

**PARTIAL MINUTES OF THE
ZONING COMMISSION
AUGUST 15, 2016**

Z-16-08-002 5812, 5908 and 5910 Lake Brandt Road, 2000 and 2020 Trosper Road and a portion of Trosper Road right-of-way (north and south of Trosper Road and east of Lake Brandt Road) - An original zoning request from County AG (Agricultural), County LB (Limited Business) and County RS-40 (Residential Single-Family) to City CD-C-M (Conditional District-Commercial-Medium) with the following conditions: (1) All uses permitted within the C-M district **except** cemeteries; bus and rail terminals; hotels and motels; funeral homes and crematoriums; taxi dispatch terminal; taxidermist, pawn shop; sexually oriented businesses; self-storage facilities; vehicle sales and service; automobile towing and storage service; car washes; any Light Industrial uses; wholesale trade and any warehousing, storage and freight handling. – For the property located at 5812, 5908 and 5910 Lake Brandt Road, 2000 and 2020 Trosper Road and a portion of Trosper Road right-of-way, generally described as north of Trosper Road and east of Lake Brandt Road (14.68 Acres) – Marc Isaacson on behalf of Sun Capital, Inc. **(FAVORABLE RECOMMENDATION)**

Z-16-08-003 A portion of Lake Brandt right-of-way (north of Trosper Road and east of Nat Greene Trail) – Original zoning from County LB (Limited Business), County AG (Agricultural) and County RS-40 (Residential Single-Family) to City PNR (Parks and Natural Resources). – For a portion of Lake Brandt right-of-way, generally described as north of Trosper Road and east of Nat Greene Trail (2.1 Acres) – City of Greensboro. **(FAVORABLE RECOMMENDATION)**

Ms. Smith stated that the presentation will combine two requests, Z-16-08-002 and Z-16-08-003. The first request contains approximately 14.68 acres and is located north and south of Trosper Road and east of Lake Brandt Road. The second request is for a portion of the Lake Brandt right-of-way only that contains 2.1 acres. She described the subject properties, as well as surrounding properties, and noted issues in the staff report.

Chair Pinto explained that the annexation process and said that the Commission will hear the case and then recommend a zoning designation to City Council. If the City Council decides to annex the property, there will be a recommended zoning designation in place. The Commission's role at this meeting has nothing to do with annexation. The Commission is tasked to determine a zoning designation because the County's zoning designation is different from the City's designation. Commissioners will hear from each side as to what appropriate zoning designations should be.

Marc Isaacson, 804 Green Valley Road, is an Attorney representing the applicant, Sun Capital, Inc. Ken Miller, Principal of Sun Capital, Inc., raised his hand to be recognized. Packets of information were distributed to members.

The applicant is filing this application to bring the property into the City of Greensboro and to have it zoned Commercial Medium with conditions as referenced in the application. The purpose of the application is to develop the property for a neighborhood retail and service oriented center.

Revised Conditions:

Mr. Isaacson read the conditions submitted with the application into the record as follows:

- (1) All uses permitted within the C-M district **except** cemeteries; hotels and motels; funeral homes and crematoriums; taxi dispatch terminal; taxidermist, pawn shop; sexually oriented businesses; self-

storage facilities; any Light Industrial uses; wholesale trade and any warehousing, storage and freight handling.

He added the following additional excluded items: Any residential use; auditoriums, coliseums, stadiums, governmental facilities, not to include general office space; specialty hospitals, temporary and emergency shelters; TV, HDTV, AM/FM broadcast, wireless telecom facilities; clubs and lodges; movie and other theaters; shooting ranges; amusement and water parks; fairgrounds, campgrounds and RV parks; park and ride facilities; all other commercial parking; bars; nightclubs, brewpubs; kennels with outdoor accommodations; ABC stores; and tattoo parlors.

The second additional condition would read:

- (2) A minimum of 50% of the exterior building materials will consist of wood, brick, glass, or stone.

The following condition shall apply to any commercial development on the parcel located at the southeast corner of Lake Brandt Road and Trosper Road, known as Tax Parcel 0137457:

- (3) Within any required landscape buffer abutting a single-family residence, a continuous visual screen shall be required. This may be achieved by installation of evergreen materials to augment existing vegetation or by installing plantings of an evergreen variety at a rate and layout designed to achieve a continuous screening.
- a. An opaque fence a minimum of six feet high, where allowed, shall also be installed between the required buffer and the development.
 - b. No illuminated signage may be placed on the building wall facing an abutting residential use.

Mr. Isaacson asked that the above conditions, as revised, be included in the application.

In the matter of **Z-16-08-002**, Chair Pinto moved that the revisions as read be approved and included as part of the application, seconded by Mr. Parmele. The Commission voted 8-0 in favor of the motion. (Ayes: Pinto, Bachmann, Blackstock, Griffin, Parmele, Marshall, Lester, Duggins. Nays: None.)

Mr. Isaacson reviewed the packet of information distributed to members. He described an illustrative sketch plan and aerial photographs. The development may contain a pharmacy, coffee shop, retail, restaurant, and office spaces. Aerial photographs showed that there is already scattered retail in the area. The property to the east of Trosper Road is in a water shed critical area that limits the amount of built-upon area. Therefore, about two-thirds of the property would remain undisturbed.

There were concerns about the intersection at Lake Brandt and Trosper Roads, specifically at peak hours getting into and out of that area. At the request of the City, a Traffic Impact Study was done by Davenport and Associates. A new traffic signal at that location was justified along with several improvements on both Lake Brandt and Trosper Roads. The report indicates that if left alone, the level of service at this intersection would be reduced in two years to Level F which is the worst level that can be determined. With the improvements, it would be improved to Level C which would significantly improve the traffic flow in the area.

A letter was mailed to all property owners on the City's mailing list on July 25, 2016. A number of calls were received and a meeting was held last week with property owners in the area. Revisions to the conditions were made as a result of concerns expressed at the meeting. Total agreement on some of the concerns was not reached at the meeting and there are still discussions to be had in that regard before the matter goes to City Council.

John Davenport, 305 West 4th Street, Winston Salem, North Carolina, provided clarity on the location and impact of the Outer Loop in relation to the proposed development. The Traffic Impact Study was conducted

according to City and GDOT standards. The Outer Loop is not open but when they projected growth of surrounding facilities and traffic in the area, it was taken into consideration. The current traffic count at the intersection of Lake Brandt and Trosper Road is approximately between 8 and 9 thousand trips per day. Ms. Bachmann referenced the stoplight at the intersection approaching Jesse Wharton Middle School at Lake Brandt and Air Harbor Roads. She asked for clarity on the distance between that stoplight and the proposed stoplight. Mr. Davenport said that the distance is about 1,500 feet and that is a reasonable distance for signal space.

In Opposition:

Craig Lawrence, 5726 Oak Tree Road, provided a PowerPoint presentation reflecting concerns of the neighborhood to the rezoning request. Several neighborhood meetings were held and 120 signatures in opposition to the rezoning were gathered in a petition. He noted overwhelming opposition in the neighborhood to the request. At his request, everyone in the audience who was in opposition to the request stood to be recognized. Approximately 50 individuals responded. He reviewed land use history in the area and said the area has always been lower density single-family in use. The neighborhood feels that the request of the amendment to change the Land Use Plan is an admission of the significant incompatibility between the proposed commercial development and the adjacent historically low-density, single-family neighborhood. In addition, he pointed out that to his knowledge there will be no other public school in the

City except Jesse Wharton with a commercial development located across the street from it. He noted additional incompatibilities of the development with the neighborhood in terms of traffic and the watershed.

Peter Murphy, 2514 North Beech Lane, stated that the Outer Loop will come in 1.5 miles to the south of the proposed development at Cotswold where there is currently a Food Lion and more commercial use will probably be developed there. The Lake Brandt Road and Highway 150 intersection in Summerfield is 2.7 miles from the proposed development where there is a large shopping center. There are already neighborhood amenities in the area that are enjoyed by the residents. The residents are not asking for any additional amenities. In addition, he noted the large increase in traffic that will be generated by non-neighborhood cars coming to the development. The idea of putting another stoplight at the intersection to justify the development is circular logic at best because a traffic problem is not solved by generating 100% more traffic.

Peter Thompson, 5302 North Oaks Drive, pointed out that the shopping center located at Pisgah Church and Elm Street and the Highwoods Shopping Center off of Bryan Boulevard have numerous vacancies. He did not see the point of putting up more buildings when current ones are not being used.

REBUTTAL IN SUPPORT:

Marc Isaacson, 804 Green Valley Road, said that they do not consider this development to be haphazard growth and it fits very well at the busy intersection. The property to the east was rezoned for residential subdivision and the main concern was traffic and now a traffic signal will be placed at the intersection. The concept of a compatible neighborhood center is embraced all over the City. There are many moderate sized retail centers located at intersections with thoroughfares that are near residentially developed areas. This area is in transition and the proposed neighborhood center is designed to serve this growth. Mr. Isaacson does not feel that this is spot zoning; rather, the request makes sense and fits at this busy intersection.

John Davenport, 305 West 4th Street, Winston Salem, North Carolina, explained that the new development will generate a few new trips; however, most of those trips will already be on the roadway.

REBUTTAL IN OPPOSITION:

Darlene Garrett, 8003 Willow Glen Trail, is a member of the Board of Education. The Board has not been able to hear this matter yet and therefore, they have not taken a formal position. In previous situations, the Board has opposed rezoning where an ABC store is going to be built next to a school. A big box pharmacy

sells wine and it would be consistent for the Board to be opposed. She noted the General Statute that limits the sale of alcohol within 50 feet of a school building.

Alex Elkin, 230 North Elm Street, Attorney, was present on behalf of the Board of Education. The Chair of the Board of Education asked him to relay that although they have not had an opportunity to review this case, there is a history of opposing the sale of alcohol at establishments that are in close proximity to schools as related by Ms. Garrett.

Andrea Zimmerman, 1528 Trosper Road, said there are 11 pharmacies within 10 minutes of the area and there are numerous strip malls that can't rent out spaces they have. She pointed out that the effect of Bryan Boulevard traffic going north to Summerfield was not accounted for in the Traffic Impact Study.

Elizabeth Murray, 5723 Oak Tree Road, expressed concern that the historic Trosper House will be torn down if the development is approved.

John Stec, 5722 Oak Tree Road, talked about the nature of the property. The historic Trosper House has many old Oak trees with one of them being only a few inches smaller than the largest documented Oak tree in the City of Greensboro. There is also a unique Dawn Redwood tree that was extinct until 1941 when it was cultivated from seeds obtained from China. He felt it was a shame to lose this type of environment in their neighborhood for a parking lot.

There being no other speakers, Chair Pinto closed the public hearing.

Staff Recommendation:

Mr. Kirkman stated that this is designated as **Interim Residential** on the Generalized Future Land Use Map (GFLUM). In conjunction with the zoning application, the applicant filed a Comprehensive Plan amendment to revise the future land use category to Mixed Use Residential. The Mixed Use Residential designation applies to neighborhoods or districts where the predominant use is residential and where substantial, compatible local-serving non-residential uses may be introduced. The proposal supports the Economic Development goal to promote a healthy and diversified economy and the Growth at the Fringe goal to promote sound and sustainable patterns of land use. The CD-C-M district will accommodate a wide range of retail, service and office uses. Staff is recommending approval of this request.

Comments:

Mr. Kirkman explained the notification process involved when there is a nearby school. The notification process notifies owners of property 600 feet from the request; and therefore the notice would have been sent to the owner of the school property.

Mr. Parmele stated that putting emotion aside, the Commission's challenge is to determine the highest and best use of the property and make that recommendation to City Council. He made the following points: (1) that the traffic will only continue to grow on the road if nothing is done; (2) that if the property is zoned R-5, 70 homes can be built while 42 homes can be built at R-3 zoning and all these homes would add to the traffic and access issues; and (3) that groups can get together to work toward saving the historic house although it may not be a successful venture. He felt the highest and best use of the land with its growth and the way it is laid out is a mixed use facility like a neighborhood center. It would not be a destination shopping center but would serve local residents in the area. Based on these comments, he plans to support the request.

Chair Pinto commented that the Comprehensive Plan is a movable object in that the City's growth, roads, and neighborhoods are changing and amendments to the plan are anticipated. Many good reasons were given why the plan proposed by the applicant should not be; however, no suggestions were heard as to what it should be. Parts of this land are zoned residential, Limited Business, and Agricultural and one of

these classifications would allow businesses to operate. He agreed with Mr. Parmele that the highest and best use of the property on Lake Brandt Road across from the school is not residential. The Commission's job is to give some guidance to City Council. The request has several conditions attached to it that eliminate a lot of potential uses of the property. Chair Pinto also plans to support the request.

Mr. Lester commented that he was not persuaded by the fact the historic house and trees may be torn down. In addition, the tract of land is large enough that conflict with the statute preventing the sale of alcohol within 50 feet could be accommodated by the developer. However, he expressed concern about traffic and the impact of the Outer Loop. He noted the proximity of other shopping centers and the possibility of bringing driving traffic to the subdivision. This is a neighborhood development but the neighborhood appears to be overwhelmingly against it. He felt the area was residential and he did not see commercial uses in it. Mr. Lester stated his opposition to the request as it is presented now.

Ms. Bachmann said that she drives in this area frequently and the storefront that remains on the property is an eyesore and something needs to be done because it is a beautiful area. She researched and determined the average distance between the stoplights in this kind of area is actually 900 feet and therefore, she no longer has concerns. The statute prohibiting alcohol within 50 feet of the school will have to be addressed. This is a residential area and she felt the area could benefit from some type of commercial but she is concerned about rezoning to Commercial Medium. She does not plan to support the request.

In the matter of **Z-16-08-002**, Mr. Parmele moved that the Greensboro Zoning Commission believes that its action to approve the zoning amendment located at 5812, 5908, 5910 Lake Brandt Road; 2000 and 2020 Trosper Road and a portion of Trosper Road right-of-way from County AG (Agricultural), County LB (Limited Business) and County S-40 (Residential Single-Family) to City CD-C-M (Conditional District-Commercial-Medium) to be consistent with the adopted Connections 2025 Comprehensive Plan and considers the actions taken to be reasonable and in the public interest because it is consistent with the Growth at the Fringe goal to promote sound and sustainable patterns of land use; it is consistent with the Reinvestment/Infill goal to promote sound investment in Greensboro's urban areas; and the request does implement measures to protect neighborhoods from potential negative impacts. The motion was seconded by Mr. Griffin. The Commission voted 5-3 in favor of the motion. (Ayes: Pinto, Parmele, Griffin, Duggins, Marshall. Nays: Lester, Bachmann, Blackstock.)

In the matter of **Z-16-08-003**, Mr. Parmele moved that the Greensboro Zoning Commission believes that its action to approve the zoning amendment located at a portion of Lake Brandt right-of-way from County LB (Limited Business), County AG (Agricultural) and County RS-40 (Residential Single-Family) to City PNR (Parks and Natural Resources) to be consistent with the adopted Connections 2025 Comprehensive Plan and considers the actions taken to be reasonable and in the public interest because it is consistent with the Community Facilities goal to provide services and infrastructure in a cost effective manner to meet citizen's needs, contribute to quality of life and support desired land use patterns. Additionally, the request is consistent with the Growth at the Fringe goal to promote sound and sustainable patterns of land use. The motion was seconded by Mr. Marshall. The Commission voted 5-3 in favor of the motion. (Ayes: Pinto, Parmele, Griffin, Duggins, Marshall. Nays: Lester, Bachmann, Blackstock.)