

**PARTIAL MINUTES OF THE  
ZONING COMMISSION  
OCTOBER 17, 2016**

**Z-16-10-001** 5604 and a portion of 5698 West Gate City Boulevard (north of West Gate City Boulevard and south of Atwater Drive) – An original zoning request from County CU-GO-M (Conditional Use-General Office-Moderate) to City CD-C-H (Conditional District-Commercial-High) with the following conditions: (1) Uses shall be limited to all uses permitted in the C-H district **except** animal shelters, cemeteries, all commercial parking, park and ride facilities, pawnshops and accessory uses and structures with a specific use of junked motor vehicles. – For the property located at 5604 and a portion of 5698 West Gate City Boulevard, generally described as north of West Gate City Boulevard and south of Atwater Drive (6.87 Acres) – Barry Siegal (**FAVORABLE RECOMMENDATION**)

Chair Bachmann explained that items **Z-16-10-001, Z-16-10-002 and Z-16-10-003** are related items and will be heard together. However, the Commission will vote on each of these items separately and independently.

Ms. Smith described the subject properties in items **Z-16-10-001, Z-16-10-002 and Z-16-10-003**, as well as surrounding properties, and noted issues in the staff report.

Barry Siegal, 3929 Tinsley Drive, stated that these requests are really Phase II of a case that was heard by the Commission at an earlier date. There was a piece of property in the original case that had to be acquired by NCDOT (North Carolina Department of Transportation) and therefore, the project had to be subdivided into two phases. The intent of this request is to develop a continuation of the Adams Farm Shopping Center with a grocery store anchor and additional quality retail. They reached out to all the surrounding neighbors during Phase I but they did not reach back out during this phase. Neighbors who attended the Phase I meeting said they planned to reach out and explain the request to other neighbors who could not attend; however, some did not receive that communication. He did receive a call from a neighbor who was unable to attend the Phase I meeting but following the conversation, they voiced no opposition to the request. Plans have already been submitted to TRC (Technical Review Committee).

Ms. Mazzurco asked if the railroad is endorsing this request. Mr. Kirkman acknowledged that although no one is present from the railroad, the City of Greensboro has had conversations with NCRR (North Carolina Railroad) about the railroad corridor and they are aware of the request.

Ms. Mazzurco indicated that she had a conversation with Patricia Glass with NCRR on Friday. Ms. Glass was not aware that this request was coming to the Zoning Commission. She spoke with City staff about this case but her request was that the plans for development be revealed to NCRR before coming to the Commission. As of last Friday, Ms. Glass had not seen the plans and Ms. Mazzurco encouraged her to contact City staff. Mr. Kirkman said that staff spoke with Ms. Glass and understood that NCRR knew this original zoning was coming and this action would continue on to City Council. Ms. Mazzurco noted that Ms. Glass is not present but it was made clear to her in their conversation that if this recommendation goes through and moves on to City Council and is ultimately approved, it is final. Ms. Glass understood that was not the case unless the plans were approved. If the plans were not approved, the property would go back to the way it is zoned today. Mr. Kirkman said that basically a City zoning classification is being established for all three of these properties. He confirmed that regardless of whether the project is approved or not, if the zoning is approved it will remain with the property until another change in zoning is approved. The City has an agreement through the TRC committee to keep NCRR apprised of actions occurring on properties adjacent to NCRR corridors and to refer them to applicants to have conversations.

Chair Bachmann asked staff if approval of the railroad is required for the rezoning or is information just being disclosed and shared. Mr. Kirkman said that the railroad is an interested party just like any other interested party and that does not factor into the City's approval process.

Mr. Siegal commented that they realize the railroad has a right-of-way and his property goes to the center of the road. As a result of the railroad having the right-of-way, he cannot develop within their right-of-way. That area is going to remain undeveloped because structures or parking cannot be put within the right-of-way without railroad's approval. The point is really the aesthetics in terms of just changing the zoning classification according to policies and procedures. With regard to the development, just because it would be rezoned to RM-18 does not mean they can do anything except respect their right-of-way.

Since this is a state railroad, Ms. Mazzurco asked if the state could supersede anything the City would do as far as an action. Counsel Jones said that the state could not supersede the City in respect to a zoning action. If the state did not like the zoning classification, they could petition to change it.

Chair Bachmann summarized that this action does not preclude use by the railroad and they will continue to use it as they are today. The property is actually being rezoned in the zoning classification that is being recommended by staff which is consistent with neighboring land.

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

#### **Staff Recommendation:**

Mr. Kirkman reviewed recommendations for all three requests. All of these sites are currently designated as both **Mixed Use Commercial** and **Mixed Use Corporate Park** on the Generalized Future Land Use map. The Mixed Use Commercial designation is intended to accommodate a mix of use, of which various commercial uses remain predominant, but where residential, service and other uses are complementary. The Mixed Use Corporate Park designation is intended for large tracts of undeveloped land near the City's fringe that are appropriate for well planned, larger scale business/employment parks with supporting uses such as retail, hotels and residential. All of the requests meet the Reinvestment Infill goal to promote sound investment in Greensboro's urban areas and the Economic Development goal to promote a healthy, diversified economy. The request also supports the Comprehensive Plan's Community Facilities goal to provide community facilities, services and infrastructure in a cost-effective manner to meet citizens' needs, contribute to quality of life and support desired land use patterns.

In terms of individual cases, the CD-C-H district, as conditioned, will limit uses to retail and office uses to generally fit the character of the area. The railroad right-of-way falls in the RM-12 district that is located adjacent to it and does not have any general effect on the railroad itself. The portion of Gate City Boulevard with the Office district will apply to the right right-of-way only.

Staff is recommending approval of all three requests.

#### **Comments:**

None.

In the matter of **Z-16-10-001**, Mr. Pinto moved that the Greensboro Zoning Commission believes that its action to approve the zoning amendment located at 5604 and a portion of 5698 West Gate City Boulevard from County CU-GO-M (Conditional Use-General Office-Moderate) to City CD-C-H (Conditional District-Commercial-High) 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 Reinvestment/Infill goal to promote sound investment in Greensboro's urban areas; it is consistent with the Economic Development goal to promote a healthy diversified economy; and the request does implement measures to protect neighborhoods from potential negative impacts. The motion was seconded by Mr.

Duggins. The Commission voted 7-1 in favor of the motion. (Ayes: Bachmann, Gilmer, Marshall, Blackstock, Lester, Duggins, Pinto. Nays: Mazzurco.)

**Z-16-10-002** Portion of Railroad right-of-way (south of Atwater Drive and west of Gate City Boulevard) – An original zoning from County CU-GO-M (Conditional Use-General Office-Moderate) to City RM-12 (Residential Multifamily) – For a portion of Railroad right-of-way, generally described as south of Atwater Drive and west of West Gate City Boulevard) (1.3 Acres) – City of Greensboro **(FAVORABLE RECOMMENDATION)**

In the matter of **Z-16-10-002**, Mr. Pinto moved that the Greensboro Zoning Commission believes that its action to approve the zoning amendment located at a portion of Railroad right-of-way, generally described as south of Atwater Drive and west of Gate City Boulevard, from County CU-GO-M (Conditional Use-General Office-Moderate) to City RM-12 (Residential Multifamily) 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 Reinvestment/Infill goal to promote sound investment in Greensboro's urban areas; it is consistent with the Community Facilities goal to provide community facilities, services, and infrastructure in a cost effective manner to meet citizens' needs, contribute to quality of life and support desired land use patterns; seconded by Mr. Duggins. The Commission voted 7-1 in favor of the motion. (Ayes: Bachmann, Gilmer, Marshall, Blackstock, Lester, Duggins, Pinto. Nays: Mazzurco.)

**Z-16-10-003** A portion of West Gate City Boulevard right-of-way (west of Harnett Drive and north of Wayne Court) – An original zoning from County RS-40 (Residential Single-Family) and County CU-GO-M (Conditional Use-General Office-Moderate) to City O (Office) – For a portion of the West Gate City Boulevard right-of-way, generally described as west of Harnett Drive and north of Wayne Court (7.1 Acres) – City of Greensboro **(FAVORABLE RECOMMENDATION)**

### **Comments:**

Ms. Mazzurco said that she supports the development but after her conversation with Patricia Glass with NCRR, she feels the City has not done their due diligence with the railroad. Ms. Glass was adamantly opposed to this request. Ms. Glass does not live in Greensboro and Ms. Mazzurco was unsure why NCRR did not have a representative present to speak on this case. She felt it was problematic for the City to rezone or annex property when the stakeholder or their designated representative is not present to speak for themselves. She stated her intention to closely track this development through the TRC process and the planning process. Based on comments made by Ms. Glass, she was unsure if the project would actually happen.

Mr. Gilmer commented that this process is similar to the one that happened when Adams Farm was being developed some years ago.

Mr. Kirkman reiterated that the City has had an agreement with NCRR for a number of years to try and make sure that they have an opportunity to have conversations when these rezonings occur.

Ms. Mazzurco commented that the right-of ways are very different today than in the past.

Mr. Pinto stated that when someone has a right-of-way, they have a right to comment but they are not the owner of that property. The fact that property is being rezoned or annexed doesn't affect their right-of-way at all because building cannot occur on the right-of-way without their permission. He did not see why the railroad or anyone else with an easement or right-of-way needs to be given any more leeway than anyone else who is notified. He felt the City went above and beyond what they are legally required to do by going to the railroad telling them when it is going to come before TRC to invite their input. It sounds like the railroad was appreciative of that and plans to avail themselves of it.

In the matter of **Z-16-10-003**, Mr. Pinto moved that the Greensboro Zoning Commission believes that its action to approve the zoning amendment located at a portion of West Gate City Boulevard, generally

described as west of Harnett Street and north of Wayne Court, from County CU-GO-M (Conditional Use-General Office-Moderate) to City O (Office) 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 Reinvestment/Infill goal to promote sound investment in Greensboro's urban areas; it is consistent with the Community Facilities goal to provide community facilities, services, and infrastructure in a cost effective manner to meet citizens' needs, contribute to quality of life and support desired land use patterns; seconded by Mr. Duggins. The Commission voted 7-1 in favor of the motion. (Ayes: Bachmann, Gilmer, Marshall, Blackstock, Lester, Duggins, Pinto. Nays: Mazzurco.)