

**PARTIAL MINUTES OF THE
ZONING COMMISSION
May 17, 2021**

PL(P) 21-013 & Z-21-05-005: An annexation, original zoning and rezoning from County AG (Agricultural) and City R-3 (Residential Single-family-3) to City CD-RM-5 (Conditional District-Residential Multi-family-5) for the properties identified as 800 and 816 Roberson Corner Road, generally described as north and east of Roberson Corner Road and east of Lake Jeanette Road, (11.911 total acres). (Favorable Recommendation)

Mr. Kirkman reviewed the zoning map for PL(P) 21-013 and Z-20-05-005 and provided other summary information for the subject property and surrounding properties. Mr. Kirkman advised of the condition related to the request. Chair Holston inquired the Commissioners if there were any questions. Ms. Skenes asked if there was a watershed around Lake Jeanette. Mr. Kirkman stated on page 3 of the staff report, it was noted that the site drains to the Lake Jeanette watershed and was Tier 3. Chair Holston requested the applicant to come forward and provide their name, address, and share their plans.

Marc Isaacson, 804 Green Valley Rd, Suite 200, represented Lake Shore Residence, LLC, a local developer committed to the construction of high-quality residential communities in and around Greensboro. Attorney Isaacson introduced Mr. Akbar from Lake Shore Residence, LLC and Civil Engineer, Ed Collins, all available for any questions from the Commission if needed. He then noted were requesting a rezoning from R-3 to CD-RM-5 for the property currently located in Guilford County that adjoins property already in the city. All are under the same ownership of Lake Shore Residence. Lake Shore Residence is asking for annexation and an original zoning to match up with the CD-RM-5. The Comprehensive Plan designates this area to be annexed as Growth Tier 1, indicating the city has recognized the development potential of this location and can extend city services to the property. The proposed development requires a slight increase in the overall density from R-3 to RM-5 which is consistent with existing residential uses in the surrounding area. Per Greensboro DOT's requirements, the applicant agreed to and will pay for the widening of portions of Roberson Comer Road where necessary to match up with the already widened Roberson Comer Road that leads out to Lake Jeanette Road. Attorney Isaacson depicted an illustrative preliminary sketch plan that had gone through the preliminary TRC process, depicting Roberson Comer Road coming around the edge of the property. It enters at a cul de sac where vehicles would access to the townhome community. There are 47 townhomes proposed. Attorney Isaacson noted that if the property was developed as R-3, there would be approximately 35 single-family detached homes. Mr. Isaacson stated there was a significant retention pond proposed that was reviewed by TRC staff and Stormwater Services. It would be sufficient to handle the water run off from this development before reaching Lake Jeanette. A tree save area was also shown in the low-lying area of the property east of the pond. Townhomes require buffers and there will be extensive landscaping buffers installed and a vegetative buffer for adjoining properties. This property has been vacant for a very long time and Lake Shore believes this is appropriate for low density townhome development that is much needed to provide housing in this area. The townhome community will be managed by a Homeowners Association as required by the City Ordinance that will own the retention pond, the common areas, and the roadways. The members of the HOA will be homeowners in the community. The condition was added voluntarily that at least 50% of the building materials of high-quality materials such as brick, wood, stone, and glass. This will be a townhome development with two car attached garages. Attorney Isaacson further noted a letter was sent out to the residents and property owners in the area, describing the project, condition, and background regarding the property, developer, and the Comprehensive Plan. A neighborhood meeting was also held virtually on May 6 and there were approximately 10 participants who joined the meeting. Most of the questions centered on the current lots to the north located in Guilford County. Some owners have lots that are vacant in Guilford County and had questions regarding access to those lots. It appears the lots are landlocked and without direct access to

a public right of way. A request was made of the applicant if they would be willing to open up access through the townhome community and the private streets to the property owners north. Mr. Isaacson checked with GDOT and city staff with the conclusion that Lakeside could not provide access to the county property owners across private streets for a number of reasons. The property owners north of the property were advised that they could not provide access and provided the reasons why. Mr. Isaacson checked with staff and there have been no other communications. This is a quality project, a good fit under the Comprehensive Plan, consistent with other low density and/or moderate density townhomes, and single-family residences in the area. The bonus is the applicant will take care of the upgrade of Roberson Comer Road in this area. With Growth Tier 1 next to the city limits, the applicant would submit this is a logical growth area for the city and as way to provide much needed and reasonably affordable housing in this growing area. Lake Shore is committed to quality construction per a condition requiring the building materials.

Chair Holston inquired if the Commissioners had questions for Mr. Isaacson, Mr. Akbar, or Mr. Collins. Seeing none, Chair Holston inquired if there was anyone else to speak in favor of the request. Seeing none, Chair Holston inquired if there was anyone wishing to speak in opposition to the request.

Debra Ross, 1108 Crescent Street, stated the parcel she has is landlocked and was part of the larger property owned by Mr. Atkinson that also includes the subject property. Ms. Ross stated the developer wants to block out land that was their ancestors who were slaves and had to work for the land that was left to them. Ms. Ross is not ready to build. Ms. Ross felt any developer would be locked out and unable to access her property because the developer wants to buy that land. Ms. Ross would like to build on her land at some point and does not want to be land locked. On the deed it was stated that they would have the right of way of the property and asked how the developer do could that.

Chair Holston was not familiar with the property or how it was acquired, and referred to city staff to respond to how that applies in this case. There was no dedicated public right of way that exist at this point. Mr. Kirkman did not believe there were any recorded easements. Ms. Ross stated it is on her deed and has been since it was given away 100 years ago. It is documented she has a right of way to get to her land. Chair Holston was unsure if this was something Zoning could address, but asked if it said how the access would be or where. Ms. Ross responded the north part of her great grandmother's plot. An engineer would have to look at that. Mr. Tipton agreed with Mr. Kirkman and felt it was a question for a lawyer. The conversation with Mr. Isaacson was that GDOT or Planning does not have a mechanism to require a developer to provide access to the land. The lot would not be created in the city now without access, but it is an established lot. Mr. Kirkman stated Zoning does not have an enforceable provision since the lots are established and are in the county and not in the city jurisdiction. There is a question about whether or not legal needs to be involved in attempting to sort rights for access based on deeds. That is more of a private matter than what the city can enforce. Ms. Ross felt until this can be determined and her being able to access her property, there should be a hold on this request.

Chair Holston asked Ms. Ross when she first received notice of any activity on this property. Ms. Ross responded when the letter was sent advising of the meeting for rezoning. Chair Holston inquired if Ms. Ross had sought assistance since that time. Ms. Ross responded she did not think she needed assistance as everything was in writing. Mr. Engle stated typically with a case like this with a legal dispute, there would be contact with an attorney to have a conversation in a courtroom. All Zoning can do is decide land use. The land use is whether houses can be built on this property or otherwise. It is county access now. The developer could go to the county and decide to rezone it to build houses in the county and it would be the same problem. Regardless of whether it is brought into the city or, whether townhomes are built here

or not there are other things that could be done. There are permitted uses within County AG and Ms. Ross would probably still need to contact someone to legally determine what her options are to do that. Given there is something in writing, that would be enforceable. The Zoning Commission is not the arbitrator. Chair Holston inquired if there was anyone else to speak in opposition to this request.

Carlos Motley, 6 Hackberry Court, Brown Summit, advised he had the same issue as Ms. Ross with his property on the north side and close to the lake. No access is allowed into any of the land-locked properties and poses a problem for most of the residents. Mr. Motley has had conversations with individuals within the Planning Department regarding what the options were. No access through that property makes it very difficult. Mr. Motley is aligned with Ms. Ross and her position in terms of legal issues that need to be addressed to ensure they are locked in and would like to know more about those options. Chair Holston responded this is not the venue for zoning to provide legal advice and understood these were issues for the homeowners. Chair Holston inquired if there was anyone else wishing to speak in opposition to the request. Seeing none, Chair Holston inquired if the Commissioners had questions for those who spoke in opposition. Hearing none, Chair Holston inquired of the applicant for rebuttal.

Mr. Isaacson stated they understood and empathized with those who have spoken regarding the properties to the north. His client acquired the property as a parcel and did not create the boundary lines of the parcel. Lake Shore took the property as it was found and acquired it in good faith. There may be ways to approach this but agreed they probably should obtain legal counsel regarding the access issues and how their lots may be organized to provide reasonable access. The issue has been investigated with staff and Mr. Isaacson reviewed it as well. His client has applied for what they considered to be a very reasonable rezoning and original zoning. They have submitted a high-quality application for a great project that will fit in well with the area. Roberson Comer Road will be improved and there will be a lot of benefits with this project. Ms. O'Connor asked Mr. Isaacson if could repeat about widening and improving the road. Mr. Isaacson stated his client was asked by GDOT to take responsibility for widening and upgrading Roberson Comer from its terminus at this property up to the point as determined by GDOT that would be appropriate to provide reasonable access for vehicles in and out of the property. Chair Holston asked if that roadway improvement would go beyond the property line. Mr. Isaacson responded as he understood it, it would. They would be subject to GDOT's determination but his client has agreed to be responsible for those improvements up to a point where GDOT has determined. Mr. Isaacson understood that to mean that it would go up to the currently existing Roberson Comer Road where it is widened and improved to city standards and would connect to where it is currently improved. Mr. Tipton confirmed and advised the applicant did agree to widen beyond what is required of a normal site plan subdivision development, to a minimum width for safe ingress and egress for two way traffic on Roberson Comer to a point somewhere along where Roberson Comer turns and goes south with the property and is where the widening would stop. Mr. Tipton measured 14 and 17 feet in different places. It is a very narrow road currently. Chair Holston inquired if there were additional questions from the Commissioners for the applicant. Mr. Isaacson stated there is a real benefit to having this project annexed into the city and zoned RM-5. Mr. Rosa asked if Zoning approved the request, was there a chance to have access for those who do not have access currently or would it be too late at that point. Mr. Buansi advised without looking at the documentation for an easement, was unable to say. With respect to the Zoning Commission's charge in evaluating the use and impacts on surrounding properties, those are their considerations for rezoning decisions. Chair Holston inquired if there were additional questions for Mr. Isaacson. Seeing none, Chair Holston requested to hear rebuttal from those in opposition.

Carlos Motley, stated at this point, considering the fact there is still additional information that needs to be known, especially for those who are currently land-locked, there are legal issues that need to be determined for the best direction. Mr. Motley asked the Commission to put this on hold in order to obtain

legal information and possibilities in regard to their land and ingress/egress. There are others blocked in who are not present at this meeting. Mr. Motley spoke on behalf of everyone who is land-locked currently. Chair Holston inquired if Mr. Motley knew if any others have taken any type of action. Mr. Motley responded it was hard to have everyone together at one time. People are attempting to determine what their options are individually.

Chair Holston stated it appeared Mr. Motley would like a continuance. This could go on to City Council and could then petition the Council for additional time. Chair Holston advised there were different avenues the applicant and those in opposition could take. It could be a request for a continuance of this meeting to be held at a later date. This request was going to City Council regardless of the outcome from this meeting for a hearing with City Council members on June 15, 2021. Chair Holston asked Mr. Motley if he was specifically requesting for a continuance or simply saying that there would be more time when this case goes to City Council and have the discussion there. Mr. Motley responded that would give them enough time to legally figure out what needs to be done. The June 15th date was good. Mr. Engle stated from a procedural standpoint, Zoning has gone through 15 minutes of presentation, 15 minutes of rebuttal, 5 minutes of rebuttal and now asking if they want a continuance. That option should have been asked at the beginning of the meeting. It's being heard now; it is an original zoning. There was a conversation regarding streamlining the meeting for other people that are present. Chair Holston responded in the past there have been cases where the cases went on and the request for a continuance came up, the request was listened and times when it was granted and voted on. Chair Holston stated he has asked those in opposition what they were asking for, more time or a formal continuance. Mr. Motley advised they were not asking for a continuance as this case will go before City Council and that would be enough time for them to do what was needed. Ms. Ross agreed with Mr. Motley to wait until June for time.

Chair Holston inquired if there were additional questions from the Commissioners for those in opposition during rebuttal. Seeing none, Chair Holston 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 proposed original zoning and rezoning request supports both the Comprehensive Plan's Creating Great Places goal to expand Greensboro's citywide network of unique neighborhoods offering residents of all walks of life a variety of quality housing choices and the Building Community Connections goal to maintain stable, attractive, and healthy places to live and raise families. The proposed CD-RM-5 zoning district allows low intensity residential uses that are compatible with the various uses located nearby. Staff recommended approval of the request.

Chair Holston inquired if there were questions for Mr. Kirkman, or discussion by the Commissioners. Mr. Kirkman advised the Commission there should be a motion on the annexation portion first and then a motion on the original zoning and the rezoning as a combined item. Ms. O'Connor made a motion to approve the annexation. Seconded by Mr. Bryson. The Commission voted 8-0. (Ayes: Chair Holston, Skenes, Magid, Bryson, Rosa, Engle, Alford and O'Connor. Nays: 0). Chair Holston stated the motion constitutes a favorable recommendation and subject to a public hearing at the June 15, 2021 City Council meeting.

Ms. O'Connor stated in regard to agenda item Z-21-05-005, the Greensboro Zoning Commission believes that its action to recommend approval of the original zoning and rezoning request for the properties described as 800 and 816 Roberson Comer Road from County AG (Agricultural) and City R-3 (Residential Single-family-3) to City CD-RM-5 (Conditional District-Residential Multi-family-5) 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; (1). The request is consistent with the Comprehensive Plan's Future Built Form Map and Future Land Use Map; (2). The proposed CD-RM-5 zoning district would allow low intensity residential uses that are compatible with the various residential uses located nearby; (3). 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. Approval is in the public interest. Seconded by Mr. Bryson. The Commission voted 8-0. (Ayes: Chair Holston, Skenes, Magid, Bryson, Rosa, Engle, Alford, and O'Connor. Nays: 0). Chair Holston stated this approval constitutes a favorable recommendation and is subject to a public hearing at the June 15, 2021 City Council meeting. Chair Holston advised Mr. Motley and Ms. Ross to seek legal advice in preparation for the public hearing on June 15, 2021.