing LDO tree conservation requirements (Section 30-12-1.5). (14) To provide compatibility with surrounding properties, any building located within 50 feet of the northern lot line, and with a façade oriented towards Hobbs Road shall include a doorway visible from Hobbs with an ADA compliant pedestrian connection to the public sidewalk – For properties located at 3510-3516 West Friendly Avenue, 805 and 807 Hobbs Road, generally described as north of West Friendly Avenue, east of North Holden Road, and west of Hobbs Road (6.4 acres) – Halpern Development Company, LLC on behalf of Vera T. Rabin, John Bishop Byerly, William Smith, Nancy and Elizabeth Smith-Hunnicut, Jennifer O. Krishner, and Ada S. German. **(APPROVED)**

Ms. Smith described the subject property, as well as surrounding properties, and noted issues in the staff report.

Chair Pinto asked if there was anyone wishing to speak in favor of the request.

Tom Terrell, 300 North Greene Street, representing Halpern Development Company, distributed a booklet of informational material to Commissioners. Mr. Terrell stated his opinion that this request does not

represent a non-residential march up West Friendly Avenue; rather, this is classic infill. The proposed development is currently a low-density residential site located within a stretch of 1.3 miles of otherwise non-residential uses, including First Lutheran Church and the office building at the corner of Friendly Avenue and Holden Road and the various retail uses associated with Friendly Center. Mr. Terrell also asserted that the proposed retail will be an asset that will add to nearby home values as concluded by a market Impact Analysis Study. Retail is perceived as an amenity when a home is on the market. Referring to a conceptual drawing, Mr. Terrell stated that the proposed project is a step down from the size and intensity of the Shoppes at Friendly and is more pedestrian friendly in design. He noted that conditions have been offered that enforce neighborhood compatibility and added that a certified arborist was recently hired to evaluate the site, identify all of the mature trees, and recommend what should be saved. The sketch plan submitted to staff shows that there will be residential between the retail and Hobbs Landing consisting of three-story brownstones. Halpern Development and Hobbs Landing are working diligently to come to a private agreement that would ensure the residential component would be constructed on a schedule and of a quality satisfactory to both parties.

A traffic study of the area was done by Davenport Engineering that concluded even though there will be an increase in cars, there will be no change in the level of service where Holden Road and Wedgedale Drive come into Friendly Avenue. The only limited change in the level of service was projected to occur at Friendly Avenue and Hobbs Road in the afternoon peak hour.

Mr. Terrell referred to a letter in the packet of information from First Lutheran Church on West Friendly Avenue stating that they continue to remain neutral on this issue. Halpern is continuing to work with the church to make sure the site will be compatible with them.

Mr. Terrell stated that the Heather Court residential development, located directly across the street, is supportive of the rezoning request and the Shoppes at Friendly also have no opposition to the request. He added that Halpern continues to work with Hobbs Landing and they are close to an agreement. He addressed the concern that Halpern has not been meeting with all the neighbors. Halpern Development has met with Heather Court and Hobbs Landing as a large group, in smaller groups and has exchanged dozens of phone calls. A meeting with the Friendly West development was held on March 23, 2015. Mr. Terrell stated that everyone located within 600 feet of the request received a letter informing them of a meeting at First Lutheran Church on January 26, 2015. The meeting was not a closed meeting but residents living outside of 600 feet did not receive a copy of the letter. The meeting was announced in the media and the Friendly Coalition was present. Mr. Terrell concluded that this is a reasonable zoning request, it is compatible with adjoining properties, and city staff is supportive of the request.

Responding to questions, Mr. Terrell provided additional details on the residential component of the request and said the developer hopes to have close to a 100 percent brick and stone exterior façade. They are proposing a minimum square footage to be done through a private agreement with Hobbs Landing, not by zoning conditions. The residential component would be a maximum height of one and a half stories between Hobbs Landing and the non-residential development. Depending on the builder, the units of the residential component are anticipated to be in the \$500,000 range. Mr. Terrell stated his opinion that the addition of a residential component has resulted in a much better plan that serves the community and creates a residential transition between the retail development and Hobbs Landing Court. He said that Councilwoman Nancy Hoffmann asked for more from the developer on this important site and the current plan is Halpern Development's response to her request. Halpern has been discussing appropriate setbacks, types of vegetation, and other issues with Hobbs Landing Court.

Mr. Terrell spoke to recommendations made by Davenport Engineering in their Traffic Impact Study. The primary recommendation was for the intersection at Friendly Avenue and Hobbs Road to be restriped to

incorporate a dedicated left turn lane. In addition, there will also be a turn lane going into the development to provide sufficient deceleration to accommodate cars on Friendly Avenue.

Mr. Terrell responded to a question from Mr. Lester and explained that the proposed brick wall for property from Heather Court to Wedgedale Avenue is not part of the request. The brick wall will be part of an off-site change that is not allowed to be handled through zoning conditions. The developer plans to enter into a private agreement with the three property owners to their satisfaction that would involve a construction easement, descriptions of the design, and the quality of the wall.

Mr. Blackstock asked how many residential units are proposed for the site. Mr. Terrell said there can be no more than 28 units according to the approved concept plan. However, it looks like there will be closer to 11, 12, or 13 single-family units along the northern boundary and 8 brownstone units.

Jack Halpern, 5269 Buford Highway, Atlanta, Georgia, is Chairman of Halpern Development Company. He described his experience and reputation as a real estate developer. He stated their commitment to contribute to the quality of life in Greensboro. Responding to a question from Mr. Parmele, he stated that the residential component will enhance the development. A pedestrian friendly scale will be created so that the homes will have appeal not just due to quality construction but because of the convenient location close to shops and restaurants. He believes that the residential and retail components will be compatible. The shops and restaurants will do better because they will have clients right there at their doorstep. They are looking to work with the neighbors to create an asset to the area.

### **Speaking in Opposition:**

Don Eggleston, 2100 East Wendover Avenue, is an attorney representing the Friendly Coalition. The Coalition consists of immediately adjoining property owners as well as residents throughout this section of Greensboro. He stated that the Friendly Coalition is opposed to any commercial rezoning of this piece of property. He recalled the history of the area and stated that a promise was made that if the land was rezoned for the Shoppes at Friendly, then Hobbs Road would become the line of delineation between residential and retail areas. Chair Pinto asked Mr. Eggleston to share evidence of his claim that the City made representations with homeowners. Mr. Eggleston could not provide names; however, members of the Friendly Coalition have a distinct recollection of these discussions going on. One could easily look at the overlying plan to see that there was a natural boundary between retail and residential. The area across Hobbs Road continued to develop for residential purposes and based on those types of expectations, homes were purchased and others were built.

Mr. Eggleston stated his opinion that the pressure for commercial development does not come from market demand; rather, it comes from the demand of developers who have identified the property as valuable for development purposes. The Shoppes at Friendly and Friendly Shopping Center provide for walkable, convenient shopping with two grocery stores, multiple drug stores, retail shops, and restaurants. There are no studies that show the market is demanding this proposed commercial rezoning.

Mr. Eggleston stated that he knows of no residential neighbor in Hobbs Landing or Friendly Coalition in favor of this rezoning. They do not believe it will benefit their lifestyle or the increase their quality of life. The plan before the Commission is exactly the same as the original plan except the area previously reserved for buffer is now proposed with residential units on it. He noted that although negotiations may be ongoing with Halpern Development, Hobbs Landing has not decided to speak in favor of this rezoning. In addition, the private agreements that are not part of the zoning request are not enforceable by the City. The zoning ordinance cannot require that the residential component will be built. He asked the Commission to consider what is known versus what may happen.

Mr. Eggleston stated that the Friendly Coalition has determined through an independent study that it is feasible to develop this property as residential. The results of the study have been published. The current property is zoned residential and at residential property values, residential development is possible.

At the request of Mr. Eggleston, members of the audience in opposition to the request stood to be recognized. He concluded that there has been no representation that the City needs this shopping center and he asked Commissioners to consider the needs of neighbors in opposition to the request.

Responding to questions, Mr. Eggleston said that the developers might be operating out of speculation that the City needs this shopping development. He reiterated that no studies have been presented to show that there is a need for another bank, grocery store, or pharmacy at this site. Mr. Eggleston stated that there are approximately 20 to 30 Coalition members within the 600 foot notification area. He spoke with a family living at 614 Hobbs Road within the 600 foot area that had not been approached by Halpern Development since January 6, 2015 regarding this issue. He indicated that members of the Hobbs Landing Court community consider themselves part of the general Friendly Coalition group; however, they have hired their own attorney to deal with issues that specifically involve them.

Mr. Eggleston clarified for Mr. Parmele that the Coalition's opposition to commercial development at the proposed site does not cut off communication from Halpern Development to ameliorate concerns. The Coalition has met with Halpern Development and nothing has been brought to them yet to address their concerns. Mr. Parmele pointed out that the former Burlington Industries building was clearly a commercial use for 15 to 20 years. He asked for clarification regarding the difference in commercial application between Burlington Industries and the proposed commercial development in terms of traffic and other issues. Mr. Eggleston stated that Friendly Coalition opposes commercial development on the west side of Hobbs Road. He reiterated that Hobbs Road is the delineation between residential and commercial zoning.

Ms. Bachmann asked Mr. Eggleston to elaborate on the concerns of Friendly Coalition. He said there is great concern relative to pedestrian safety walking down Friendly Avenue. The development is located close to the sidewalk and will increase pedestrian traffic in the area. There are also traffic safety concerns for cars coming in and going out of the development directly onto Friendly Avenue because left and right hand turns will be allowed. There will be no traffic light to allow traffic in and out of the center. He noted there are three schools located within a short distance of the proposed development that already cause traffic problems. Mr. Eggleston also commented that residents of Friendly West are concerned that vehicles will take a short cut through their property and he also cited noise issues.

Mr. Gilmer asked Mr. Eggleston what the developer should have done to reach out to additional communities when they only have an obligation to go to neighbors within 600 feet. Mr. Eggleston said there was a difference in what one is legally obligated to do and what one does when truly concerned about neighbors. Mr. Parmele asked how the proposed development will impact those living several miles away. Mr. Eggleston cited impacts from increased pedestrian traffic, vehicular traffic, and the close proximity of three schools. In addition, once the barrier of Hobbs Road is breached, a large number of residents believe the door will be opened to continued urban sprawl down Friendly Avenue. Everybody in the City will be impacted if the potential commercial value of these properties is the overwhelming determination as to whether it should ever be rezoned residential or commercial. There has to be some kind of evidence that residential neighborhoods will be protected.

Chair Pinto asked how many members were represented in the Friendly Coalition. Mr. Eggleston stated that communications number upwards of 600 to 1,000 interested parties. There is a hierarchy of neighborhood representatives and considering all the neighborhoods, there could be 2,000 to 3,000 people.

**Rebuttal in Favor:**

Relative to Mr. Eggleston's comment that there may be 2,000 to 3,000 people represented in the Friendly Coalition, Mr. Terrell commented that last year their Facebook page had 306 Likes and their email list had far fewer names than earlier indicated by Mr. Eggleston.

Mr. Terrell stated that there were many studies showing a need for this type of development. He said that the development team did not choose the site on a whim. When grocers look at a location like this, they know the volume of sales, traffic patterns and other data. The market has driven this, not the developers.

Mr. Terrell said that the claim a promise was made is an urban myth. The matter has come up in two previous zoning applications and he felt it had been disproven. There is nothing stated in any minutes of the City Council, Zoning Commission, or media relative to the promise. Only the City Council can act to make such a promise by resolution and that was not done.

Referring to the summary of neighborhood communications in the distributed packets, Mr. Terrell stated that it is very difficult to discuss things that no reasonable person would consider. Friendly Coalition's position is unchanging and the development company anticipated more instability if a meeting was held with them. For that reason, there were no more meetings with the entire broad community that goes out as far as Westridge Drive. He stated that the meetings and conversations held by the developer with the community are greater than any rezoning he has ever done in his 30-year practice. The letter sent out to neighbors within 600 feet stated that the meetings were not closed meetings. They were announced in the media and people from all over the western part of Greensboro attended the meeting.

Ms. Bachmann pointed out that the difference in this request from the previous one is that instead of having a buffer, there is residential development. She asked why residential was added to this request. Mr. Terrell stated that the previous application was pulled when it appeared there would not be sufficient support. He stated that the residential component is a buffer in a different form placing residential against residential and therefore, creating a better feel for this development.

Addressing a traffic study question, John Davenport, 305 West 4<sup>th</sup> Street, Winston Salem, North Carolina, described details of the traffic study. A standard City of Greensboro traffic study was conducted. Traffic counts are conducted during a typical Monday, Tuesday, or Wednesday while school is in session. They look at the highest peaks of traffic from 7:00 a.m. until 9:00 a.m. and from 4:00 p.m. until 6:00 p.m. He commented that peak traffic periods for schools generally do not coincide with peak traffic periods for commercial developments. The study concluded that the levels of service will be maintained. Improvements will be made by adjusting pavement markings to allow traffic to flow more efficiently.

Mr. Griffin asked Mr. Terrell to address the concern that the residential buffer may not get built. Mr. Terrell explained that the retail component must be built at one time because tenants would not allow it to be built in increments. There is common infrastructure with parking, underground retention, and all the walkability factors. Halpern has been very actively working on design structure and interviewing builders. The only thing that could happen to prevent the residential component from being built would be a recession similar to the one in 2008.

### **Rebuttal in Opposition:**

Mr. Eggleston informed members that he was just authorized to state on behalf of Hobbs Landing Court that they are opposed at this time to the current rezoning request.

Relative to the traffic study, Mr. Eggleston clarified that the traffic count will increase at the intersection from 33,000 to 39,000 with the introduction of the proposed development.

Mr. Eggleston addressed the comment that Friendly Coalition was unruly and therefore should not be listened to. He stated without hesitation that at every meeting he has attended with the Coalition since his employment by them, there has been no unruliness and Mr. Terrell has no evidence to the contrary. Friendly Coalition members feel they have an interest in this matter and those interests are not served by this rezoning request.

There being no other speakers, Chair Pinto closed the Public Hearing.

### **Staff Report:**

Mr. Kirkman stated that the site in question is designated as both **Low and Moderate Residential** on the City's Generalized Future Land Use Map (GFLUM). The Low and Moderate Residential designation is generally inconsistent with the proposed rezoning request; however, the applicant has concurrently submitted a request to amend the GFLUM on the subject sites to Mixed Use Commercial. The Mixed Use Commercial designation is intended to promote a mix of uses, of which various commercial uses remain predominant, but where residential, service, and other uses are complimentary. The proposal supports the Reinvestment/Infill goal to promote sound investment in Greensboro's urban areas. The proposal includes measures to protect neighborhoods from negative impacts of development. The proposed PUD (Planned Unit Development) zoning district, as conditioned, supports residential and non-residential uses compatible with adjacent development. Staff is recommending approval of this request.

### **Comments:**

Mr. Marshall thinks the proposed PUD zoning designation with the stated conditions reflects a sense of compromise with neighbors and elected officials to address some of their concerns. The developer has made significant changes since their initial proposal. The proposed use and zoning change does offer the highest and best use of the property. It will create economic development and increase the tax base and in addition; it will create a more walkable neighborhood. He plans to support the request.

Ms. Bachmann commented that it is hard to separate emotion from the real issue. The issue is whether or not this request is the most appropriate use of the land in question. She felt that the primary use of the land along this side of West Friendly Avenue is commercial with the exception of these six residential houses. She felt the site is an infill area and the six houses do not represent the best, most appropriate use of that land. She felt that the proposed plan is very solid and tasteful and will preserve large trees in the area. The proposal is the best and most appropriate use of the land and she plans to support the request.

Mr. Griffin stated that the Commission's only job is to decide the highest and best use of the land in question. The highest and best use is not being achieved by the deteriorating six houses on the site. For that reason he plans to vote in favor of the rezoning request.

Mr. Gilmer thanked everyone for coming to the meeting. He commented that the Commission cares about Greensboro and does not take this matter lightly. He plans to support this request as he did in the past because it is the highest and best use for the property. He felt the property values would not decline in any way and Mr. Terrell made a great presentation. He said it would be hard to communicate with a group who says they don't want anything period. He did not know how you could come to any type of compromise in that situation.

Referring to Mr. Eggleston's comment that 30,000 cars currently go down Friendly Avenue to the intersection at Hobbs Road, Mr. Parmele stated that no residential neighborhood has that kind of traffic. From that standpoint, he could not see residential continuing at that location. The decision for that area to be made retail was made 30 to 40 years ago when the community decided to come out of downtown and put some retail into the suburbs. From the standpoint of urban sprawl, successful developments just don't happen without thought and consideration. He felt that this was an infill development and is clearly defined in an area of retail focus. Mr. Parmele agreed that this does impact the whole community and if it is not rezoned to a commercial use, a disservice will be done to the six property owners as well as the entire community. He will be voting in favor of the motion.

Mr. Placentino thanked everyone for their concern and outreach. He firmly believes this is not a speculative development. Market forces dictate where retail goes and it is based on rooftops and income. This is the most important retail corner in the county. In addition, he personally believes that the residential component will be difficult to sell and the original plan was the best plan. He will be voting in favor of the request.

Mr. Lester felt that the commercial mixed use component of the development was consistent with the surrounding properties and is in keeping with the neighborhood as well. The proposed request is balanced and appears to be consistent with the Redevelopment/Infill goal and appears to increase the economic competitiveness of property use in Greensboro. In addition, the request reflects several efforts to protect neighborhoods from negative impacts. The request is conditioned to exclude drive through facilities, night clubs, pawn shops, sexually oriented businesses, and convenience stores with gas pumps. The request also seems to address the increase in traffic through restriping and it increases pedestrian connections. Further conditions mitigate other impacts on residential neighborhoods. The request is consistent with the goals for Greensboro and for these reasons; he plans to support the request.

Mr. Blackstock thanked everyone for coming to the meeting. Following consideration of all the facts along with the developer's efforts to redesign the plan, he plans to support the request.

Chair Pinto felt that Halpern has gone above and beyond holding meetings with neighbors and he acknowledged limitations in how far the meetings can be advertised. The meetings were set out in the News and Record and other publications and therefore, there was an opportunity to attend one of the meetings. The Commission cannot consider restrictive covenants, property values, promises, and which stores will go into the development. The Commission considers the highest and best use of the land. Mr. Pinto said that he considered the interests of the six property owners and the City shouldn't unreasonably restrict their right to sell their property to whomever they want to and receive a fair profit. He also considered neighborhoods in close proximity to the area in addition to Greensboro as a whole. He said that this project is a good thing for Greensboro. Chair Pinto also looked at the Comprehensive Plan for the future. The Plan was prepared before the Shoppes at Friendly were built and there was a different dynamic in the area. The six owners want to sell and they cannot sell it as residential single-family which is what it is zoned for now. This plan has to be rezoned to something else because no one is going to buy a single family one-acre lot on the corner of Hobbs and Friendly Avenue. He acknowledged the legitimate concerns of neighbors; however, he felt that this property is truly an island in the middle of a non-residential area. He noted that there have been efforts to address noise and traffic in the proposal. Chair Pinto stated that this is a transition area and an infill area. For these reasons, this is a good plan and he will be voting for it as well.

Mr. Gilmer moved that in the matter of **Z-15-03-010** the Greensboro Zoning Commission believes that its action to approve the zoning amendment located at 3510 to 3516 West Friendly Avenue and 805 and 807 Hobbs Road from R-3 (Residential Single-Family) to PUD (Planned Unit Development) to be consistent with the adopted Connections 2025 Comprehensive Plan and considers the action taken to be reasonable and in the public interest because it is consistent with Reinvestment/Infill goal to promote sound investment in Greensboro's urban areas; the request does implement measures to protect neighborhoods from negative

impacts of development; and it promotes new patterns of intensity of use to increase economic competitiveness and enhance quality of life in urban areas; seconded by Mr. Parmele. The Commission voted 9-0 in favor of the motion. (Ayes: Pinto, Placentino, Parmele, Gilmer, Bachmann, Griffin, Blackstock, Marshall, Lester. Nays: None.)