

**MINUTES OF THE
PLANNING AND ZONING COMMISSION
AUGUST 19, 2024**

PL(P) 24-24 & Z-24-08-005: An annexation and original zoning request from County RS-40 (Residential Single-family), County LB (Limited Business), and County AG (Agricultural) to City CD-O (Conditional District - Office) for the properties identified as 9206 West Market Street and a portion of 118 Kidd Road, generally described as northeast of West Market Street and south of Kidd Road (20.73 acres). (RECOMMENDED APPROVAL)

Mr. Carter reviewed the summary information for the subject properties and surrounding properties. Mr. Carter said the applicant proposed an additional condition and advised that the applicant had proposed the following conditions:

- 1) Permitted uses shall be limited to: Assisted Living Facility; Nursing Home.
- 2) No more than 125 dwelling or rooming units shall be permitted.
- 3) Building height shall not exceed 50 feet.
- 4) **Vehicular access to Kidd Road shall be limited to emergency vehicles only.**

Ms. Skenes made a motion to accept the additional condition, **vehicular access to Kidd Road shall be limited to emergency vehicles only**, seconded by Chair O'Connor. The Commission voted 8-0, (Ayes: Chair Sandra O'Connor, Vice-Chair Catherine Magid, Skenes, Engle, Downing, Gilmer Sr., Turner and Glass). Nays: (None).

Mr. Carter then stated the GSO2040 Comprehensive Plan designates this property as Exurban on the Future Built Form Map. If this original zoning request is approved, the Future Built Form designation for the subject site is considered to be amended to Urban General in order to ensure an appropriate fit between future land use designation and zoning. The Western Area Plan's Future Land Use Map designates the property as Residential. Staff determined the proposed original zoning request supports both the Comprehensive Plan's Filling In Our Framework Big Idea to arrange our land uses for where we live, work, attend school, shop and enjoy our free time to create a more vibrant and livable Greensboro and 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. The proposed City CD-O (Conditional District – Office) zoning district would allow land uses that are compatible with the general character of the area. Staff recommended approval of the request.

Mr. Carter added that as conditioned the request limits negative impacts on the surrounding land uses.

Vice-Chair Magid asked the applicant to come forward to the podium.

Ms. Skenes reminded the speakers that each side has a total of ten minutes to speak.

Marc Isaacson, 804 Green Valley Road, said he was speaking on behalf of Colfax Reality LLC and introduced members of the company and the Engineer working on the project. He gave background information on the company and said that they are family owned based in Cary and operated several nursing and rehabilitation facilities throughout the United States. He mentioned

that the at the current location in Greensboro the lease would soon expire and would not be renewed, hence the request. He stated that the applicant evaluated several locations for replacing the nursing home and rehabilitation facilities. He said that the subject property amongst other sites went through an extensive “certificate of need” review process and the subject property met all the criteria. He stated some of the site selection criteria as follows: 1) should be in Guilford County; and 2) should be located on a major thoroughfare with access to other major throughfare and highways. He said that the subject site is located on West Market which is a major thoroughfare and is less than 2 miles from Interstate 40, less than 3 miles from Highway 68, and less than 3 miles from Highway 150.

Mr. Isaacson showed an aerial photograph of the area and talked about the uses in the area. He noted the request is conditional office zoning, however, they limit the proposed use to nursing home and related uses and would not include no other commercial uses. He stated that the proposed number of units did not trigger the need for a Traffic Impact Analysis. He mentioned the building height restrictions is 50feet which is the same as the low density single family residential zone district. He displayed zoning maps for the surrounding areas and emphasized that there are numerous industrial uses present. He noted the schools adjacent to the request is zoned City Public and Institutional. He also displayed a sketch plan for the proposed site which was designed according to the “certificate of need”. On the sketch plan he pointed out the stormwater control mechanism, landscape buffers along the perimeter of the property, and one access along West Market Street. He stated after the community outreach process the site plan was revised to remove access from Kidd Road allowing access only for emergency vehicles based on staff recommendation. He noted that the access would only change if required by the TRC. He showed rendering illustrations and photographs of existing facilities operated by the applicant. Mr. Isaacson stated that the one and half story and other architectural features allowed for a residential tone.

Mr. Isaacson said letters were mailed to residents within the city’s 750 ft notification buffer. He said a Zoom meeting was held, in addition to another meeting held with few residents at his office, and in person meeting at the Kernersville Public Library. He noted the main concerns raised were access along Kidd Road and access to city sewer line. He said city water supply was available but no sewer line in the area. He said to extend the sewer line would cost approximately 9 million dollars which would not be cost effective. He noted that the only option was to approach the Guilford County Schools and propose share use agreement while offering to upgrade the school’s existing lift station.

Vice Chair Magid asked for any questions or comments from the Commissioners. Hearing none, she asked for the speakers in opposition to come forward to the podium.

John Naylor, 133 Kidd Road, noted he was representing most of the residents on Kidd Road and asked for the rezoning request to be denied. He said that the request is spot zoning which would be improper and illegal. He said the request does not fit with the existing low density residential neighborhood. He noted concerns as follows: devaluation of property value; high stormwater runoff; pollution of aquifer; and massive tree removal all adding to environmental destabilization. He said the staff report indicated sewer services were available in the area and is not the case. Mr. Naylor referenced Water Resources policy and noted that private lift stations should serve only one property. He stated that the staff report noted that area is governed under the Western Area

Plan and the area slated for residential uses. He said in accordance with the LDO medical facilities such as the proposed nursing home is not allowed in residential districts. He referenced a similar request for 22 townhomes development in the city, and noted the same Commissioner's final vote remarks stated that townhomes should be close to downtown or shopping centers and not within single-family zoning districts. He said nursing homes as defined by the North Carolina General Status and North Carolina DHHS regulations should be near hospital or medical zoned areas and not within single-family zoned districts.

Jeffrey Kidd, 139 Kidd Road, asked the Commissioners to support the low-density residential community and not to support the request on the basis that the city could not provide sewer services. He pointed out that the GSO2040 Comprehensive Plan identified the Western Area as Growth Tier 3 where the extension of public utilities primarily water and sewer are anticipated beyond 12 years. He stated that annexation should only be considered if full utilities could be provided and noted that sewer services could not be provided for the request. He agreed with Mr. Naylor and said that private lift station is intended to serve the entity that it is owned by, and the city had policy against sharing lift stations.

Amber Belangia, 9226 West Market Street did not oppose to the request however noted there would not be sufficient land for the widening of Kidd Road in needed. She wanted to know about more about the landscape separation buffer.

Vice-Chair Magid inquired if the applicant would like to speak further to the residents' concerns.

Marc Isaacson, 804 Green Valley Road, stated spot zoning would not apply to the request and noted that Public and Institutional zoning was adjacent to the property. He said that West Market a major thoroughfare with mixed uses. He suggested the Commission should consult with legal staff on the definition for spot zoning. He considered the request to be low impact use and therefore suitable to the surrounding areas. He said that the stormwater concerns would be addressed during the TRC extensive review process. He noted the proposed development would be connected to the city water supply and there should be no impact on the aquifer or wells. He said that tree buffers would be provided along the perimeter of the subject properties. He pointed out that with single-family zoning districts tree buffers would not be required. He said he would allow the staff to talk about Growth Tier 3 and the sewer services. Mr. Isaacson restated the request is for conditional zoning district limited to only one use, nursing home and rehabilitation facilities which are needed for the aging population.

Vice-Chair Magid inquired if there was anyone else wishing to speak in opposition.

John Naylor, 133 Kidd Road reiterated that the request was spot zoning and was against the will of the people. He noted that the surrounding properties are low density residential zones. He said the request offered no benefits for the surrounding neighborhood, and pointed out the proposed development would be sharing the school's lift station. He noted that the biggest concern is the lack of the sewer line. He mentioned that there should be separation buffer between commercial and residential zones and should not be just few trees. He stated that trees usually take about 5 years to grow and during that period the lighting from the proposed development would affect the neighborhood along Kidd Road. He noted the proposed development is a 24 hour operating use

and expressed concerns with vehicles specifically emergency vehicles. He noted he had concerns with the stormwater runoff.

Vice-Chair Magid closed the public hearing.

Vice-Chair Magid asked staff to address concerns raised by the residents.

Mr. Ducharme advised that spot zoning occurs when small tracks of land are rezoned to distinctly different zoning district from surrounding large piece of land uniformly zoned. He stated if small tracks of land are surrounded by larger land zoned for residential use, the impact on the surround properties should be considered. Mr. Ducharme said based on earlier presentations showing the subject properties and the surrounding land uses the Commission could make their own determination. He noted that spot zoning was a review process used by the Courts. He told the Commissioners that for each rezoning request the reasonableness of the request should be considered. He explained that the reasonableness factors are laid out in state laws which is part of the motion zoning statements.

Mr. Kirkman explained use definition under the LDO permitted use table and stated that Assisted Living Facilities and Nursing Facilities are considered part of group living uses and ultimately part of the residential use group. He noted that these facilities are allowed within residential zoning districts with specific development standards.

Mr. Engle asked staff about the contrast between the County AG (Agricultural District) and the City AG (Agricultural District) designation in terms of the permitted use table.

Mr. Kirkman said there are similarities and stated that the City AG was recently added to the latest City Policy.

Mr. Engle pointed out there are uncomplimentary uses within the City AG such as go-cart raceways. He stated that there are uses found within the permitted use table if not limited could become obnoxious to residential development.

Jana Stewart, Water Resource Engineering Manager said that the proposed development had two options for sewer services. She said one option would be to provide a gravity extension north which would be the 9 to 10 million dollar investment mentioned earlier by the applicant. She stated the other option would be the shared agreement for private lift station with the property south of the proposed site, owned by the Guilford County Schools. She said she was aware of such shared agreements between two non-single-family residential developments sharing one lift station. Ms. Stewart stated shared agreements between single-family residential developments would not be allowed by the City. She mentioned shared agreements would be allowed in challenging situations, such as a site bounded by interstates or railways making it difficult to service by gravity. Ms. Stewart addressed concerns regarding water and sewer services for properties located within Growth Tiers and noted that the proposed site is in a strategic location. She stated the proposed site is located at the end of one of the city's waterlines, and ample supply is available. She then inquired if the Commissioners had questions.

Vice-Chair Magid asked for any questions or comments from the Commissioners.

Ms. Skenes directed question to **Mr. Kirkman** regarding the required separation buffer between residential and commercial zones..

Mr. Kirkman advised type B buffer would be required which is 25ft landscape buffer including trees and shrubbery, street planting yards, and tree conservation. He said the tree conservation requirements are usually incentivized counting towards the buffer requirements.

Ms. Skenes stated that during the presentations, there were mention that no trees would be provided, and the lighting would disturb surrounding residential developments. She looked at the proposed site plan and asked if landscape buffer would be required along the road boundary.

Mr. Kirkman advised the minimum width for street planting yard is 10ft and would include variety of plantings.

Ms. Skenes asked if there would also be 25ft landscape buffer on all sides of the proposed site.

Mr. Kirkman said landscape buffer would be provided in addition to screening of the parking areas. He noted that the landscaping buffer would protect the neighbors from the lighting. **Mr. Kirkman** also pointed out that the Ordinance required outdoor lighting oriented downward and shielded keeping all the lighting on the property.

Ms. Skenes asked if TRC approved the annexation provided that all the utilities, fire and safety were met.

Mr. Kirkman confirmed TRC recommended approval of the annexation.

Ms. Skenes then made a motion to annex the property, seconded by **Mr. Downing**. The Commission voted 8-0, (Ayes: Chair Sandra O'Connor, Vice-Chair Catherine Magid, Skenes, Engle, Downing, Gilmer Sr., Turner and Glass). Nays: (None).

Mr. Downing then stated regarding agenda item Z-24-08-005, the Greensboro Planning and Zoning Commission believes that its action to recommend approval of the original zoning request for the properties at 9206 West Market Street and a portion of 118 Kidd Road from County RS-40 (Residential Single-family), County LB (Limited Business), and County AG (Agricultural) to City CD-O (Conditional District - Office) to be consistent with the adopted GSO2040 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 City R-3 zoning district permits uses that fit the context of surrounding area and limits negative impacts on the adjacent properties; (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, and approval is in the public interest. Vice-Chair Magid seconded the motion.

The Commission voted 8-0, (Ayes: Chair Sandra O'Connor, Vice-Chair Catherine Magid, Skenes, Engle, Downing, Gilmer Sr., Turner and Glass). Nays: (None).

Vice Chair Magid advised the votes constituted a favorable recommendation and was subject to a public hearing at the Tuesday, September 17, 2024 City Council Meeting.