



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

February 24, 2014

Council Chamber, Burlington Municipal Building

CITY MEMBERS:

Richard Parker, Present
John Black, Present
Early Kenan, Jr., Absent
Ryan Kirk, Present
James Kirkpatrick, Present
*Nicole Enoch (Alternate), Absent
*Margaret Stephens (Alternate), Absent

*Not voting

EXTRATERRITORIAL MEMBERS

Earl Jagers, Present
Rebecca Lashley, Present
*Bill Abplanalp (Alternate), Present
*Wendi Cash (Alternate), Present

STAFF PRESENT:

Amy Nelson, Director of Planning and Zoning
Joey Lea, Zoning/Subdivision Administrator
Kelly Peele, Office Assistant

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

ITEM NO. 2: Approval of Minutes of the meeting held January 27, 2014.
Commission Member Earl Jagers stated, on page six next to the last page, midway through in the middle of the page speaking about myself "Commission Member Earl Jagers, let's say I came in late and an alternate took my sit". Sit needs to be corrected to seat.

Minutes of the meeting held January 27, 2014, were unanimously approved as amended.

This was a City and extraterritorial item.

Zoning/Subdivision Administrator Mr. Joey Lea stated, I would like to bring to the Commission's attention that for Item #4 in your package there was an

addendum that came in today. It is the very last page in the package. It was a letter that was faxed in today and added to the package. I Just wanted the Commission to be aware of it.

ITEM NO. 3: Mr. Lawson Brown to present an application to rezone from R-6, Residential District, to CI, Conditional Industrial District, for the use of a parking lot and all uses allowed within the I-2 Light Industrial District. The properties are located on the east side of Turrentine Street, as shown on Alamance County Tax Map 113-466 lot 100 and Alamance County Tax Map 112-464 lot 22.

Mr. Lawson Brown stated, for the record my name is Lawson Brown. I practice law at Vernon Law Firm. My office is across the street at 526 South Lexington Ave. It's my pleasure tonight to be here representing APB Properties, LLC. The National Agents Alliance building if you recall was built by Riddle Manufacturing as a manufacturing facility for the production of blankets. When they went out of business APB Properties bought the building and is using it as a production office for insurance policies. National Agents Alliance actually writes more policies for one major company than any agency in the country. So it is quite a big production. Associated with this business, the property immediately to the north is zoned industrial and four to six times a year they have a very large meeting with all their agents from across the world coming in and it has created a real traffic headache on Turrentine Street, Stokes Street, and all the other streets out there. So what they did was look for a potential place for a parking lot. What they came up with was this approximately eight acres that Mr. Jimmy Collins owns. My client has it under contract subject to the rezoning to allow a parking lot. The drawing is attached and we have met with staff extensively. Obviously the property is in a flood plain and we had to be very mindful of that. The drawing that you have before you was prepared by Aden Stoltzfus. Aden has worked extensively on other projects that you all have seen on a number of occasions. He worked closely with the City's Engineering Staff. It's anticipated this parking lot will be used four to six times a year. This will be a grass parking lot. There will be some tree removal and there will be very little grading done. Depending upon how the final engineering comes out. As a part of this we are obviously subjected to all the environmental rules and all the water runoff rules. We don't have any intention of back filling into the flood plain, into the flood way line or anything in that nature. We will stay a good ways away. Additionally there will not immediately if ever be a lighted area that would disturb the neighbors to the east. Furthermore, because of the topographic conditions, the houses that are located to the east, hopefully this will be very small impact and in fact the National Agents Allais building is closer

than the parking lot would be to the residents. I'm happy to answer any questions you might have. The City staff recommended additional use for a parking lot with the other uses. We don't anticipate any outdoor storage of any kind. So I will make that as a condition with what I'm presenting to you tonight, because that intent is for a parking lot. We are not having any outdoor storage other than parking for these particular four to six events a year.

Chairman Richard Parker asked, were there any calls to the staff about this rezoning?

Zoning/Subdivision Administrator Mr. Joey Lea stated, yes, we had numerous calls from the neighborhood to the east. There were no major concerns, just wondering as to what the rezoning was about.

Chairman Richard Parker asked, does staff have a recommendation?

Zoning/Subdivision Administrator Mr. Joey Lea stated, staff is recommending approval of the rezoning. You have a map showing zoning in the area. As you can see this is a continuation of the I-2. It's hopeful that this additional I-2 will spark industrial development to the south and possibly give this owner the option to expand. There is a creek that runs through here with the flood plain Mr. Brown had mentioned. This offers a suitable buffer in itself. Any industrial development that would be on that property will be subject to our requirements, which requires separation requirements for residential areas. Because of that we are recommending approval of the rezoning.

Commission Member Mr. James Kirkpatrick asked, if we do this, before any structure goes on that property it would have to come before us again?

Zoning/Subdivision Administrator Mr. Joey Lea stated, it would not come before this Commission unless it is a use that requires it. There are some uses within the Industrial District just like all districts that may require special use permits that would go before the Board of Adjustment. There are some uses that would require conditional zoning that would come back to this Commission. But if they wanted to expand their office and build another building that is a matter of right. That does have to be approved by staff to make sure all of our requirements under our zoning ordinance are met.

Commission Member Mr. Ryan Kirk asked, what would the separation distance be if the building would be put up to these residents?

Zoning/Subdivision Administrator Mr. Joey Lea stated, a maximum of 40ft. That's a 40 ft. vegetation buffer that could include fencing. Buffers allow you to put a fence in certain areas that would reduce that buffer by 10ft. Generally for Commercial up against Residential or Industrial against Residential that would be a maximum of 40 ft. Plus, you have the creek there that provides its own buffer with the flood plain.

Commission Member Mr. James Kirkpatrick asked, what is the buffer on that?

Zoning/Subdivision Administrator Mr. Joey Lea stated, I don't know how wide it is. You can build up to the flood plain. There are something's that you can do to build into the flood plain. They are a little expensive but you can do that. In and of itself the creek provides a natural buffer.

Commission Member Mr. Ryan Kirk stated, I do have a couple concerns. Seems like quite a visual impact on the Residential neighborhood. I'm curious of their plans for taking all the trees down to open this up.

Mr. Lawson Brown stated, we want to leave as much along the creek bed as we can. We don't want to get into the creek beds 50ft. center of the jurisdictional line. We want to stay well off that. I think the plan that Aden Stoltzfus drew pretty much stays off that. Then again we will not have marked spaces nor will it be paved. For the four to six times a year the owner didn't want to create that much impervious surface. You can tell on the map there that the building to the north is actually closer and it has some height to it on that backside. It's not anticipated at this time there would be anything close to that at all. The physical topography between the existing facility and this is a creek bed that actually separates that. The creek runs east to west and doesn't always have water in it but it is a water way. It's a tough site. We are showing two outlets on Turrentine Street. We were going to do a foot bridge across to the building but I don't think we will be doing that now.

Commission Member Mr. Ryan Kirk stated, Turrentine Street is a noticeable wider road I think for that area of town so it's accessible there. This is a pretty unique property in that we don't have large tracks like this in many areas of the city and so trying to think of alternative uses that's currently residential zoning. I guess this would preclude other residential opportunities obviously. I think that's why we're here to think through these types of things. We have more parking spaces than we typically need and this being a parking lot that will be used quite infrequently, I don't know if that's the best use in the area.

Zoning/Subdivision Administrator Mr. Joey Lea stated, you do understand this is not going to be paved?

Commission Member Mr. Ryan Kirk stated, yes, and that was a concern. I fully respect that this is not paved, clearly designed with these sensitivities in mind.

Mr. Lawson Brown stated, in talking with Mr. Collins, he developed the east side of the creek on the other property. He did that because the topography was much easier to work with. And secondly for Residential Use you didn't have to come thru quasi-industrial use there on Stokes Street and Turrentine Street to get to it. Most of the traffic on Turrentine Street from Stokes Street down is pretty much Commercial or Industrial traffic. I hope that the impact visually won't be that great. But traffic wise I think that there is less because it will be used so infrequently.

Commission Member Mr. Ryan Kirk asked, the lighting issue, are there no plans for lighting this at the moment?

Mr. Lawson Brown stated, there are no plans for lighting at the present time. If you are familiar with parking lots, using LabCorp as an example, the one out there close to Elon, their parking lot lights shine pretty brightly. So it's not anticipated that there would be any lighting on this. We are happy to make that a condition that if we do put in lighting then it would be box lighting that would shine down.

Zoning/Subdivision Administrator Mr. Joey Lea stated, our normal lighting requirements are that the light has to shine onto the property and cannot shine over onto any other property, especially residential.

Commission Member Mr. Ryan Kirk stated, here it says only to the east. There are also residents to the southwest, which would be affected.

Zoning/Subdivision Administrator Mr. Joey Lea stated, any lighting is supposed to shine directly onto that property. But as you know you can see lights far off.

Commission Member Ms. Rebecca Lashley asked, does that also mean that eventually they could just change their minds later and pave the parking lot?

Zoning/Subdivision Administrator Mr. Joey Lea stated, if they were to pave it for a parking lot then they would have to come back here. The requirement is that it has to remain grass.

Mr. Lawson Brown stated, the problem we ran into was the impervious surface wasn't graded that much. The ponding, retention and water quality got very expensive.

Commission Member Mr. Ryan Kirk stated, its grass and when you park cars on there, it becomes very compacted grass so it will have very significant runoff effects. So there is no stormwater capture based on this current design except for landscaping.

Mr. Lawson Brown stated, we have some water retention on there but we worked with the Engineering department and it would have what is required. I don't think it will all be done at one time. It will be mostly done from the north down and we will see how it works. I will admit that the property hasn't developed residential because it's just not a great piece of land. It has a tremendous slope to it. It will be a challenge to develop even as a parking lot.

Commission Member Mr. Ryan Kirk stated, this runoff issue could be an issue for the City because normally we get flood from this property. It's going to be a stressor coming down into the Burlington Outlet there and there's that creek that goes by. There is very strong potential if there's less forest there.

Commission Member Mr. James Kirkpatrick asked, have they applied for the stormwater permit already?

Zoning/Subdivision Administrator Mr. Joey Lea stated, they have talked to the stormwater manager, Michael Lane. He has endorsed this. This is to remain grass and to keep the grass maintained. If it gets impacted like you said and it turns into dirt we have a problem.

Commission Member Mr. Ryan Kirk asked, that is part of this that it has to be maintained grass and enforced by Michael Lane and his staff?

Zoning/Subdivision Administrator Mr. Joey Lea stated, that is correct.

Mr. Lawson Brown stated, we don't want the neighbors to come after us nor do we want the City to come after us. Engineering wise they looked at it and discussed it with Michael Layne and this was the best we could come up with. If it was developed residentially you would have streets, rooftops, driveways, etc.

Chairman Mr. Richard Parker stated, seems to be the least impact on the land.

Secretary Mr. John Black stated, when you started this you said they are insurance agencies and other businesses. I don't quite understand working in insurance agencies for so many years; what's does other business mean?

Mr. Lawson Brown stated, I miss-spoke. They are basically an insurance agency that does mailing for different type situations, plus they have sub-agents that sell for them nationwide.

Secretary Mr. John Black asked, so it is 100% insurance?

Mr. Lawson Brown stated, correct.

Secretary Mr. John Black stated, when you said other businesses it just threw me for a loop. There again with I-2, they can expand their offices or something that would be allowed. I was just trying to make sure it wasn't nothing but insurance.

Commission Member Ryan Kirk stated, the conditions don't say explicitly that this will remain in grass. That is on the engineering design but not the conditions sheet.

Zoning/Subdivision Administrator Mr. Joey Lea stated, it is on the site plan but we can certainly add that to the conditions that it will remain grass.

Mr. Lawson Brown stated, I am satisfied with that.

This was a City item.

Staff recommended approval of the rezoning.

Commission Member James Kirkpatrick made a motion to recommend approval of the rezoning. Commission Member Earl Jagers seconded the motion rezoning. The Commission voted unanimously to recommend approval of the rezoning.

ITEM NO. 4: Mr. Vasant Sejpal to present an application to rezone from O&I Office and Institutional District, to B-2, General Business District. The properties are located on the south side of Longpine Road, as shown on Alamance County Tax Map 3-22D and being a portion of lots 2 and 8 consisting of approximately eight acres.

Mr. Vasant Sejpal stated, I'm Vasant Sejpal and I have lived here for over 30 years. When we moved to Burlington we thought it was a really nice place with the highway right over there and we thought it would be really good for our hotel business. That was the idea for this. We have owned the land for 27 years now and things did not workout. We wanted this to be business zoned but that didn't work out so we are just asking for a small portion of it now. When we looked at it no offices want to come over there. Many people have asked about putting their business there but I have to tell them it's not zoned for business since it's zoned for O&I. Now is the best time to rezone it because there is hardly any traffic on Long Pine Road anymore. Most of the traffic is going through Grand Oaks Boulevard. We have no intention of ruining any neighborhoods or anything like that. We just want the front portion on the eight acres. Out of the eight acres in the front there is a flood zone so we can't put anything on it. We can only use five acres from there to the corner. We kept 235 feet for a buffer so we don't disturb the neighbors. I can't get anyone interested since it is zoned O&I. That is the whole idea behind it and figured this would be a good thing to do. We are not in a rush to sell the land but if someone comes along, good. My family owns the land and my children may be interested later in the future for a business to be there, but who knows.

Chairman Richard Parker asked, out of this total acreage you want about five acres rezoned?

Mr. Vasant Sejpal stated, that is all that can be used. Three acres are in a flood zone. So the rest we just keep as a buffer.

Mr. Joe Naglosky stated, my wife Dennis and I live on lot 13. Vasant came by earlier after we called the office. He explained in detail what the plans are. The one question I have is, why would you want to rezone a flood plain? With that regard our concern is of course the noise and anything else that comes back there. We bought the house in December and we picked that particular lot because of the natural reserve behind it. Thanks to Vasant we would like to see that remain. As I understand it, even with this ruling today he can come back and ask for the rezoning of the other land later. Is that true? Right behind us with the 40ft. easement?

Zoning/Subdivision Administrator Mr. Joey Lea stated, he could request it, yes. I doubt very seriously that staff would recommend it but yes he can request it because it is his property.

Mr. Joe Naglosky asked, why would you say you would not recommend it in the future?

Zoning/Subdivision Administrator Mr. Joey Lea stated, the back portion is still O&I. It's fairly traditional to use O&I as a buffer between commercial and residential. Mr. Sejpal did in 1999 request that this entire parcel be rezoned to B-2. That includes all three parcels. Staff recommended against it, the commission recommended against it and the city council denied it. The reason being there was no buffering to protect this residential even though the subdivision wasn't even there at the time. This was vacant property but was zoned residential, there wasn't anything there to protect them. The rezoning request here extends what is a commercial corridor down Long Pine Road and protects the residential with the O&I. Now keep in mind that if he doesn't get the rezoning, this entire property can be developed right now for Office Use. If he would have come back this time recommending this to be B-2 we would not be recommending it. Normally, in some cases our buffer would be 50ft and this property depth is about 235 ft. from the residential to the area he is requesting to be rezoned. You can actually see part of this parcel is already zoned B-2. Also, just so you are not totally confused these are the two parcels that are being partly requested to be rezoned. As you can see, this parcel already has some B-2 on it. The flood plain is fairly useless so there is only a certain area that can be used.

Commission Member Mr. James Kirkpatrick asked, is it safe to assume that the reason the staff recommendation of this is because of that 235 ft. buffer?

Zoning/Subdivision Administrator Mr. Joey Lea stated, correct. It protects the residents and also limits itself to a mixed type use development, which is a lesser type than Commercial.

Mr. Joe Naglosky stated, one thing I would like to add, my wife took this drawing and talked to all the neighbors we could on that side of the property and only the gentleman on the end said the 235 ft. buffer was small. But with regard to where we are nobody had an objection when we found out we had the 235 ft. buffer.

Zoning/Subdivision Administrator Mr. Joey Lea stated, with that I would like to also add this is an overall zoning map here. If you notice you have commercial development right up against residential that is not uncommon. When this was done we didn't have the buffering requirements that we have now. That also helps properties when you do butt up against residential. But in this particular

case, with a large amount of depth being O&I, staff believes this offers enough protection from the residential as we have done consistently in the past.

Commission Member Mr. Ryan Kirk asked, this O&I buffer that will still be there does effectively make this extremely difficult to develop on so if we approve this for B-2 the buffer itself will be very unlikely that anyone would want to develop there?

Zoning/Subdivision Administrator Mr. Joey Lea stated, as an opinion I would say yes but technically it could be developed. This is just the area outside the flood plain. The B-2 request is for the 4 to 5 acres. I don't have the balance of the acreage of the O&I if someone were to develop this as a mixed use. Commercial up front and offices in the back is called a Unified Business Development. That requires conditional zoning because it's two or more business on three or more acres. The B-2 and O&I can be developed together.

Commission Member Mr. James Kirkpatrick asked, how would that affect the 235 ft. buffer that is currently proposed? I mean, if someone came in and put offices; you zoned this front portion B-2 and you have the O&I behind it and right now you've got this grey area because you have this huge buffer between this residential area and then he gets an easement or something like that. You could destroy the 235 ft. buffer technically and in doing so what would the new buffer be if that were to be developed?

Zoning/Subdivision Administrator Mr. Joey Lea stated, we need to be a little bit careful with the term buffer. We use that term because it's down zoning. It in no way implies that O&I cannot be developed. As a buffer, it buffers it from what I term hardcore Commercial. It is a down zoning between the commercial, office use and residential. It's when you plan and develop and you have these types of uses come together. There are buffering requirements for developments against the residential and that would be a maximum of 30-40 ft. because it would be Office Use. There would be a vegetated buffer required there if it is developed as O&I.

Secretary Mr. John Black asked, of the remaining O&I, if this was to be approved, how much of the O&I is in the flood plain?

Zoning/Subdivision Administrator Mr. Joey Lea stated, looking at the map here, this line is the edge of the flood plain.

Secretary Mr. John Black stated, as I drove by the property it appears there is a house somewhere in that area.

Zoning/Subdivision Administrator Mr. Joey Lea stated, yes there is a house on the parcel.

Secretary Mr. John Black asked, have you heard from them?

Zoning/Subdivision Administrator Mr. Joey Lea stated, actually they are here. The very last page in your package is a letter from the property owner.

Mr. Arthur Robertson stated, my sister and I own the property you are discussing. A few years back when it came up about developing the property beside us I came down and said I don't have anything to contest about doing this, but in the future there is a possibility I might come back and ask for my property to be rezoned for business. I have no problem with the rezoning. I think it's great what Vasant is doing.

Secretary Mr. John Black asked, if they want to develop it would probably have to go O&I. You couldn't extend the B-2 into the R-15, I wouldn't think. The logical thing would be to extend that buffer for that R-15 to go into O&I, right?

Zoning/Subdivision Administrator Mr. Joey Lea stated, O&I or it could be a continuation of the B-2. There would still have to be some sort of buffer between that and the Residential.

This was a City item.

Staff recommended approval of the rezoning.

Commission Member Ryan Kirk made a motion to recommend approval of the rezoning. Commission Member James Kirkpatrick seconded the motion rezoning. The Commission voted unanimously to recommend approval of the rezoning.

There being no further business to discuss, the meeting was adjourned at 7:43 p.m.