

**PARTIAL MINUTES OF THE
ZONING COMMISSION
January 22, 2020**

Z-19-12-006: A rezoning request from R-3 (Residential Single Family-3) to CD-C-L (Conditional District-Commercial-Low) for the properties located at 4100, 4108, and 4110 Lawndale Drive and 4201 Jeanette Road, generally described as east of Lawndale Drive and west of Lake Jeanette Road (2.32 acres). (DENIED)

Mr. Rosa disclosed that the applicant made a donation to the non-profit he is associated with but stated he was able to make an impartial decision on this case.

Mr. Carter provided the zoning map for Z-19-12-006 and other summary information for the subject property and surrounding properties. Mr. Carter advised of the conditions attached with this request.

Chair Marshall inquired of questions for staff. Mr. Alford advised in the narrative it stated R-5 to CD-C-L and in the map it states R-3 and asked if R-5 was correct. Mr. Carter responded the existing zoning is R-3 in all instances.

Chair Marshall requested the applicant to come forward and state his name and address for the record.

Marsh Prause, 516 Woodlawn Avenue, representing Kotis Properties. Mr. Prause stated Kotis Properties, Inc does not directly own any of these four parcels currently. Three of the properties are owned by Loretta Brown and the other property is owned by WAW Properties, LLC, an affiliate of Kotis Properties. Loretta Brown is not affiliated with Kotis Properties. Kotis Properties did receive permission to pursue the rezoning as there is a contract on all four of the properties. Mr. Prause requested the Board to make an amendment to the application by adding a further condition. They had not included convenience stores with fuel pumps among the prohibited uses and their intention was always to exclude convenience stores with fuel pumps from the uses that would be allowed in Commercial Low.

Mr. Engle moved to allow the amendment to exclude convenience stores with fuel pumps to the application, seconded by Mr. Holston. The Commission voted 6-0. (Chair Marshall, Holston, O'Connor, Alford, Engle, and Rosa. Nays: 0). Chair Marshall stated the amendment to the zoning conditions was approved.

Mr. Prause stated three factors for the Commission to focus on to support their position on rezoning the site and showed images illustrating the configuration of the property between two thoroughfares and the size of the streets at that location. Mr. Prause stated the applicants' position is that this property is not functionally part of the neighborhood as it is cut off by the two thoroughfares and the condition of the property. The property has also been passed over for residential redevelopment, which is another indicator people do not want to live in a location where there is a thoroughfare front and back. Mr. Prause indicated corridors on the Greensboro zoning map depicting changes with the opening of the urban loop and the intersection of Lawndale and Pisgah Church Road. Mr. Prause stated the nature of the corridor is unique with the new interchange and the location of Lawndale and Pisgah Road intersections with park land and natural resource areas. He noted that the park land is the largest contiguous piece of property in the City of Greensboro with an abundance of parks, trees, and open spaces and referenced the Natural Science Center as the second most visited site within this area. Mr. Prause stated the proposed site is a prime redevelopment site, not suited for residential development and there is an abundance of existing open space and park land nearby. The

corridor has evolved substantially and referenced the living spaces, shopping, professional offices and the Science Center.

Mr. Prause further stated this rezoning is warranted as it would be in the spirit of the incoming Comprehensive Plan and would provide a walkable neighborhood scale amenity. The Planning Board reviewed the rezoning and commented that a limited amount of carefully designed, low intensity commercial development on this site could avoid impacting neighborhood properties. There appears to be almost no Commercial Low zoning on Lawndale Drive, with the zoning map indicating properties zoned Commercial Medium or Office instead. Kotis Properties is willing to use Commercial Low zoning to help ensure this will be a neighborhood scale development. Mr. Prause referenced the ordinance defining the district as being intended primarily to accommodate low intensity, shopping, and services close to residential areas and to provide locations for businesses which serve nearby neighborhoods. Mr. Prause referenced the ordinance statement of "the district is typically near the intersection of collectors or thoroughfares in areas otherwise developed with residences." From the applicants' perspective this would be a perfect match for Commercial Low zoning. Mr. Prause deferred to Mr. Nimmer to speak regarding other factors.

Jeff Nimmer, 4601 Six Forks Road, Raleigh, NC, spoke to the process in coming before the Commission over a year ago. Mr. Nimmer discussed the history of the property, previous zoning attempts and changes to the immediate area such as the Science Center, connection with I-840, and higher density residential development nearby. The applicant initially considered CD-C-M and although initial meetings were favorable, it was clear it would depend on conditions put on the property. Mr. Nimmer stated they met with the Neighborhood Association in July of 2019 where there was discussion regarding the C-M zoning. A number of concerns expressed were not allowing drive throughs, gas stations, height of buildings, direction of lighting, and a general concern for intersection traffic. As a result of that meeting, discussions were held with the applicant and a decision was made to alter the zoning designation to a district that addressed many of those concerns and that is why they are requesting the Commercial-Low zoning.

Mr. Engle advised C-L does not restrict banks or dry cleaners with drive throughs and asked if there was a reason why all drive throughs were not conditioned out. Mr. Nimmer responded it was just a question of restricting out the highest intensity and drive throughs that generated the most traffic. Mr. Engle stated his concerns were with nothing conditioned out for the non-walkable businesses. The idea of a drive-through in the neighborhood would be challenging for him.

Mr. Nimmer stated after the decision was made to pursue C-L zoning, they attempted to discuss the changes. The neighborhood indicated they were not interested in additional conversations. Letters were sent to all property owners within 600 feet of the property and they received two responses, one in opposition and one neutral to the idea. Mr. Nimmer stated a new traffic study was implemented for C-L by Davenport Engineering. With the recommended improvements, the proposed site was not expected to have a detrimental effect on transportation capacity, mobility, and should not cause any additional traffic issues.

Chair Marshall inquired if there were any further questions for the applicant.

Mr. Engle stated if there were to be something that happened in the future where there was a change in the terrain, there were three uses that stood out. One was a shooting range, a sexually oriented business, a pawn shop, and a truck stop. Mr. Kirkman responded sexually oriented businesses are definitely not allowed in the C-L designation but only allowed Commercial Medium zoning. Truck stops and shooting ranges are also not allowed in the C-L district. Mr. Engle stated C-L was formerly LB district, which included indoor recreation uses. Mr.

Kirkman stated that Indoor Recreation is where shooting ranges are associated, but that use is not allowed to with Commercial Low zoning.

Mr. Holston stated generally the zoning runs with the property and not necessarily with what the owner would want to present. Mr. Holston asked when was the last meeting with the community. Mr. Nimmer responded only in July. They had reached out again but the neighborhood did not want any discussion. Mr. Holston stated for illustrative purposes, they would like to know what they plan to do with the property and asked if the community had any idea of what will be done. Mr. Nimmer responded in general, C-L is pretty restrictive and would be restricting out a lot of things. What they should expect to see would be professional offices, some retail use, restaurants without a drive through. Primarily over time, they could expect to see professional offices, medical uses and things of that sort.

Mr. Engle asked if that was the case, why didn't they request an office zoning. Mr. Nimmer responded he did not think retail was allowed in Office zoning. They are looking for something that offers a mix of uses such as medical, office, and retail without a drive through.

Mr. Kirkman, responding to an earlier question, advised pawn shops were not allowed in the C-L district.

Chair Marshall inquired if there were any other questions. Seeing none, Chair Marshall inquired if there was anyone wishing to speak in opposition to the application. Chair Marshall requested their name and address be stated for the record.

Aaron Terranova, 106 Tatum Place, President of the Lawndale-Lake Jeanette Neighborhood Association, represented the Neighborhood Association and requested the residents to stand and indicate their presence. Mr. Terranova stated they were not against development and agreed the area is overrun and there are lots that should be developed, but they were rejecting the zoning on two points. First point was what was the best use of the land and the second point was the maps in the Comprehensive Plan. Mr. Terranova stated the application is not consistent with the Comprehensive Plan and the Planning Board has said it is not consistent with R-3. The neighborhood is disappointed that the applicant asked for an amendment to change that so this zoning would fit with the Comprehensive Plan. Mr. Terranova stated the neighborhood does not know about rezoning and the change was never mentioned in any of the correspondence of the request to change GFLUM to satisfy this rezoning. The applicant does not know what they want to put there and only want to rezone it and that was extremely worrisome for their neighborhood.

The second concern addressed if there was a new owner, it would be easy to rezone to from Commercial-Low to Commercial-Medium or higher and that was very worrisome for the neighborhood. Mr. Terranova indicated a photograph depicting the land and referred to a two mile radius where there are restaurants, bars, coffee shops, gas stations, major grocery stores, medical clinics, banks, pharmacy drugstores, health fitness centers, pet stores, variety of specialty shops, Science Center, National park, neighborhood parks, public library, fire houses, ambulances, Walmart, Home Depot, Lowes and major shopping centers. Mr. Terranova asked within that two mile radius what are they not getting that would warrant a rezoning that does not fit the character of the neighborhood. The neighborhood has their amenities and their needs are met within 5 minutes and 2 miles. The request is not consistent with the Comprehensive Plan and not consistent with their neighborhood and he asked the Commission to take both points into consideration when looking at how this application fits into their neighborhood.

Mr. Engle noted that if this site was half an acre, it would not require a GFLUM amendment but because this site is close to 3 or more acres, would require a GFLUM and is part of the normal process. Due to the setbacks, this property will be very difficult to develop. Mr. Engle asked in the conversations with the neighbors, what would the neighborhood be comfortable with on this piece of property. Mr. Terranova stated they should look at Devonshire, a multi-family project currently being built which was previously R-3 zoning. The developer came to the neighborhood and stated his wish to build multi-family. He worked with the neighborhood and those homes fit the character of their neighborhood. They do not know what would fit into this spot and neither does the developer. The fact of not knowing what can fit there is not a viable reason to rezone and see what happens. Once it goes commercial, it will stay as commercial. Mr. Terranova stated he could not fully answer that question but no one else can either.

Kim Logue, 103 Country Clark Road, stated she was vehemently opposed to the planned commercial development of the tract of land in question located at Lawndale and Lake Jeanette. The applicants not knowing what will be built is not in the best interest of the city, county, and especially the homeowners. The property in question rests squarely among single family homes. The placement and design of the property is ill equipped to handle anything other than to remain undeveloped or to have a single family home, which already exists there, on the property. There is nothing the neighborhood needs to be built on the property that the neighborhood does not already have within a 1.5 mile radius. The concept of building and seeing if they can rent it out or they will come is not conducive to good planning. Ms. Logue stated she is not against change or development but it should be well planned, well thought, and for the good of the majority. There is a county wide push to bring business to the economic zones which Greensboro is encouraging growth and businesses and questioned why not place businesses in economic zones that are vacant. Ms. Logue expressed her concern of what will fit within the small, misshaped piece of land and impact to the roadway would need to be redesigned and changed. The existing utilities would need to be moved and at whose cost and inconvenience. Placing a business on the properties in question will adversely impact the homeowners and property values will decrease. As the property values decrease, the tax revenue based on the current property value will decrease. No one wants the value of their property to decrease. Ms. Logue stated the additional condition in listening, a convenience store with gas pumps was ruled out but did not rule out any type of convenience store. A 7-Eleven could be placed there.

Mr. Engle advised some of the things that some things, such as utilities and those types of things, the Commission has no say over. There is a process to go through whether it is a single-family home, multi-family home, or a commercial building called TRC. TRC will determine what can go where and whether it is permissible within that density. He also noted the Commission cannot impose restrictions. The conditions were offered by the applicant and the Commission cannot say you have to add convenience stores to that. When the Commission makes a decision, it will be made based upon what is presented and it was the applicant's job to present restrictions, the Commission cannot impose them.

Ms. Logue advised when maps were depicted, counsel for the applicant gave the impression that the property in question would be very close to a variety of things, including the new highway. The new thoroughfare is at least a couple of miles away and not right there. It is every citizen's constitutional right to have the pursuit of happiness and if the entity of government and developers take away any hope of that and they can't reside quietly in their homes, then there is a bigger problem.

Barbara Hayes, 106 Beckham Drive, stated she was against the rezoning regarding property value. Not knowing what the developer will place on the property was unsettling. The bypass has added a lot of traffic on Lawndale and commercial on the corner will add more traffic.

Devonshire is a private property and the streets are privately owned. Ms. Hayes expressed concern regarding cars coming through and not paying attention to pedestrians.

Frank Hall, 202 Howe Place, reiterated the neighborhood is not clamoring for walkable amenities. Lawndale has been the place for businesses. Half of the property is Lake Jeanette where there are no businesses. In reading what the Planning Board wrote "difficult to envision how new residential development could be viable here considering the high traffic volumes and the awkward configuration with the intersection." Mr. Hall was curious on how putting four houses on that space is more difficult than putting a medical office and a convenience store without gas pumps and an office building in that spot. There would be more traffic with those and the Planning Board has said a couple of houses in there makes the traffic unbearable and did not understand.

Mr. Engle referred back to the TRC process and what is allowed to be built and how to build with the property being the awkward shape at its widest point, R-3 allows to build 3 houses per acre and 3 acres should be 9 houses. It could not be done there and was not sure from an investment standpoint if tearing everything down would be a viable return on investment. The Zoning Commission is talking about what can the land be used for and was listening with an open mind as there are pros and cons.

Mr. Hall referred to an article in News and Record regarding traffic and asked how would the development of 3 or 4 businesses not have the same issue of traffic. Mr. Engle created a scenario for reference to explain the difference between commercial use or residential use. Mr. Hall responded he read it as the difficulties in the traffic patterns would decrease if there was a two story medical office and convenient store and it doesn't make sense to him. Mr. Engle stated the way he read it is it would not be attractive for someone to build a home on.

Chair Marshall inquired if the applicant would like 5 minutes of rebuttal.

Mr. Marsh Prause, 516 Woodlawn Avenue, stated the neighbors knew they were going to apply for new zoning and would have been glad to discuss it with the neighborhood if they had been willing to meet with them. They asked to meet more after the July meeting and were told no and the application was filed in November. Most of the neighbors agreed this is not good for housing and the best option would be Commercial-Low. If it is not allowed at this location, where would it be allowed in the city of Greensboro. Mr. Prause understands the deeply held concerns of the neighborhood but they don't speak for everyone. Mr. Prause felt strongly there were people wanting a walkable alternative and in particular for those in denser neighborhoods. Small one single family homes, are not the current product being brought to the market in this area. Mr. Prause asked for sincere consideration voting in favor of the amendment proposed.

Ms. O'Connor asked if there was any effort to speak with individual neighbors. Mr. Prause stated letters were mailed to every neighbor within 600 feet, one person called and one person emailed him. They have worked through the Neighborhood Association, Mr. Terranova, who was emailed repeatedly, particularly after changing the request from Commercial-Medium to Commercial-Low. They felt there was something to talk about but the Association did not want to talk.

Chair Marshall inquired if the opposition would like five additional minutes.

Robin Stiles, 5 Indigo Lake Terrace, stated her concern regarding building on Lawndale and particularly the intersection which is extremely difficult to maneuver as the streets are not wide enough. There are no sidewalks and people would be walking in the street to reach any of the buildings. There is a half million visitors to the Science Building and this would only increase the

traffic. The 840 Loop opened in December and has not been open long enough to know what that traffic will look like and did feel any changes should be made at this point in time. Ms. Stiles stated this site is a park district and would not need another commercial development right there. The park district needs to be protected, noting the placement of the Food Lion years ago started the change in Lawndale. Ms. Stiles stated this could be the beginning of a domino effect. It is bigger than this one neighborhood and is about what the citizens want their city to be.

Aaron Terranova, 106 Tatum Place, stated there are over 300 signatures on the petition. Mr. Terranova stated the applicant did reach out to them. The meeting was had, the Association listened and asked questions, some were answered and some were not. The Association said they did not want it. Mr. Terranova disagreed with the assessment that the applicant made multiple attempts to reach out. The neighborhood did, they listened, they said no.

Barbara Hayes, 106 Beckham Drive, stated a letter was received from the attorney stating they didn't know what they were doing and just wanted a rezoning, if there are questions to call. When someone says they don't know what they're doing, why would anyone call to ask what they're doing. Ms. Hayes stated there must be more than one piece of property that Kotis owns that is not being used as he had many properties and can build there.

Kim Logue, 103 Country Park Road, stated the question keeps being asked what will be built on this property and asked does it have to be anything, as sometimes nothing has to be built. If the property owners intend on selling it, to contact her, she would write a check, and nothing would be built.

Chair Marshall stated the public portion of the hearing was closed and requested to hear staff's recommendation.

Mr. Kirkman stated the Comprehensive Plan's Future Land Use Map designates this site as Low Residential. The applicant has requested a Generalized Future Land Use Map (GFLUM) Amendment (CP-19-08) to Commercial in association with the rezoning request. The Commercial designation applies to large concentrations of commercial uses, such as recently constructed major shopping centers and big box retail. The request is consistent with 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 CD-C-L allows limited commercial, office, and service uses at the intersection of two significant roadways, while including provisions to limit impacts on existing residential areas. Staff recommended approval of the request.

Chair Marshall asked if there were any questions for staff. Seeing none, Chair Marshall asked for discussion among the Commission.

Ms. O'Connell asked if they have heard specifically from anyone west of the property across Lawndale. It appeared to her that zoning would come into question at some point. Mr. Kirkman responded staff had not received comments in regard to that.

Mr. Engle stated he has empathy for both sides. The impact of traffic should be specifically considered outside of what is in the traffic study. This request appears to be close enough to spot zoning and without the right conditions he would not be able to support it. Mr. Engle listed the conditions that were stated and is most concerned with the possibility of drive throughs

being allowed on the property and stated this will probably be before City Council. Based on the information he had, would not support it.

Mr. Holston stated the conditions, the impact to the entire community, being in the middle of R-3 left him not to be able to support the request.

Mr. Alford stated all he saw was R-3 residence and would not be able to support the request.

Ms. O'Connor stated she could see on the Lawndale corridor the possibility for some commercial but the fact that this site also fronts Lake Jeanette is a different matter and agreed with the other statements.

Mr. Engle stated in regards to agenda item Z-19-12-006, the Greensboro Zoning Commission believes that its action to deny the zoning amendment for the properties located at 4100, 4108, and 4110 Lawndale Drive and 4201 Lake Jeanette Road from R-3 (Residential-Single-family-3) to CD-C-L (Conditional District-Commercial-Low) to be inconsistent 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 the 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. If approved, the requested CD-C-L would allow limited commercial, office, and service uses at the intersection of two significant roadways. However, the rezoning, as proposed would not limit negative impacts on existing residential uses.

Motion by Mr. Engle, seconded by Mr. Holston. The Commission voted 6-0 to deny the request. (Ayes: Chair Marshall, Holston, Engle, Alford, Rosa, and O'Connor. Nays: 0). Chair Marshall stated this denial constituted final action unless appealed in writing to the Planning Department within 10 days. Anyone may file such appeal. All appeals will be subject to a public hearing at the February 18, 2020 City Council meeting. All adjoining property owners will be notified of such appeal.