

**MINUTES OF THE BURLINGTON PLANNING
AND ZONING COMMISSION MEETING**

September 22, 2008

Council Chamber, Burlington Municipal Building

CITY MEMBERS:

George Byrd, Chairman, Present
Paul Cobb, Secretary, Present
John Black, Present
Lynn Cowan, Present
Gordon Millspaugh, Present

EXTRATERRITORIAL MEMBERS:

Bud Apple, Present
Richard Franks, Present
Earl Jagers, Present
Jim Johnson, Absent
Rebecca Lashley, Present
Ellis Piper, Present

STAFF PRESENT:

David Beal, Assistant Director of Planning Services
Joey Lea, Zoning/Subdivision Administrator
Dianne Fogleman, Office Assistant

ITEM NO. 1: Chairman Byrd called the meeting to order at 7:00 p.m.

ITEM NO. 2: Minutes of the meeting held August 25, 2008, were unanimously approved. This was a City and extraterritorial item.

ITEM NO. 3: Consent agenda: (Extraterritorial)

(A) Mr. Boyd Chatman presented an application for final plat approval of the James and Teresa Hubbard Subdivision. The property is located on the south side of Anthony Road west of Keck Drive as shown on plans by Glenn L. Brown Surveying dated August 18, 2008, and containing two new lots.

Staff recommended approval.

Commission Secretary Cobb asked Mr. Chatman what was planned for the lots, and Mr. Chatman stated that the applicants were subdividing the property in order to sell the lots.

Mr. Cobb made a motion to recommend approval of the final plat. Bud Apple seconded the motion. The Commission voted unanimously to recommend approval of the final plat.

The Commission found that the plat as presented met all requirements of the Subdivision Regulations.

Commission Chairman Byrd asked that he be allowed to abstain from voting on Item Number 4.

Assistant Director of Planning Services Beal stated that there would not be a quorum of City members to consider Item Number 4 until Commission Member Black arrived. Mr. Black had told staff that he would attend the meeting but would be arriving late. Mr. Beal suggested that the Commission take a short break until Mr. Black arrived.

Mr. Beal introduced Mr. Early Kenan, Jr., who was appointed by the Burlington City Council to serve on the Commission as a City member. He stated that Mr. Kenan would replace Elder Greg Hargrave, who had moved out of the City. Mr. Beal informed Commission members that even though Mr. Kenan had received the agenda packet and a copy of the August Commission minutes, he was present to observe the meeting and would begin active involvement at the October meeting.

At 7:04 p.m. the Commission took a brief break and re-convened at 7:07 p.m. upon the arrival of Mr. Black.

Commission Secretary Cobb made a motion to allow Mr. Byrd to abstain from voting on Item Number 4. Gordon Millsbaugh seconded the motion. The Commission voted unanimously to allow Mr. Byrd to abstain from voting on Item Number 4.

Commission Member Franks stated that due to a conflict of interest he would excuse himself from the discussion of Item Number 4 even though it was not an extraterritorial item.

Commission Secretary Cobb conducted the discussion of Item Number 4.

ITEM NO. 4: Mr. Frank Longest, representing Dr. Thomas E. Powell III, presented an application to rezone from R-9, Residential District, to B-2, General Business District, the property located on South Church Street near the Alamance Road intersection and also adjoining Laurel Hill Drive as shown on Alamance County Tax Map 188-754, Lots 51, 52 and 7. This item was tabled by the Commission at its August 25, 2008, meeting.

This was a City item.

Mr. Longest told Commission members that he would bring them up-to-date on his discussions with two neighbors since the August meeting. He stated that he outlined plans for Lot 7 that fronts on Laurel Hill Drive where an ancillary driveway would be located for the two lots on South Church Street. Mr. Longest stated that he explained the use restrictions that would be in place for 25 years and offered the installation of opaque fencing and a vegetative buffer as well as a landscape allowance to use however they desired on their properties on Laurel Hill Drive.

As far as traffic concerns go, Mr. Longest stated that he anticipates most vehicles utilizing the Laurel Hill Drive driveway to be Interstate 85/40 traffic and therefore they would have no need to traverse Laurel Hill Drive other than at the intersection at Alamance Road.

He maintained that the proposals offered by his client would be the same as if it were a conditional request.

Ms. Cathy Morris, 108 Laurel Hill Drive, stated that she had met with Mr. Longest but he still has not said what was going to be developed on the site. She stated that she also was concerned that vehicles would use the drive as a cut-through to Church Street even when the businesses were closed for the night.

Mr. Longest pointed out that Dr. Powell lives in the neighborhood and that they could be assured that he was not going to create a racetrack on the property.

Assistant Director of Planning Services Beal stated that staff had no pause with rezoning the properties on South Church Street; however, staff could not support rezoning the lot on Laurel Hill Drive due to its speculative nature. He pointed out that it was possible that the lots could be sold individually in the future and that the Commission should consider any and all uses permitted in B-2 zoning for all three lots. He explained that certain retail development could warrant lane widening or turn lanes on South Church Street as well as signalization on Alamance Road at Laurel Hill Drive.

Commission Member Cowan asked what zoning was indicated for Lot 7 on the Future Land Use Map.

Mr. Beal answered that while he did not have a copy of the Land Use Map with him, he felt sure it was for residential use.

Ms. Cowan stated that it seems that the lot line is very close to Ms. Morris' home on Laurel Hill Drive.

Mr. Beal stated that private covenants, deed restrictions or other special provisions could not be considered as those would be private property agreements and therefore outside the scope of a straight rezoning request. By developmental standards in the Zoning Ordinance, a building in B-2 could be located 15 feet from the property line and a driveway five feet from the property line.

Mr. Walter Cooper, who resides on Forest Drive, stated that the drive would be 20 to 25 feet from the house.

Mr. Longest pointed out that the drive would not be located on the existing path on Lot 7, which is used to access the property for mowing. He stated that the proposed driveway would be 30 feet from the existing path.

Commission Chairman Cobb asked the height of the proposed fence and was told seven feet. Again, Mr. Beal pointed out that this is not a conditional request and that specific details could not be considered. He also stated that as B-2, any of the three lots could be sold and developed individually.

Mr. Longest disagreed with Mr. Beal and explained that he had intended for this application to be considered as one request and one potential development but that the City would not allow it as such.

Mr. Beal stated that the three lots currently exist as individual tax parcels, and since no recombination of the lots has taken place, they did not have to be developed together.

Commission Member Millspaugh asked if Lot 7 could possibly be used for anything else considering its topography. Mr. Beal stated that he has seen lots less favorable than this being developed for residential use.

Mr. Longest stated that it was possible to build three apartments within 10 feet of the property line with the lot being currently zoned R-9.

Mr. Cooper pointed out that when there is a heavy downpour such as the recent one the water overruns the creek flooding Lot 7 as well as other lots downstream.

Ms. Morris pointed out that the creek was over-grown and had not been cleaned out in years and because the surrounding area was prone to flooding made the lot less suitable for building.

Commission Member Cowan made a motion to recommend denial of the request for rezoning. Gordon Millspaugh seconded the motion. Commission members voting to recommend denial were Cowan, Millspaugh and Black. Commission Secretary Cobb did not vote and therefore his vote counted as a yes to the motion to recommend denial. Commission Chairman Byrd abstained from voting.

There being no further business to discuss, the meeting was adjourned at 7:31 p.m.

George A. Byrd, Jr., Chairman

Paul E. Cobb, Jr., Secretary