



Protest Petitions

By

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There is no greater transfer of power to an unelected citizen in our entire statutory structure than the protest petition.

N.C. Gen. Stat. § 160A-385(a)

One person who owns a mere 5% of a 100 foot buffer around land to be rezoned can sign a protest petition, giving him or her the ability to force a city council to rezone by 3/4ths vote rather than a simple majority.

7 of 9 votes

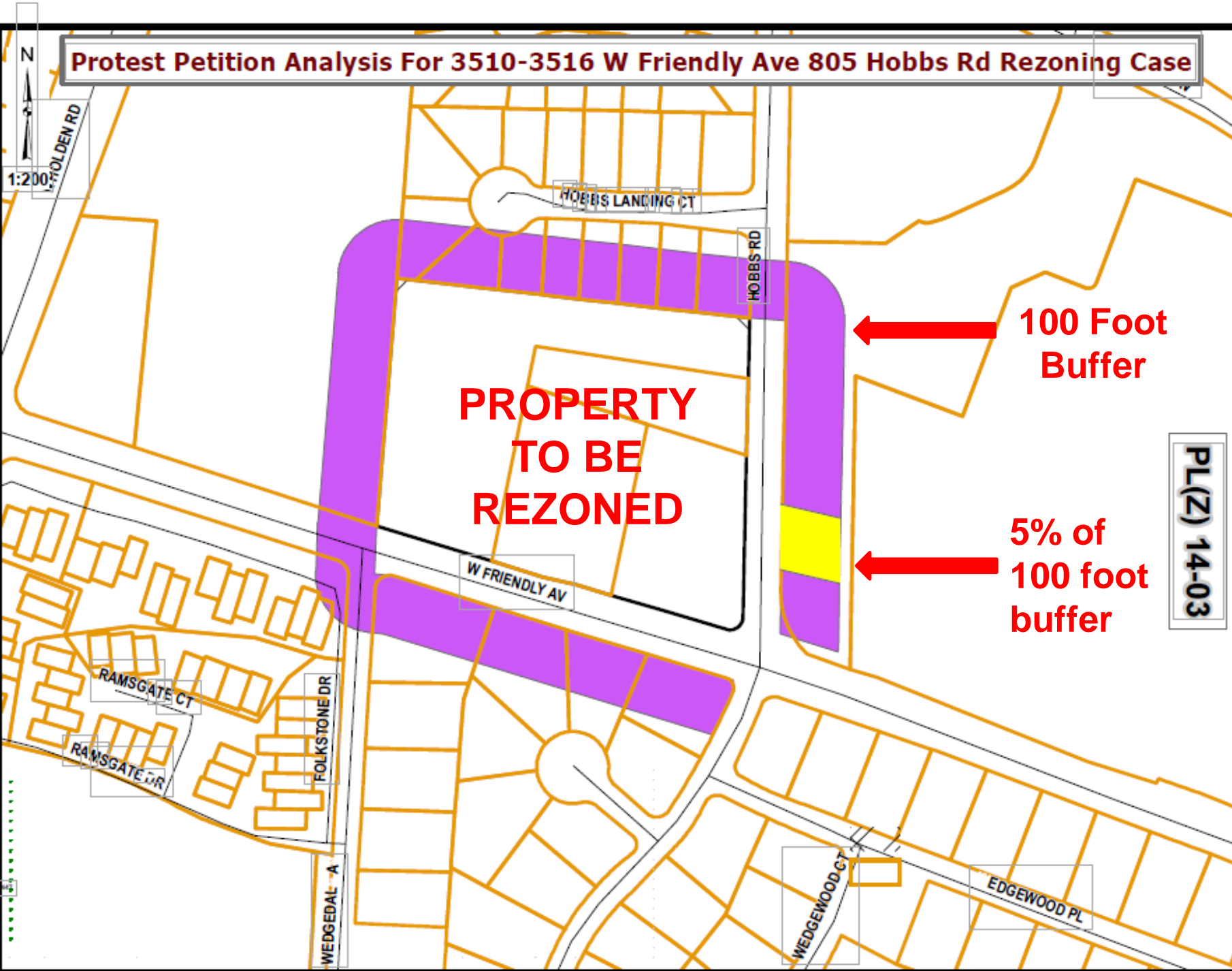
Versus

5 of 9 votes

One unelected person controlling a
governmental body elected by the entire
city

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- Why must the citizens' government bend to the wishes of one person?
 - Because one unelected person decides that they must.
 - The remaining city population has no power to undo this protest.

Protest Petition Analysis For 3510-3516 W Friendly Ave 805 Hobbs Rd Rezoning Case



PL(Z) 14-03

A Unique Power

- There is no other situation in our state or federal systems where a single, unelected individual, accountable to no person and no law, is given the power to force a super majority vote by any duly constituted legislative body.

Imagine one citizen given the power to
prevent the N.C. Legislature from acting
except by a 75% vote.

Even an elected council member or an elected body itself is powerless to force a supermajority vote.

Thus, we give one unelected citizen more power than the people we elect.

In our American system of government, super majority votes are typically reserved for matters involving balance of powers or protection of constitutional change.

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- The only legal appeal is to determine if the correct procedure was followed
 - 1) was it filed in time?
 - 2) is the person the actual owner? and
 - 3) does he own at least 5% of the buffer?

The city council's decision to rezone is
subject to judicial review.

However, the unelected person's decision
to file the protest petition is NOT.

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- The person who owns 5% of the 100 foot adjoining buffer has GREATER powers over the city council's decision than the person who owns and pays taxes on the property to be rezoned.
 - (The person who owns and pays taxes on the property is powerless to affect the vote threshold)

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- City Council members are required by law to consider if the rezoning is consistent with the city's growth plans, to consider the recommendations of staff and the planning board, and to listen to comments by neighbors.
 - The protesting neighbor has no such duties. Even if the protest is overtly grounded in racial discrimination, there is no legal recourse.

It is a procedural mess

- The statute does not require signatures to be notarized.
- A husband may sign his wife's name (and vice versa).
- There are no rules for counting commonly-owned land (such as in an HOA).
- There are no rules for counting above-ground ownership (second floor condos).

Why Does This Petition Exist?

- Enacted in 1923 with first N.C. zoning statutes when zoning was new and experimental.
- Adopted from uniform standards of other states.
- For 90 years we have just accepted it as the way things are

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- In 1923, N.C. did not have open meetings laws or public records statutes.
 - Citizens did not have 21st century access to information.
 - Comprehensive growth plans were nonexistent.
 - Planning regulations were basic and offered minimal protections

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- Since 1923, the N.C. Supreme Court has declared that citizens have no right to expect zoning on neighboring properties to remain the same.

Recent Example of Abuse

- Greensboro Retail Development
- \$12 Million Investment
- \$500,000+ per year in local sales tax revenue
- Owners of 6.77 acres trying to sell for years
- 3 rent houses; fourth house in foreclosure
- Owners of 5th and 6th house very elderly

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- 2 million sq. ft. of retail on adjacent parcels to the east
 - Church and office use on western adjacent parcels
 - Homes directly across street favored retail use
 - Adjacent church not in opposition
 - Subdivision HOA to north not in opposition

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- Zoning Commission recommended 8-1
 - Planning staff strongly recommended



Green Valley

Onslow-Dr

Northampton-Dr

W-Cornwallis-Dr

New-Hanover-Dr

Crossfield-Dr

Starmount-Farms-Dr

Guilford

Avery-Pl

Pembroke-Rd

The Friendly Center

Shops @ Friendly

Church
&
Office

Site

Northline-Ave

Wedgewood-Pl

Edgewater-Dr

W-Avondale-Dr

E-Avondale-Dr

Mistletoe-Dr

Wendover-Ave W

Green Valley Rd

N-Lindell-Rd

N-Elam-Ave

pinecrest

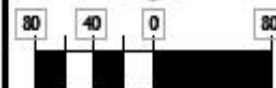
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site data

jurisdiction:	City of Greensboro
tax map no.:	Multiple
zoning:	CM Proposed
parcel area:	6.4± AC (total)
building area:	36,000 S.F.
parking:	135 spaces (B H/C)



scale: 1" = 80'

GREENSBORO, NC
FRIENDLY AVE
02-05-2014

STUDY PLAN

SP-17



1:200

HOBBS LANDING CT

HOBBS RD


W FRIENDLY AV

PL(Z) 14-03



WILKSTONE DR

[illegible]

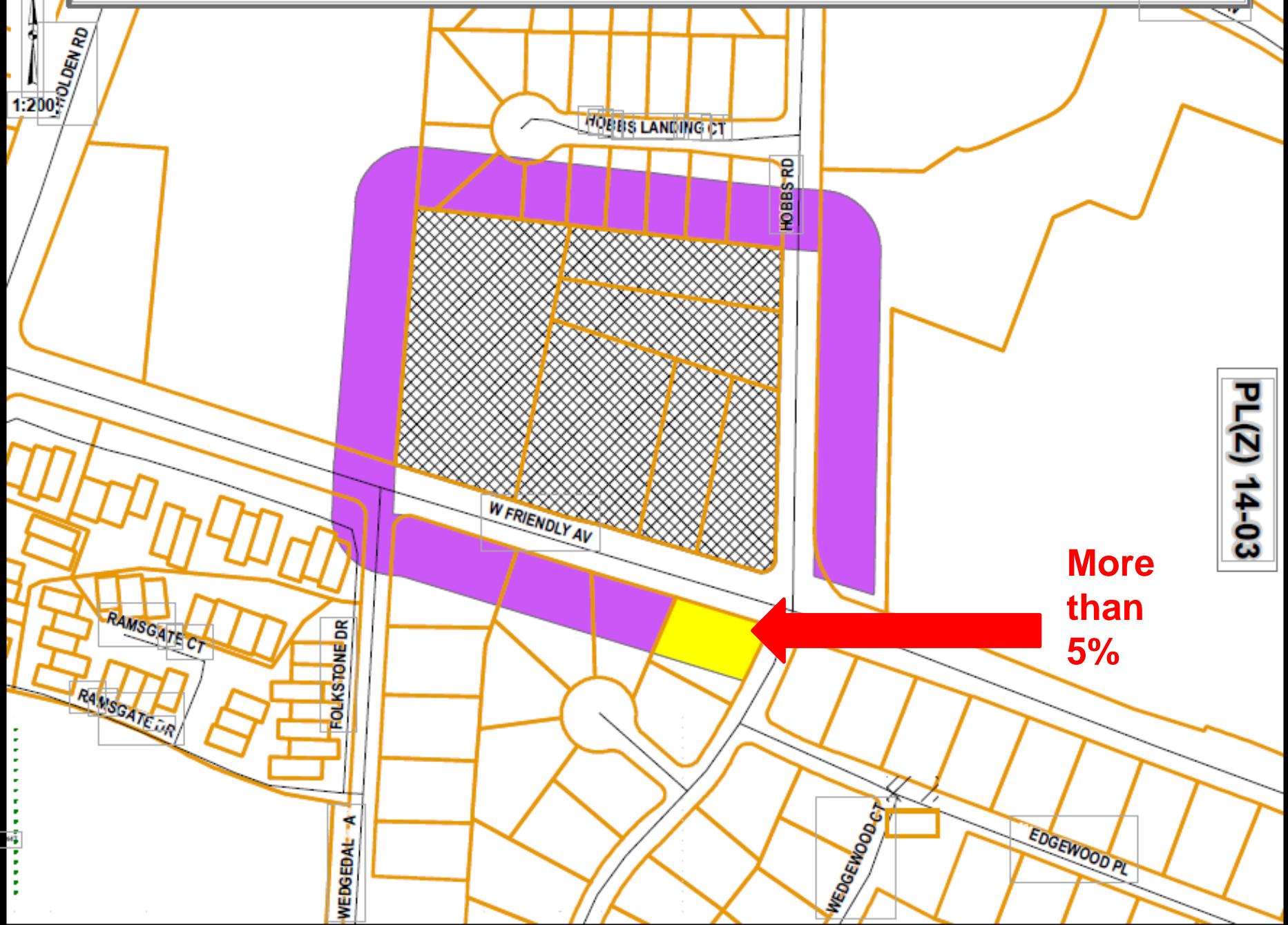
 Rezoning Case: Z-14-01-005[PL(Z)14-03]

Guilford County Parcels

	Petition Signers
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100Ft Buffer Area: 257.126.96 Sq Ft

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How can this transfer of power be fixed?

Repeal N.C. Gen. Stat. § 160A-385(a) and 386

There is no practical way to correct such a shifting of power away from a duly elected body in favor of one unelected citizen.

It cannot be justified.

It should be repealed.



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