

**PARTIAL MINUTES OF THE
ZONING COMMISSION
July 15, 2019**

Z-19-07-008: A rezoning request from R-3 (Residential Single-Family - 3) to CD-O (Conditional District – Office) for the property located at 1302 New Garden Road, generally described as east of New Garden Road and south of Belvidere Place, .078 acres. (Denied)

Mr. Carter presented the zoning map and other summary information on the subject property and surrounding properties and noted the conditions. Vice Chair Mazzurco called on the applicant to present their request.

Kim Reitinger, 1293 New Garden Road, stated that she was asking the zoning commission pursuant to Article 4 of the Land Development Ordinance that the Commission approve a conditional district rezoning to CD-O. She stated this property was in the middle of CD-O and referenced recent rezoning in this area. She requested for her property to grow with the area and be able to utilize it for the highest and best use. She knocked on the doors of her neighbors. Letters were mailed and has proof of everything she has done and to whom she had spoken. She provided her name, phone number, and email address on the letter. When speaking to people in her neighborhood, there were no questions or concerns. Vice Chair Mazzurco stated she appreciated all her work regarding neighborhood outreach. Stated the Commissioners have received a great deal of emails, phone calls, and visits about this case. She stated she is asking for a change of use with two conditions but in reading the Use Table there are a large number of other uses that could be done even with the conditions. Vice Chair Mazzurco asked what were the plans and if there was site plan. Ms. Reitinger responded she did not have a site plan and that she did not want to change the use immediately. She was still considering all options. The only discussion she had was increasing the number of units for rental. The property had tenants at the time of the rezoning request. It was a lower rent base. With this change they could change the utilities over. Vice Chair Mazzurco asked if she was using this property as rental. Ms. Jones advised that under North Carolina state law, whether a property was owner or renter occupied was not something the Zoning Commission could consider in making their decision.

Mr. Engle stated he was in support of infill but he sees the neighborhood is extremely close to this property. He stated that the rezoning cases previously referenced by the applicant included a lot of community outreach and included concrete plans. He asked if an office use would be able to comply with the Office buffer requirements. Ms. Reitinger responded she would follow whatever TRC recommended. She would not just put anything there. She would have to go through the Planning Department to receive approvals.

Mr. Holston asked if it was possible for a buffer to be placed in-between the existing house and the adjacent residential property. Ms. Reitinger responded she owns one home with a fence and shrubbery on the left side facing the adjacent property. Mr. Holston asked if she was thinking of tearing down the existing structure. Ms. Reitinger stated she does not know. She was only stating that they current have a good buffer.

Mr. Kirkman responded to Mr. Engle's question of what would be required. The landscape buffer would vary depending upon the use. An office use next to a single-family residential dwelling would require a 25 feet wide type B landscape buffer. A multi-family use, which is permitted in an office district, would require a 15 foot type C buffer. The ordinance requires a certain ratio of trees to shrubs within the buffer. Mr. Engle asked if they were to get the rezoning tonight, could they use the office designation starting tomorrow to rent out rooms in the house with parts of the house used as an office without constructing a new buffer. Mr. Kirkman responded they would have to go through a change of use process and landscaping would be a part of that review. Mr. Engle asked the applicant if she was planning on using the existing structure for an office use or planning to tear down the existing structure for something else. Ms. Reitinger stated they are still considering building costs.

Vice Chair Mazzurco asked Ms. Jones if the North Carolina general statute did not allow a single-family residence to be used as rental property. Ms. Jones responded that was not correct. She said that it was an inappropriate consideration to consider whether something would be rental or owner occupied. Under North Carolina state law, you cannot make a distinction between rental and owner-occupied properties in making zoning types of decisions. Vice Chair Mazzurco asked if the people living in the property have a business within the home. Ms. Reitinger responded no.

Mr. Holston asked Ms. Reitinger if she had any inclination for a meeting with the neighbors. Ms. Reitinger responded they seemed very familiar with the rezoning in the area, seemed very comfortable. She stated she has a witness that went to each door because of what she experienced with this community in the past. No one said anything about having a problem with it. Vice Chair Mazzurco stated staff recommends in most cases for the applicant to call a community meeting and asked Ms. Reitinger if she called a meeting. Ms. Reitinger responded she did not because she spoke with them many times regarding how this should be handled.

Vice Chair Mazzurco asked if anyone else wanted speak in favor of the request. No one came forward. Vice Chair Mazzurco opened the floor to the opposition.

Lavon Williams, 5607 Robin Ridge Road. Ms. Williams was speaking on behalf of the Robin Ridge Neighborhood and other residents along New Garden. She stated Dr. Adam Ross, head of Eagle Family Medicine provided a written statement of his opposition. Ms. Williams spoke with Kathy Ferguson who expressed opposition to her and sent an email to Ms. Mazzurco. She stated that she understood hesitation in referring to the New Garden Plan but felt it was important to consider. The plan had been two years in the making. It was this very type of contentious rezoning that served as the impetus for the formalization of the strategic plan. She referred to the staff's recommendation as being flawed and disheartening as the recommendations were based on information that had been "cherry picked", picking portions of the Comprehensive Plan that support one side and ignoring the portions that contradict the validity of this type of rezoning. She read Section 6 of the Comprehensive Plan and stated that the request represented commercial encroachment into their neighborhood. The property was currently zoned as a single-family residence within a clear delineated boundary of a well-established neighborhood. She referred to a city GIS map. She stated this neighborhood deserves protection per the Comprehensive Plan which states there should be provisions for smooth, well designed transitions between residential and commercial properties. Any time there are two different land use properties on the same corridor will meet and that meeting point is a transition from one type of land use to the other. It is not grounds for rezoning one to be the same as the other. Ms. Williams stated it is the job and duty of the Planning officials, Zoning Commission, and City Council to protect residents in an established neighborhood. This rezoning is disruptive and there is no plan. She asked the Commission to please oppose the rezoning.

Richard Jordan, 5503 Belvidere Place. Mr. Jordan was a representative for Robin Ridge Neighborhood and served on the Advisory Committee for the New Garden Road Strategic Plan. He was opposing the rezoning. There is no plan. He was concerned about the possibility of 60 plus uses being permitted and up to four stories in height where every other property is one or two stories. Everything that has come up around the Robin Ridge Neighborhood has had a plan. The New Garden Road Strategic Plan has a plan and quoted from page 26 regarding the focus of commercial reinvestments and additional developments. Mr. Jordan provided a track record regarding 1302 New Garden Road and provided quotes Commissioners made in 2008. After the failed rezoning, there was a mother in law addition to the property which resulted in a number of permit violations. After the additions were completed, there were multiple ordinance violation complaints regarding increased occupancy with tenants parking on the front lawn, occupancy by more than allowable non related persons living in the property. Today there are 5 pickups parked on the gravel. There are multiple trailers and building equipment parked in the rear of the property. He stated that Ms. Reitinger did not reside on the property and there was no positive contribution to the neighborhood. There had been minimum contact with neighbors other than a letter regarding the intent to request rezoning. He stated that some neighbors attempted to call for clarification and left a message with no response. Applicants for other nearby rezoning cases reached out to the neighbors and held multiple neighborhood meetings. Mr. Jordan felt Ms. Reitinger was trying to rezone for any of the 63 uses to mitigate her financial risk. He stated it was no secret that Ms. Reitinger was no stranger to City officials in Greensboro and had proven she had little regard for zoning regulations and asked why she should be rewarded with an open-ended rezoning classification. Mr. Jordan asked the Commission to support the Comprehensive Plan and the future New Garden Road Strategic Plan and protect the City's neighborhoods.

Mary Beth Kerns, 1207 Condor Drive, stated she sent the Commissioners an email voicing her opposition to this proposal. She provided the Commissioners a map she made of the neighborhood which depicts the height of surrounding buildings. There are no three- or four-story houses or structures of any kind in Robin Ridge. Ms. Kerns provided an aerial image of the subject property depicting six vehicles in the front yard. This is a residential house that does not allow for front yard parking. There is parking also in the back. Along the addition there are two sets of steps going to different parts of the building because lots of

people live in that house. She stated that their neighborhood was zoned R-3, low density, and single-family.

Mr. Engle asked staff what the maximum height was in the R-3 zoning district. Mr. Kirkman responded that it was 50 feet and three stories. Mr. Engle stated he would like for everyone to understand that if somebody tore down a house in their neighborhood today, they could build three or four stories without anything from the City. He stated he is not for or against, he only wants that to be understood.

Ms. Kerns alluded to a petition signed by the neighborhood asking for an overlay district for protection. The neighborhoods that have overlay districts, or plans, or conservation districts have protection and can talk about heights and setbacks, boundaries and whatever else. This neighborhood does not have that protection and is being eroded a little at a time. They don't want a hodgepodge. The oldest houses in the neighborhood were built in 1951.

Vice Chair Mazzurco asked if the subject property was being used as a residential multi-family. Ms. Kerns responded that she thought it was.

There being no more opposition speakers, the applicant was given 5 minutes of rebuttal time.

Kim Reitinger stated that the New Garden Road plan had not yet been adopted. There was not an overlay adopted. That should not have any impact on this rezoning. She verified the meeting was being recorded. She stated that she withdrew a previous rezoning due to the amount of disrespect. She stated that she had never had a violation on any property she has ever owned. She had a lot of fake complaint calls from that area. She could obtain a city printout and tell the names and numbers who call the City. The parking has been addressed with the City and was compliant with the ordinance. They have never been out of compliance. Ms. Reitinger stated the people living there were her mother, an aunt, and an uncle. She is allowed to have up to four unrelated people. Two are related and the other two are not. She went out of her way to provide a tour of the house to City Code Compliance. She was not required to. Ms. Reitinger feels these statements that are being falsely made.

Vice Chair Mazzurco asked how long she had owned this property. Ms. Reitinger responded almost 18 years and she lived there for four years. The house and the yard are maintained. There has never been a call to the police department. They are good neighbors. Vice Chair Mazzurco stated that she has said she was unaware of any violations. Ms. Reitinger responded there are no violations on that property. Staff has a record of all of it. There are no violations against her. The only calls she has ever received is on this property here.

Vice Chair Mazzurco asked Mr. Kirkman if staff was aware of violations. She searched and she found 15. Mr. Kirkman stated there is a question about if there are any active violations on the property and there are not. He looked through from the zoning perspective and there have been multiple investigations related to a number of people and others but they were unfounded. There was nothing that could be proven that there were more than four unrelated individuals which has been investigated several times. Vice Chair Mazzurco stated the investigations she saw were real but didn't result in a violation. Mr. Kirkman responded that was correct and felt the confusion was in the terminology. Complaints were filed, investigated, and determined not to be violations. Mr. Holston asked if there was anything involving parking. Mr. Kirkman responded there were some references to front yard parking but that was handled by a different department. He was unable to do any more investigating on that. There had been gravel placed in the front as part of that. Front yard parking standards allow gravel or pavement in up to 40% of the front yard. Ms. Reitinger stated they are not using the 40% capacity.

Mr. Pinto asked Ms. Jones if this were within the Commissions' purview. Are they allowed to consider any alleged violations or investigations in consideration of this zoning application? The fact that even if this property had a zoning violation, if the rezoning would abate the violation, that is an avenue that an applicant can remedy the violation. It is often done when it is discovered there is a setback violation and go before the Board of Adjustment to seek a variance. The fact that it is in violation is really not to be considered. Ms. Jones likened it to the Historic Preservation Commission and changes made without proper approvals, the legal standard is to consider the application as if the violation had not occurred. In this case, she recommended against considering zoning violations in determining whether the requested zoning district was appropriate for the property. You are not to consider who the applicant/owner is, only consider the uses that would be allowed.

Ms. Reitinger stated the Commissioners are all familiar and well versed with that area. There are no houses behind this house. There is one house on the east side. The college is directly behind and to the right is Urgent Eagle and bank and other office facilities. This property would be suited for CD-O. Vice Chair Mazzurco opened the floor to the opposition for their rebuttal.

Richard Jordan stated that said Ms. Reitinger had multiple ordinance violation complaints, not violations. The point was that what she does with the property was not conducive to the neighborhood and whatever the Commission gives her will not be conducive to the neighborhood.

Yvonne Williams reiterated that there was no plan and people on all sides of her that adjoin the property were opposed to the rezoning. She received a letter but does not know how many other people received letters. Vice Chair Mazzurco requested that the people who received the letter from the applicant within the 600 feet requirement to stand.

Rosemary Wolkaski, 1312 New Garden Road, stated that she was on the same side of the street as the subject property. She stated that everyone in that row all live on the same side of the street and did receive a letter. Ms. Reitinger did come to their doors and speak to them. She is not for or against. She is undecided at this point. She reference a car accident that just occurred in front the property that resulted in a fatality. The building across the street, even though there were meetings, things were said that potentially was going to happen there are not necessarily are what happened. Ms. Wolkaski is not saying the applicant doesn't have a right to do things on her property because everyone should have that right. We all should be heard and that is what this forum is for. She has lived in this neighborhood for a long time and is aware when some get their feet dug in, they're dug in. Some people would like to progress, some may not. Ms. Wolkaski just wants to know exactly what could happen there. No more high-rise apartment buildings telling us that 55 and older will live there because that's not the case. Those kinds of things are why some are saying that they don't want this to happen. They don't want that loop hole to take place. They don't want to see the neighborhood go to the wayside. Ms. Wolkaski suggested more lights where people have to slow down. The school is a constant issue. There are a lot of things to consider. She is not trying to hinder Ms. Reitinger but perhaps more time is needed to make a better educated decision.

Vice Chair Mazzurco thanked everyone for their comments. The public hearing was closed and requested staff's recommendation.

Mr. Kirkman stated this site is designated as Low Residential on the Generalized Future Land Use Map of the Comprehensive Plan. The Low Residential designation includes the City's predominantly single-family neighborhoods as well as other compatible housing types that can be accommodated within this density range. Per City Council adopted policy, a GFLUM amendment is not required for zoning requests that are less than one acre in size. The proposed request supports the Comprehensive Plan's Reinvestment/Infill goal to promote sound investment in Greensboro's urban areas and 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. The proposed CD-O request, as conditioned, limits potential negative impacts on the surrounding area. Staff is recommending approval of this request.

BOARD DISCUSSION:

Mr. Engle stated when he looks at a zoning case, it's what would the property best exist as. At this point he does not know enough to be able to say this is compatible with that area as CD-O. He would need to have some sort of idea how this would interact with the community. Right now, R-3 is what it is. He is not in support of the rezoning.

Mr. Blackstock stated he would vote against the request. Mr. Marshall stated he is not saying office is not an appropriate use, e does not have enough information at this time to vote to change the existing zoning. At best there is a speculative plan with no plan of what this will be. He is not in support of the rezoning. Mr. Pinto stated this is tough. New Garden is changing rapidly. The applicant has no responsibility to show a plan and feels it may be the correct way to do it by going through zoning first and then TRC. He has listened to everything. Has driven and looked at it. At this time, he cannot be in support of the rezoning.

Mr. Holston stated he was concerned about the limited amount of outreach, the minimal conditions, the building height capability with the Robin Ridge neighborhood, and incompatible commercial encroachment. He was also concerned that there were no plans and the applicant's reticence to produce

or show plans. He stated he would not be supporting the rezoning. Ms. Dansby-Byrd stated she does not have enough information to make an informed decision at this time and will be voting against the rezoning request.

Ms. Mazzurco thanked both the applicant and the neighborhood for their interest in this case. She felt it was outstanding for neighborhoods to look out for each other and come out in support or opposition. The commission had been inundated with emails, snail mail, and phone calls. She thanked everyone for all of the interest. She stated that she has several problems, some lie here at the Municipal Building. She was told by neighbors of the violations but when researching she found 15 complaints called in and out of 15 there were 5 violations which dates back some years. It has been said there were complaints called in but no violations. Vice Chair Mazzurco stated staff work needs to be done to make the system more stream lined and easier to find things. Vice Chair Mazzurco would like staff to respond to her about violations on the property on not. Vice Chair Mazzurco stated that there is a committee called the New Garden Strategic Plan Committee. Mr. Clegg has worked very hard on that strategic plan. She requested to have the members of the committee placed on the screen and wanted to emphasize how much involvement and thoughtfulness has gone into this plan for New Garden Road. There are important people and decision makers involved such as Mr. Isaacson and Dr. Ross. Mr. Clegg stated there has been a lot of public outreach in the process and a lot of involvement of stake holders and community members in the process. Vice Chair Mazzurco stated how impressed she was with people who are engaged on a weekly basis in the process. Legally and technically that plan cannot be considered. Vice Chair Mazzurco advised the audience the plan will be heard on July 17 at 4:00 in this chamber before the Planning Board. It is a public hearing and asked the audience to show up and voice their concerns. Vice Chair Mazzurco stated who the members are working on this plan. Vice Chair Mazzurco stated that the neighbors who are not supporting this rezoning. She cannot support this rezoning request because there is not a plan. No drawings and the Commission is unsure of what is being requested. There are too many unknowns in it. Two conditions with no plans. It is too much of a fluid situation and she will not be in support of this rezoning request.

Mr. Holston stated in agenda item Z-19-070-008, the Greensboro Zoning Commission believes that its action to deny the zoning amendment, for the property located at 1302 New Garden Road from R-3 (Residential Single-family- 3) to CD- O (Conditional District – Office) 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 inconsistent with the Comprehensive Plan's Reinvestment/Infill goal to promote sound investment in Greensboro's urban areas. The request is inconsistent with Comprehensive Plan's 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. The request, as conditioned, does not limit negative impacts to the surrounding neighborhood.

Motion by Mr. Holston, seconded by Vice Chair Mazzurco. The Commission voted 7-1. (Yays (7) - Vice Chair Janet Mazzurco, Adam Marshall, Hugh Holston, Zac Engle, Marian Dansby-Byrd, Andrew Pinto, and Donald Blackstock. Nays (1) - Vernal Alford,). Vice Chair Mazzurco advised the motion failed and is denied. That zoning denial constitutes final action unless appealed in writing to the Planning Department within 10 days. All zoning appeals will be subject to a public hearing on Aug 20, 2019 at the City Council meeting.