

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

**February 27, 2012**

**Council Chamber, Burlington Municipal Building**

**CITY MEMBERS:**

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

**EXTRATERRITORIAL MEMBERS:**

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

**STAFF PRESENT:**

Bob Harkrader, Planning Director  
David Beal, 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 December 19, 2011, were unanimously approved. This was a City and extraterritorial item.

**ITEM NO. 3:** Consent agenda: (City)

- (A) Mr. Michael Leigh, representing Abacus Management Group, presented an application for approval of the Windsor Burlington, LLC, Final Plat. The property is located on the east side of Rural Retreat Road north of Interstate 85/40 approximately 1,500 feet south of Williams Mill Road as shown on plans by Murphy Geomatics Professional Land Surveying dated September 8, 2011, and containing two lots.
- (B) Mr. Scott Wallace, representing Keystone Group, Inc., presented an application for approval of the Woods at Grove Park Townhomes, Phase Nine, Final Plat. The property is located north of South Mebane Street and south of Trail Six as shown on plans by Simmons Engineering, Inc., dated February 6, 2012, and containing ten lots.
- (C) Mr. Kevin Sasser presented an application for approval of the Burlington Commerce, LLC, Lots 6, 7 and 8, Final Plat. The property is located on the north side of Hanford Road approximately 650 feet west of Anthony Road as shown on plans by Fleming Engineering, Inc., dated January 13, 2012, and containing three lots.

Staff recommend approval of (A), (B) and (C).

Commission Member Parker made a motion to recommend approval of (A), (B) and (C). Ryan Kirk seconded the motion. The Commission voted unanimously to recommend approval of (A), (B) and (C).

**ITEM NO. 4:** Mr. Rick Davenport presented an application to rezone from R-9, Residential District, to CR, Conditional Residential District, for a private, independent high school and church. The property is located at 328 West Davis Street as shown on Alamance County Tax Map 21-71-100.

This was a City item.

Commission Chairman Byrd asked how many students would attend the school, and Mr. Davenport answered a maximum of 100.

Commission Member Parker asked who was he representing. Mr. Davenport stated that he represents Friends of Independent Schools, in particular, The Elon School.

Mr. Byrd asked if the school would have grades 9 through 12, and Mr. Davenport answered that it would.

Commission Member Abplanalp noted that there are spaces for 60 driving-age students and asked where the remainder of students would park. Mr. Davenport stated that some students were not of driving age or would be brought to school by their parents. Mr. Abplanalp asked if there would be any buses to accommodate students and was told that there would not be any buses.

Commission Member Parker stated that he, too, was concerned about parking especially up and down Davis Street.

Planning Director Harkrader pointed out that there are 18 on-street parking spaces and that the facility exceeds the number of parking spaces required.

Commission Member Kirk, who resides across the street, noted that during Mass, traffic is at a standstill along Davis Street and presents a dangerous situation. He questioned if NCDOT was acceptable to parking on both sides of the street.

Mr. Harkrader stated that a NCDOT representative had not voiced a concern about parking or traffic.

Mr. Kirk also asked why Conditional Residential rezoning was being requested rather than a zoning similar to the First Presbyterian Church.

Mr. Harkrader stated that the First Presbyterian Church required a Special Use Permit due to its day care facility.

Mr. Kirk asked if the proposed facility was in the Historic District and was told that it was not.

Commission Member Parker asked what else could go there in the current zoning, and was told uses such as apartments or townhomes. Mr. Harkrader added that if this Conditional rezoning was approved, the only uses that would be allowed would be for the school, church and administrative offices.

Commission Member Kirk pointed out that on weekday mornings about 20 parents drop their children off at the corner of Maple Avenue and Davis Street where they are picked up by a bus and transported to Clover Garden Charter School. He asked if there would be any athletic events taking place at the facility, and Mr. Davenport stated there could be practices and that he would look into the bus issue, possibly to see if the stop could be relocated.

Commission Member Parker asked if Blessed Sacrament Church would retain ownership of the facility. Father Paul (the Rev. Paul Garbriel) stated that it would. Mr. Parker asked what would become of St. Clare Chapel, and Father Paul answered that it would no longer exist at that location.

Planning Director Harkrader stated that was formerly a school and church site and would remain as such; however, there would be older students attending the facility. In addition, no new buildings would be added. He stated that staff recommended approval of the request for rezoning with the Use and Development Conditions submitted by the petitioner.

Commission Member Kenan made a motion to recommend approval of the request for rezoning with the Use and Development Conditions submitted by the petitioner. Ryan Kirk 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. The following Use and Development Conditions have been submitted by the petitioner:

**Use Conditions**

Private, independent high school with administrative offices and church.

**Development Conditions**

1. All development conditions as currently exist.
2. Signage shall be as required for schools and churches in residential districts.

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. 5:** Mr. Mike Mashburn presented an application to rezone from R-6, Residential District, and R-9, Residential District, to I-1, Planned Industrial District, property located at 714 West Interstate Service Road as shown on Alamance County Tax Map 6-10, a portion of Lot 18A, consisting of 16.2 acres.

This was a City and extraterritorial item.

Commission Member Parker asked if the Moose Lodge was located on this property. Zoning Administrator Lea stated that it was not; it is on a separate lot.

Mr. Parker inquired about the rezoning signs, and Mr. Lea stated that he had three installed – West Interstate Service Road, Hanford Road and Cedarcrest Drive.

Commission Member Apple asked if any houses were located on the property and was told one – the former Hanford home.

Commission Member Kirk stated that in his opinion the portion being considered for rezoning appears to jut into a residential area with recent growth.

Planning Director Harkrader stated that the more recent residential growth has been across the road which is in Graham's jurisdiction. He explained that the creek separates Burlington and Graham with Graham's jurisdiction being east of the creek. He also stated that I-1 zoning has strong setbacks which would buffer I-1 zoning and the residential area.

Mr. Harkrader stated that staff recommended approval of the request for rezoning on the basis that it would be an appropriate extension of existing I-1 zoning.

Commission Member Jagers made a motion to recommend approval of the request for rezoning. Bud Apple seconded the motion. The Commission voted unanimously to recommend approval of the request for rezoning.

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. 6:** Staff presented an application for initial zoning of property recently annexed into the City of Burlington from the Town of Gibsonville's jurisdiction. The property is located at 4209 South Church Street shown as Guilford County Tax Parcel 020200820005000057. The property was previously zoned SC (Shopping Center, Gibsonville) and proposed zoning is CB, Conditional Business District, for the use of an existing Unified Business Development.

This was a City item.

Planning Director Harkrader explained that Conditional Business would be similar to the current zoning and that staff recommended approval with the Use and Development Conditions offered by the property owners.

Commission Member Parker stated that he could not vote on this item because there was not a name or signature on the application. He suggested that the item be tabled until a proper application could be obtained from the property owners.

Mr. Harkrader explained that staff was presenting the request and that the City does not have a form for an initial zoning request. He stated that the Conditional rezoning application was used so Use and Development Conditions for the property could be listed.

Mr. Parker offered the possibility that the property owners could one day question why their property was rezoned and there would be no form in the folder signed by them authorizing the change.

Mr. Harkrader stated that this was not a rezoning but an initial zoning for property recently annexed into the City. Staff was presenting the initial zoning, and the property owners could rezone the parcel at a later date and pay the rezoning application fee. He explained that the Conditional Business District designation was needed for the existing Unified Business Development and that the initial CB zoning needed to be put into place to

protect the property owners in case something happened and the buildings and business had to be replaced.

Commission Secretary Black questioned if the City asks these property owners to make this request would they have to pay a fee. Mr. Harkrader answered that normally applicants must pay a fee for a rezoning request; however, in this case, since it is an initial zoning, he would ask the City Attorney for direction. He asked Zoning Administrator Lea to outline steps taken in this case.

Mr. Lea stated that he contacted the property owners through their attorney and discussed this item with the City Attorney.

Mr. Parker then asked why “Site Plan for Waste Beneficial Reuse Solutions” was on the aerial photo showing the property.

Mr. Lea stated that was his mistake; he had used that designation on a previous aerial photo and had not made the change.

Commission Member Abplanalp asked if Mr. Harkrader signed and dated the application would that be acceptable to Mr. Parker. Mr. Parker answered that it would.

Planning Director Harkrader signed and dated the rezoning application which was being utilized due to the lack of a form designated for initial zoning of property.

Mr. Parker asked if he could withdraw his motion to table the item. The Commission voted unanimously to allow Mr. Parker to withdraw his motion.

Commission Secretary Black made a motion to recommend approval of the initial zoning. Kirk Ryan seconded the motion. The Commission voted unanimously to recommend approval of designating recently annexed property CB, Conditional Business District, with the following Use and Development Conditions:

**Use Conditions**

1. The Unified Business Development shall adhere to the uses and requirements of Section 32.10:QQ of the City of Burlington Zoning Ordinance.
2. Uses that shall not be permitted include adult bookstores, adult video stores, adult cabarets and adult motels.

**Development Conditions**

1. Signage shall adhere to requirements in B-2, General Business District, Section 32.12:BB of the City of Burlington Zoning Ordinance.
2. All development conditions currently existing shall remain.

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

**ITEM NO. 7:** Staff presented an application for initial zoning of property recently annexed into the City of Burlington from Guilford County. The property is located at 1424 Brittney Lane and being shown as Guilford County Tax Parcels 020200800004800075 and 020200800004800016. The property was previously zoned Public Institutional (Guilford County) and proposed zoning is O&I, Office-Institutional District.

This was a City item.

Commission Member Abplanalp asked how this request was submitted to the City.

Planning Director Harkrader stated that this was a voluntary annexation because the property owners wanted City utility services. Copies of the application were not included in agenda packets because this is not Conditional zoning for a particular use. The proposed O&I zoning would permit all uses allowed in O&I zoning. He stated that staff recommended approval of the initial O&I zoning.

Commission Member Kenan made a motion to recommend approval of the initial zoning. Ryan Kirk seconded the motion. The Commission voted unanimously to recommend approval of the initial zoning.

The Commission found that O&I zoning 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 this change.

**ITEM NO. 8:** Due to the observance of Memorial Day on May 28, 2012, Commission members voted unanimously to change the meeting to May 21, 2012. Deadline for submitting items for the agenda will be May 4, 2012, at 5:00 p.m.

This was a City and extraterritorial item.

There being no further business to discuss, the meeting was adjourned at 7:50 p.m.

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**George A. Byrd, Jr., Chairman**

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**John Black, Secretary**