

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

November 22, 2010

Council Chamber, Burlington Municipal Building

CITY MEMBERS:

George Byrd, Chairman, Present
John Black, Present
Lynn Cowan, Secretary, Present
Early Kenan, Jr., Absent
Gordon Millspaugh, Present
Richard Parker, Present

EXTRATERRITORIAL MEMBERS:

Bill Abplanalp, Present
Bud Apple, Present
Richard Franks, Present
Earl Jagers, Present
Jim Johnson, Absent
Rebecca Lashley, Present

STAFF PRESENT:

Robert R. Harkrader, Director of Planning and Economic Development
David Beal, Assistant Director of Planning Services
Jay Smith, Chief, Burlington Fire Department
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 October 25, 2010, were unanimously approved. This was a City and extraterritorial item.

ITEM NO. 3: Consent agenda: (Extraterritorial)

(A) Mr. Jay Lowe, representing Mr. Jason DeBoer, presented an application for final plat approval of the Melinda McPherson Property located on the south side of Eric Lane and west of Bonnie Lane as shown on plans by Carolina Cornerstone Surveying and Land Design dated October 30, 2010, and containing two lots.

Staff recommended approval of the final plat.

Commission Member Apple made a motion to recommend approval of the final plat. Richard Franks 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.

Consent agenda: (City)

- (B) Mr. Scott Wallace, representing Keystone Group, Inc., presented an application for final plat approval of Phase Seven, Woods at Grove Park Townhomes. The property is located on the south side of Kingsbury Court and south of Trail Six as shown on plans by Simmons Engineering and Surveying, Inc., dated September 27, 2010, and containing three lots.

Staff recommended approval of the final plat.

Commission Member Millspaugh made a motion to recommend approval of the final plat. Lynn Cowan 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.

ITEM NO. 4 Mr. Jason DeBoer presented an application to rezone from R-15, Residential District, to MF-A, Multifamily District, property located at 2341 Bonnie Lane as shown on Alamance County Tax Map 12-4, a portion of Lot 15, consisting of 13.76 acres.

This was an extraterritorial item.

Mr. DeBoer stated that the adjoining property was already zoned multifamily.

Mr. Richard Efird, 2270 Bonnie Lane, stated that he owns adjacent property that is not zoned multifamily. Mr. Efird stated that Gunn Creek runs through the property in question, and he asked the applicant if the portion closest to his property could remain R-15 noting that Mr. DeBoer would still have 10 acres for multifamily use.

Mr. DeBoer stated that a large portion of the property is located in a flood zone preventing development. He stated that, however, he has no intentions of developing the portion nearest to Mr. Efird.

Mr. DeBoer also noted the 100-year flood zone at the creek, the sewer outfall and the proposed Bonnie Lane extension plan, all of which make the property difficult for potential development. He stated that although he does not plan to develop the area near Mr. Efird's property, he still wanted it rezoned so the overall density of the MF-A rezoning could be higher.

Staff recommended approval of the request for rezoning. Planning Director Harkrader noted that the property is bordered by MF-A and R-15 zoning with industrial and commercial uses across the street. He also noted that this was a straight MF-A rezoning request and that no restrictions could be placed on the development as in conditional rezoning.

Commission Member Parker asked how would the remaining R-15 portion of the lot be accessed and was told by Churchill Drive.

Commission Secretary Cowan asked how many units would be developed.

Mr. DeBoer answered 40 initially; however, the maximum would be 200 units. Frontage would be on Eric Lane, he explained, and development to the south would be limited due to an existing easement.

Commission Chairman Byrd asked if staff had received many calls inquiring about the rezoning, and Mr. Harkrader answered that to his knowledge only Mr. Efirid who had been in the Planning Department and talked to Joey Lea, Zoning/Subdivision Administrator.

Mr. Parker inquired about the rental range of the proposed units, and Mr. DeBoer answered \$700 to \$800 monthly.

Commission Member Millspaugh made a motion to recommend approval of the request for rezoning. Earl Jagers seconded the motion. The Commission voted seven to three to recommend approval of the request for rezoning. Voting to recommend approval were Millspaugh, Jagers, Abplanalp, Apple, Byrd, Franks and Lashley. Voting against the motion to recommend approval were Black, Cowan and Parker.

The Commission found that the zoning change as requested would not adversely affect the adjoining property and would be in keeping with land use planning in the area. The Commission recommended that the official zoning map and the Comprehensive Land Use Plan be amended to reflect the change.

ITEM NO. 5: Mr. Daniel Dorn with Smith Packett, representing Alamance AL Investors, LLC, presented an application to rezone from R-15, Residential District, to CO-I, Conditional Office-Institutional District, to allow the development of an assisted living facility. The property is located on the south side of Grand Oaks Boulevard approximately 1,100 feet east from the corner of Grand Oaks Boulevard and Kirkpatrick Road as shown on Alamance County Tax Map 3-22D, a portion of Lot 34, consisting of 4.05 acres.

This was an extraterritorial item.

Mr. Dorn maintained that the assisted living facility would offer an excellent use of the property due to its proximity to the hospital.

Commission Chairman Byrd inquired about the number of beds and was told 48 beds and 46 for assisting living.

Commission Member Parker asked if the state had approved the beds and was told that they were previously approved for another facility.

Planning Director Harkrader stated that staff recommended approval of the request for rezoning with the Use and Development Conditions submitted by the petitioner contingent upon the applicant providing a cross access easement to the property to the west that would allow emergency vehicles to access the lot. In addition, he stated that the development to the west would be required to be tied into Alamance AL Investors property. He introduced Mr. Chuck Edwards with NCDOT and Mr. Jay Smith, Chief, Burlington Fire Department, who would answer questions pertaining to emergency access to the proposed facility.

Mr. Dorn stated that the applicant was in agreement with the contingencies proposed by staff.

Commission Member Parker asked if a stoplight was planned on Grand Oaks Boulevard at the facility.

Mr. Edwards stated that a stoplight was not planned because there was not enough distance from the stoplight at the intersection on Kirkpatrick Road. A full median cut in the five-lane Grand Oaks Boulevard is planned somewhere approximately 1,100 to 1,200 feet from the intersection in the future. When property to the west is developed, an emergency access entrance would be provided, as stipulated in the staff contingency.

Commission Member Parker questioned if that meant no median cut for this property at this time. Mr. Edwards stated that was correct -- that only a right-in right-out driveway access was proposed for the lot.

Commission Member Black asked Chief Smith if he was ok with that provision. He answered that it was acceptable and specified from which directions various emergency vehicles would be arriving.

Commission Member Parker inquired about the width of the proposed drive. Mr. Jim Bennett with The Timmons Group answered 24 feet, and Mr. Parker then asked Chief Smith about the width of a fire truck and was told 20 feet.

Commission Member Lashley made a motion to recommend approval of the request for rezoning with the Use and Development Conditions submitted by the petitioner and the additional Development Condition submitted by staff. Lynn Cowan seconded the motion. The Commission voted unanimously to recommend approval of the request for rezoning and recommended that the official zoning map and the Comprehensive Land Use Plan be amended to reflect the change.

Use Conditions

Home for the ill or aged/assisted living facility.

Development Conditions

- 1) Portion of access isle and parking in the rear may encroach 40 feet into the landscape buffer, if necessary.
- 2) Applicants shall provide for a cross access easement to the property to the west that shall allow emergency vehicles access. The development to the west shall be required to be tied into Alamance AL Investors property.

The Commission found that the zoning change as requested would not adversely affect the adjoining property and would be in keeping with land use planning in the area. The Commission further found that the request was consistent with the Comprehensive Land Use Plan for Burlington and its environs.

ITEM NO. 6: Mr. Charles Bateman, representing Lowe’s Foods and Zimmer Development Company, presented an application to amend a Conditional rezoning for The Shoppes at Waterford approved by City Council September 20, 2005. The request is to rezone from C-OI, Conditional Office-Institutional, to CB, Conditional Business, to allow the use of an automobile refueling plaza with a canopy and kiosk. The property is located at the southwest corner of South Church Street and University Drive as shown on Alamance County Tax Map 9-27, a portion of Lot 7, consisting of .825 acres.

This was a City item.

The applicants had presented the following Use and Development Conditions:

Use Condition

Fueling station with a canopy and kiosk on a portion of Lot 7 as shown on the submitted site plan along with the previously approved uses previously approved by City Council September 20, 2005.

Development Conditions

1. Outparcel buildings shall be architecturally compatible with the overall development.
2. Dumpsters shall not be located within 30 feet of any neighboring residential use and shall also be screened and enclosed with similar materials and colors compatible with the overall development.
3. Outparcel signage: Each building shall be allowed one outparcel sign that shall have a maximum height of seven feet and a maximum width of nine feet for a total of 63 square feet per face.
4. Building signage: Each building elevation that fronts on a public roadway or has a public building entrance or frontage along a private drive shall be allowed one wall sign. Wall sign elevations shall measure 40 feet including the fuel price sign.

Mr. Bateman stated that the proposed facility would not be a convenience store and would be heavily landscaped and bermed. He noted substantial surrounding wetlands on some of the property created by a creek running through the property.

Mr. Bateman pointed out that there was no place close by to refuel an automobile and that there would be no direct access to the facility except through the parking lot. He maintained that the refueling plaza would be less intrusive than a service station such as a Sheetz. He noted that the Land Use Plan designates the area as mixed use.

Mr. Trey Moser with Lowe's Food explained that the proposed facility was not a convenience store and would offer limited merchandise for sale.

Commission Chairman Byrd asked how many pumps were planned for the facility, and Mr. Moser stated there would be six dispensing areas with a total of 12 pumps.

Commission Member Abplanalp inquired about the hours and was told it would be open 24 hours a day seven days a week and one would pay by credit or debit cards after hours.

Commission Secretary Cowan asked how many cars per hour or day were estimated. Mr. Moser stated he was unsure of the number of cars, but similar set-ups sell 200,000 gallons of gas per month.

Commission Member Parker stated that he was concerned because the proposed facility was so close to the creek and that he would like to see more buffer around the creek.

Chairman Byrd asked for staff's recommendation.

Planning Director Harkrader stated that staff would be revisiting the City's Land Use Plan for the Western Corridor extending to the Kirkpatrick/Grand Oaks area and would be making a presentation at the City Council retreat in January. Therefore, staff could not recommend approval of the request for rezoning at this time because it was inconsistent with the current Land Use Plan and the rezoning previously approved by City Council.

Commission Member Lashley asked when could staff make a decision and was told some time after the City Council retreat in January.

Commission Member Jagers pointed out that the property was ideal for a refueling station because there was not one in the area going towards I-85/40. He added that sooner or later something would have to be approved for those corners.

Commission Chairman Byrd asked Mr. Bateman if his clients could wait until January. Mr. Bateman answered that the opportunity for the proposed development was now, and it would be some time after the January retreat before changes in the Land Use Plan would be approved.

Commission Member Parker stated he had environmental concerns because the proposed facility was too close to the creek. A discussion then ensued on flooding, stormwater runoff and hydrology issues when property across the road – at the southeast corner of South Church Street and University Drive – was being considered for rezoning for a convenience store/gas station, condominiums, drug store and bank in 2009.

Mr. Parker made a motion to recommend denial of the request to amend the Conditional rezoning due to its environmental impact on the area. Gordon Millspaugh seconded the motion. The Commission voted unanimously to recommend denial of the request to amend the Conditional rezoning.

Mr. Bateman wanted to clarify that the use of the request was not an issue with the Commission, rather, members' concerns were with environmental issues.

There being no further business to discuss, the meeting was adjourned at 8:14 p.m.

George A. Byrd, Jr., Chairman

Lynn Cowan, Secretary