

**PARTIAL MINUTES OF THE
ZONING COMMISSION
July 20, 2020**

Z-20-07-003: An original zoning request from County AG (Agricultural) to City CD RM-8 (Conditional District – Residential Multi-family-8) and rezoning request from City R-5 (Residential Single-family-5) to CD-RM-8 (Conditional District – Residential Multi-family-8) for the properties located at 351, 359, and 367 Air Harbor Road, generally described as south of Air Harbor Road and west of Quail Ridge Drive, original zoning 5.618 Acres and rezoning 9.942 Acres). (Recommended Approval)

Ms. O'Connor recused herself from this agenda item and turned off her video and audio.

Mr. Kirkman reviewed the zoning map for Z-19-07-003 and other summary information for the subject properties and surrounding properties. Mr. Kirkman advised of the condition related to the request and presented two additional conditions offered by the applicant to add to the request. Mr. Engle moved to accept the two new conditions, seconded by Mr. Trapp. The Commission voted 6-0. (Ayes: Chair Marshall, Holston, Alford, Rosa, Engle, and Trapp. Nays: 0). With this approval the conditions associated with this request were:

1. The maximum height of all buildings shall not exceed 35 feet.
2. Any new plantings to supplement conserved existing trees within the required buffer planting yard adjacent to lots 26-29 of the Northern Shores subdivision identified in Plat Boo 171, Page 1, shall be of evergreen material to enhance visual screening. Additionally a minimum 6 foot high opaque fence will also be installed with this enhanced buffer planting yard.
3. Any wet detention pond required with any new approved development shall include means to aerate the water in the pond per City of Greensboro standards.

Chair Marshall inquired if there were any questions for staff regarding the application. Seeing none, Chair Marshall requested the applicant to state their name and address and present their case.

Marc Isaacson, 804 Green Valley Road, representing Byrum Development. Mr. Isaacson stated most of this property is owned by Calvary Christian Church immediately adjoining this property. The church will remain in its current location. Mr. Isaacson referred the Commissioners to the illustrative site plan and walked the Commissioners through the property and proposed project. A layout of the townhouse community was shown. Mr. Isaacson stated there were significant concerns from some neighbors in Northern Shores and possibly others. There were extensive discussions over the past weeks regarding cut through traffic. As a result, an agreement had been made to route all of the traffic for this community onto and from Air Harbor Road. There will be no cut through traffic through Northern Shores or the related neighborhoods. Following discussions with the neighbors along that same line, concerns were expressed regarding buffers and privacy. It was agreed in the conditions to add an enhanced buffer along certain lots where there was a somewhat shallower buffer. Another agreement was to add an all wood opaque of not less than 6 feet privacy fence. The fence will not be directly on the boundary line, but will be behind the enhanced buffer allowing the hardwood trees and others to remain and Byrum would enhance the buffer with further plantings creating an evergreen screen.

Mr. Isaacson then referred to two large open areas on the site plan. One is the retention pond and acts as a buffer in and of itself. Concerns were expressed regarding retention ponds attracting insects and other bugs. An agreement was reached to add an aeration device which would be an active fountain to keep the pond water moving and aerated which will be maintained by the

Homeowners Association for this community. Mr. Isaacson advised that Davenport Engineering created a traffic impact study. Air Harbor Road was found as an acceptable road for this type of density. Byrum is required to add some left turn lanes to help facilitate traffic in and out of the community. Mr. Isaacson stated this area of the community is in transition. The outer loop south of this property will provide easy access to and from this area and other parts of the city. Air Harbor Road can and should accommodate new housing types for people who are looking for alternative types of housing such as townhomes. Mr. Isaacson submitted this is a very common zoning pattern for this area. A compelling factor is the Calvary Christian Church vetted Byrum Development and this plan very carefully for several weeks before the filing of the application. The church determined that it would prefer to have this type of community next door and prefer to have Byrum Development develop this property as a neighbor. Mr. Isaacson advised letters were sent to all of the neighbors on the City's notification list. Extensive discussions have been made resulting in the two new conditions. Calvary Christian Church wrote a letter of support and endorsement for the project which was submitted for consideration. Mr. Isaacson stated this application meets the tests of the new Comprehensive Plan 2040, as outlined in the staff report. This project would provide an alternative quality housing community in a growth area of the City with limited impact on nearby properties, to include no cut through traffic into Northern Shore and will set a high standard to be followed for years. The project helps the city to avoid more sprawl and conserves valuable natural resources with significant open space and tree saved areas. Mr. Isaacson advised Patrick Donnelly from Byrum Development and Anthony Lester from Evans Engineering were also available to answer any questions.

Chair Marshall inquired if there were any questions for the applicant. Seeing none, Chair Marshall inquired if there was anyone else wishing to speak in favor of the application. Seeing none, Chair Marshall inquired if there was anyone in opposition to the application. Chair Marshall saw Mr. Matlage's hand first.

Steve Matlage, 1102 Mosley Road, Lot 31, stated he understood land development and the Commission's job. From the neighborhood perspective, they are concerned regarding the impact on safety and the values of the neighboring communities. Mr. Matlage respectfully disagreed with Mr. Isaacson that it is great to get a letter from the church, since the church would benefit from a higher density situation. Mr. Matlage believed the density of the community would not be in keeping with the surrounding area. This developer is unknown, what the square feet of the units will be, the pricing and quality of the units, resulting with the neighborhood being very concerned regarding how the property values would be affected. The neighborhood does not believe that the landscape buffer promotes safety versus a privacy fence. The fence would only come up to four of the lots, not the total property. Looking at the size of the proposed retention pond Mr. Matlage was concerned about the lack of a fence and the safety of people wandering on property adjacent to the retention pond. From a landscaping perspective, Mr. Matlage felt Byrum did a fantastic job but encouraged the Commission to impose the most stringent landscaping characteristics in concert with what everyone has said. Greensboro was named Greensboro for a reason and there are green buffer areas. People have chosen to live in this area because of all of the green scape. Mr. Matlage requested modifications be considered limiting access to their neighborhood between lots 24 and 26 to be consistent with the fencing throughout the community and doing the best possible buffer for safety.

Chair Marshall inquired if there were any questions for Mr. Matlage from the Commissioners. Seeing none, Chair Marshall closed the public hearing and requested to hear from city staff. Mr. Engle asked Mr. Kirkman regarding the fact the little part of land was not being developed. If single family homes were built would it be required that they connect to that road. Why are they not required to connect to that road as it looks like it was left there for that purpose? Mr. Kirkman stated he did know how it was laid out in terms of how much space there was to put in a public street connection. Mr. Engle stated it was not important and he only wondered if

because this was multifamily residential versus single-family that they were not required to connect. Mr. Kirkman stated for single-family lots, each of the lots must have frontage and direct access on a public street. It would be a different configuration than what is proposed as this is a townhome development that could use a common road.

Chair Marshall inquired if there were any other questions. Chair Marshall stated the next person to speak was Ms. Pam Aikens.

Pam Aikens and Rick Owens, 1200 Mosley Road, stated they are not in strong opposition to this proposal, but it is important that the character of the neighborhood be preserved and maintain a good relationship with the adjoining neighborhoods. Ms. Aiken expressed a concern regarding the unknown over the lack of details on the proposed fence, tree conservation, and enhanced buffers. They understand the design is not complete which makes information difficult to convey. It would be reassuring to the community to be kept informed during the design and construction process.

Chair Marshall inquired if there were any questions from the Commission. Mr. Holston asked if the developer answered her questions when they spoke earlier regarding the fencing. Ms. Aiken did not know the answers to the questions yet. They have seen the plan and appreciate the modifications that have been made but until they actually see what the homes look like or what the price range will be they still have questions. Mr. Holston asked if her property was adjacent to the small portion of the property that touches Mosely. Ms. Aiken responded yes and they are very grateful that will not be a road.

Chair Marshall inquired if there were any other questions. Seeing none, Chair Marshall stated the next person to speak was Mr. Cushman.

David Cushman, 1218 Mosley Road, stated he was aligned with Ms. Aikens and Mr. Owens, as was his wife. In speaking with Mr. Donnelly and met with the Guilford County Soil and Conservation service to express his concerns. The Soil and Conservation conversation regarded two separate perennial streams, also known as blue water streams that also consisting of springs or cold water springs. The cold water springs currently the temperature is about 69 degrees on the one running into his backyard and is very much an anomaly for this area. Both of these blue water streams fall under the Army Corps of Conservation jurisdiction under a permit of 404 for any type of disturbance that would incur on that. In talking with Mr. Donnelly, everything seen and presented by Byrum Development, they are doing their best to mitigate this and he applauded them for that. Currently during major water events, there is runoff that comes down in the perennial stream and subsequently everyone downstream gets more of the increased velocity, erosion etcetera. Their concern, and for other neighbors as well, are increased sediment, erosion, runoff, embankments being undercut which is what he is currently experiencing along with his adjacent neighbor. Environmentally wise, it is too easy for anybody, including a developer, to go in, fill in an area, they might have to pay a mitigation fine or a penalty but the damage would already be done. To go back and do any type of rehab is very costly and can never go back to the way it was. The City of Greensboro very much tries to reduce any type of erosion and sediment control under best management practices. Mr. Cushman agreed that the Calvary Church did give a recommendation but they are an interested party and that should be taken with a grain of salt. Mr. Cushman reiterated his appreciation for all of the participants and Byrum reaching out and being involved.

Chair Marshall inquired if the Commissioners had any questions for Mr. Cushman. Seeing none, Chair Marshall requested Ms. Thompson to speak next.

Sarah Thompson, 1202 Mosley Road, stated she disagreed with the neighbors as they do not want a fence in their backyard as more trees might possibly be removed and would like to keep as many trees as possible. Ms. Thompson advised in speaking with Mr. Donnelly, he had advised

there may be new vegetation. Ms. Thompson would prefer to keep as much vegetation as possible that is currently there in place.

Chair Marshall asked if there were any other questions from the Commissioners. Seeing none, Chair Marshall advised Ms. Consiglio would be next.

Amy Consiglio, 1112 Mosely Road, stated they were pleased to learn of a privacy fence behind the four houses most directly affected by the proposed plan and thrilled to know the proposed fence would not enclose the remainder of the property. Ms. Consiglio stated the neighborhood goal is to treat this space much as it has been preserved, almost as sanctuary for the church and the neighborhood. There is wildlife, hiking trails, spaces carved out for people to communing with nature and chairs provided by the church. The more natural plantings that can be undisturbed, the better. Ms. Consiglio was very happy with the neighborhood working with the developer and knowing the developer is interested in a Type C planting and would like that to be set back as far as possible and perhaps a Type A planting rate on a Type C area. Ms. Consiglio would like assurance and engagement for communications to be held with the landscape planner and architects to have an idea of what is expected to go in. She would also like assurance regarding that there would be an ongoing responsibility to maintain the privacy buffer. The neighborhood has been very pleased with the communication and the flexibility of the team at Byrum Development and would like some further assurance beyond faith that will continue. Would like more things in writing, if possible.

Chair Marshall inquired if there were questions for Ms. Consiglio. Seeing none, Chair Marshall inquired if Mr. Isaacson would like 5 minutes for rebuttal.

Marc Isaacson stated he appreciated all of the comments and questions. Byrum Development selected this type of community, the density, and the layout for specific reasons. This density category allows the engineer more flexibility in terms of the configuration, layout of the dwelling units and the access points. Conditions thought to be appropriate have been implemented to address specific concerns. This is partly an annexation and there will be 30 days to continue discussions and he looked forward to that opportunity. Specific concerns and conditions will be further addressed and a determination made to see if they can be implemented. Mr. Isaacson felt it was important to note if this were being developed as single-family detached homes, there would be no buffer requirement and no fence requirement. With a townhome community, this buffer requirement is the minimum. This developer is going to seek to sell these townhomes geared towards mature individuals who want peace and quiet the same as the neighborhood does. The developer has an economic interest in preserving as many trees as possible, preserving as many open spaces as possible, and making the site as good a quality development as possible for marketing purposes. The track record for Byrum Development speaks for itself and the City will have oversight responsibility for landscaping, the pond, and the tree save area. All of it will be managed by a Homeowners Association that is required by the city ordinance. If there are complaints in the future regarding landscaping not being what was expected and the developer and the HOA do not address those complaints, the recourse is to the City of Greensboro who has a full time arborist and a full time staff who would address concerns. If this was single-family detached with lesser quality homes packed on the property, there might be better economics for the church. The board of the Calvary Church chose this project and Byrum Development and sincerely and genuinely looked at many factors when making the decision. Mr. Isaacson requested to have their engineer, Anthony Lester address Mr. Cushman's specific concerns regarding the wetlands and whether an EIS is need and so forth. Mr. Lester was not available

Anthony Lester, 4609 Dundas Drive, stated there were representatives of the US Army Corp of Engineers and from NCDWQ to evaluate the wetlands and the streams. There are two small streams at the very rear of the property. One is behind Mr. Cushman's lot and one a little bit further to the east. Those areas are being left undisturbed and will not have to pull any permits

from them. All impervious surface area runoff will be routed through the pond. There will be a requirement that water cannot be released at any greater rate than pre-development rate. The water will be stored in the pond and the pond sized accordingly. Erosion control are sensitive areas and they will do their best to protect it. The City of Greensboro has an Erosion Control staff that requires a plan to be approved and will come out to inspect and evaluate the site as construction proceeds.

Chair Marshall inquired if the opposition would like an additional 5 minutes. Chair Marshall requested Ms. McCall to speak first.

Laura McCall, requested for all natural areas to be preserved as much as possible. Spoke again regarding the good communication with the developer, but still very concerned as the neighborhood does not know who the builder will be and what type of community it will be. Chair Marshall inquired if there were any questions for Ms. McCall. Seeing none, advised Mr. Cushman to speak.

David Cushman, stated he understood that Byrum Development will not have any direct manipulation of the two streams. Because of the way the slope is, it will have a disturbance and have a direct impact. It will be a cause and effect and would fall under the Army Corp of Engineers and if the disturbance does occur, even if unintentional, it will fall under a 404 permit. Mr. Engle responded the only thing the Commission is able to approve at this meeting is a land use. It will be can townhomes, how many, and if there will be buffers that they build around. There is a Planning Board and a TRC process that the City has regarding how the developer builds on the property itself. From a technical standpoint is where Mr. Cushman would probably want to get involved, outside of the conversations being held with the builder, to get those needs addressed. Whether they touch the stream or do not touch the stream and what the state and federal laws are around it, it is out of the Zoning Commission's purview. Mr. Cushman responded he understood but zoning is being asked to go to the residential multi-family use instead of single family. Instead of going from agriculture to single-family, it is jumping two steps. Chair Marshall inquired if there were any other questions for Mr. Cushman. Seeing none, Chair Marshall closed the public hearing and requested to hear from staff.

Mr. Kirkman stated the GSO 2040 Comprehensive Plan designates this site as Urban General on the Future Built Form Map and Residential on the Future Land Use Map. The request is consistent with the Comprehensive Plan because the uses requested are of a similar scale, intensity, or off-site impact as existing nearby uses. The proposed CD-RM-8 request, as conditioned, limits principal structure height to not more than 35 feet, and added conditions which fit the context of the surrounding area and is consistent with the GSO 2040 Comprehensive Plan. Staff recommended approval of the request.

Chair Marshall inquired if there was any discussion from the Commissioners. Mr. Engle stated he was inclined to support the request mainly based on the positive comments by the neighbors. Mr. Engle felt it fits in the area and the way it is conditioned does fit with the surrounding area from the Comprehensive Plan. Mr. Engle advised he was willing to make a motion. Chair Marshall inquired if there was any other Commissioner who wished to speak.

Mr. Engle moved that in regard to agenda item Z-20-07-003, the Greensboro Zoning Commission believes that its action to recommend approval of the original zoning and rezoning requests for the properties located at 351, 359, and 367 Air Harbor Road, from County AG (Agricultural) and City R-5 (Residential Single-family -5) to City-CD-RM-8 (Conditional District – Residential Multi-family -8) to be consistent with the adopted GSO 2040 Comprehensive Plan and considers the action taken to be reasonable and in the public interest for the following reasons. The request is consistent with the Comprehensive Plan's Future Built Form Map and Future Land Use Map. The property proposed for rezoning can accommodate a satisfactory transition to the existing scale and intensity of existing adjacent uses. The proposed

CD-RM-8 request, as conditioned, limits principal structure height to not more than 35 feet which fits the context of the surrounding area. The request is reasonable due to the size, physical conditions, and other attributes of the area. It will benefit the property owner and surrounding community, and approval is in the public interest. Seconded by Mr. Rosa. The Commission voted 6-0. (Ayes: Chair Marshall, Holston, Alford, Trapp, Engle, and Rosa. Nays: 0). Chair Marshall advised the approval constituted a favorable recommendation and is subject to a public hearing at the August 18, 2020 City Council meeting.