



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

April 28, 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), Present
*Margaret Stephens (Alternate), Present

EXTRATERRITORIAL MEMBERS

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

*Not voting

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:

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

ITEM NO. 3:

Ms. Marisa West presented an application to rezone from R-15 Residential District to CR-Conditional Residential District for the use of a 240 Unit Multifamily Development. The property is located south of Rural Retreat Road and North of Boone Station Drive, as shown on Alamance County Tax Map 3-26 Lot 4A.

Ms. Marisa West stated, I'm from the Vernon Law Firm at 522 South Lexington Ave., across the street. I am filling in for Lawson Brown tonight. It is my pleasure to be here representing Brad Whitmore, he is under contract to purchase this 10 plus acre lot from Tangalong, LLC, subject to this rezoning. We have met with Staff extensively and the plans are attached to our request. As Mr. Parker said, this rezoning will change it from R-15 to Conditional Residential, which will allow for the construction of a 244 unit multifamily development. It will consist of 10 buildings and will have amenities like a clubhouse and a pool. The property is located between Rural Retreat Road and Boone Station Drive. As you can see attached to the zoning application on schedule "U" has all the use restrictions and schedule "D" has all the

development restrictions. Mr. Whitmore is present tonight along with our engineer, Mr. Hagan. We are available to answer any questions.

Commission Chairman Mr. Richard Parker asked, there will be an entrance with a right out exit on Boone Station Drive?

Ms. Marisa West stated, yes there will be a right in and right out on Boone Station Drive and the main driveway will be on Rural Retreat Road. And there will be improvements to that road to allow for left turning lanes on both sides.

Commission Member Mr. Ryan Kirk asked, Will there be light planned at that intersection? Because this is right across from the Joe Davidson Park entrance is that correct?

Ms. Marisa West stated, yes and there are no plans for a light.

Commission Member Mr. Ryan Kirk asked, so the Technical Review Committee has looked at Transportation? That's my big concern is a big stress on that road and Saint Marks Church Road and the effect it will have on Williamson Avenue and things like that.

Zoning/Subdivision Administrator Mr. Joey Lea stated, they have looked at it and one of the improvements they will make is putting in a crosswalk.

Ms. Marisa West stated, we also have a left turn lane that is going to go into the park that we are going to construct.

Commission Chairman Mr. Richard Parker asked, you said 244 apartments but the application on the first page says 240 apartments, which one is correct?

Ms. Marisa West stated, it is 244 apartments, I think it was just a typo.

Commission Member Mr. Earl Jagers asked, you said they have taken care of the traffic on Rural Retreat. From east to west that is a downgrade there. It is rather dangerous anytime of the day. I live over there and we travel it quite a bit. Have they taken in consideration all that down flow? People are all the time flying there plus there are no parking signs which they don't adhere to.

Zoning/Subdivision Administrator Mr. Joey Lea stated, the entrance there was actually shifted. It was looked at and it was put more in line with the entrance at the park, which actually is a big help with what you are talking about.

Commission Member Mr. Earl Jagers asked, are you thinking about sidewalks on Boone Station Drive and Rural Retreat Road?

Engineer Mr. Barret Hagan stated, I am the civil engineer on this project. We are showing sidewalks on Boone Station Drive. There is actually one there and we are having to add a right turn lane and we are mirroring that turn lane with sidewalks. There will be a continuation of sidewalk on Boone Station Drive.

Commission Member Mr. Earl Jagers asked, there is a sidewalk on Boone Station Drive?

Engineer Mr. Hagan stated, yes there is. It goes out and around that new mast arm that they put up. It's kind of shown very fairly on this drawing. You can see the old sidewalk. That is the side walk that exist today. On Rural Retreat Road that is not a curb and gutter road, it is a ditch, so in order for you to do sidewalk on there you would have to go outside of the ditch which goes outside of the right away. Typically when you have a State maintained road it becomes a "who does the sidewalk belong to". Does it belong to the private land owner or the city? Typically you do not see a lot of sidewalks on a road that has a ditches.

Commission Member Mr. Earl Jagers stated, that's unfortunate because we have some issues where I live up on Rural Retreat on the other side. We have an apartment complex there that has people that like to get out and walk in the mornings and afternoons and the traffic on my side of the road is bad but not near as bad as it's going to be when you put the apartments in. The crosswalk over to the park will be excellent but if there is anything you can do to eliminate people in the road at all times that would be better.

Commission Member Mr. Ryan Kirk stated, I agree completely here because I assume that Joe Davidson Park is going to be a great amenity for people who live there. There is some wonderful jogging/walking trails and access to the playgrounds so I assume there will be a lot of foot traffic across there and then an increase in car traffic on Rural Retreat Road. I don't know if adding a left turn lane is the safest it can be for pedestrians.

Engineer Mr. Barret Hagan stated, well right now the road is just a 2 lane road and we are proposing that coming from University Drive will open up to a 4 lane. You will have a left turn lane, a straight thru and a right turn lane. You are really dividing the traffic up a lot more then it is today. On those peak times where the park is super busy it's not likely they will be lined up trying to get out of the apartments. The park will probably see a lot of benefit from the road improvement. I wouldn't expect that you would have converging peaks of people trying to leave the apartments at the same time ball games are getting out. Right now there isn't a lot of room for people to maneuver to get into the park and we're creating a situation where it will get rid of some of that traffic.

Commission Member Mr. Earl Jagers stated, my concern is not so much with the traffic although that is going to be part of it, mine is with the pedestrians. If you have been out in that area then you have seen the walkers in front of the park. With more traffic coming that way then walking in the grass where the ditch is at isn't safe anymore.

Zoning/Subdivision Administrator Mr. Joey Lea stated, Mr. Chairman, I would make a suggestion to discuss the crosswalk. It is my understanding that it has been discussed but right now they may not be planning on a crosswalk, you may want to discuss that with the partitioner and make sure they are ok with it.

Engineer Mr. Barret Hagan stated, just to clarify when you are asking for a cross walk, it is not a signalized intersection so you wouldn't have a situation where there would actually be a button to press

but we could stripe an access across, as long as DOT didn't have an objection to it because that is their road. We are certainly ok with striping a crosswalk.

Commission Member Ryan Kirk stated, foot traffic will happen it seems like. It is a right there. It is a fantastic location for the apartments to have access to the park and regardless of what's there people are going to cross to get to the park so if there is anything we can do to make it safer and easier then that's what needs to be done.

Commission Chairman Mr. Richard Parker stated, if some of those Pedestrian signs could be put up with the people walking in the road and then the strips across that would make it even clearer that there is now 244 more people that are going to cross that road.

Engineer Mr. Hagan stated, we are fine with that but I would have to defer to DOT to make sure they don't have a problem with it.

Commission Secretary Mr. John Black asked Mr. Joey Lea, have you received any calls on this rezoning?

Zoning/Subdivision Administrator Mr. Joey Lea stated, yes a few. They were just inquiries, nothing negative.

Commission Member Mr. James Kirkpatrick made a motion to recommend approval of the rezoning with the condition of a crosswalk per DOT's approval. Commission Member Ms. Nicole Enoch seconded the motion. The Commission voted unanimously to recommend approval of the rezoning with the condition of a crosswalk per DOT's approval.

This was a City item.

ITEM NO. 4:

Mr. Mack Paul to present an application to rezone from I-2 Light Industrial District, CB-Conditional District and R-9 Residential District to CB-Conditional Business for the use of a Convenience Store with Gas Pumps and a Restaurant. The properties are located at the intersection of Maple Avenue and Anthony Road, as shown on Alamance County Tax Map 6-6 lots 36, 37 and 37A.

Mr. Mack Paul stated, I am filling in for my colleague Michael Birch with Morning Star Law Group here on behalf of Sheetz. I am going to introduce some of the people here with me tonight, Tom Anastaci with Sheetz, Jamie Gearheart with Sheetz, Richard Brown and Mike Horn with Kimley-Horn. I'm going to speak a few minutes about the property and the comprehensive plan with the consistency issue and then Tom is going to describe the request to what we are seeking to do, some of the communication with the surrounding property owners and the responses to some issues that have been raised and where we are now. We also have Mike Horn and Richard Brown here to speak on any of the details that you might have about traffic issues, transportation or the site plan details. I think many of you are familiar with the area. I think this is just south of 40 on Maple Ave. and its right at the intersection of Anthony Rd. You see it is three properties zoned I-2, Conditional Business and R-9 Residential. It has auto sales and repair shop, and retail on it currently. As you are heading south from 40 and it's not that far south on maple Ave. there is a Shell gas station, oil change center, BP station and two restaurants. As you are looking to the west of

the property there is an Industrial Park that has several hotels, light warehouse and few office uses. On the east side there are four residential lots. And to the south there is a multi-family condominium property. There is also some future plans, we've had feedback from DOT to realign Anthony Road that would provide a little more separation in the future. So the plan accommodates dedication on the site to the north from where the store will be located. Let me just cover real quickly the consistency issues with the comprehensive plan, I've mentioned that staff has reviewed it and it has been before the Technical Review Committee which has signed off on the proposal. The future land use map calls it commercial which is a more intense commercial category. There is a neighborhood category as well. This is the kind of use envisioned with the future land use map. There are several policies that are primarily growth areas that are on the growth map. This is the type of development that one might see in a commercial corridor under the comprehensive plan. It's also part of a larger commercial area that expands to I-40 interchange and the policies encourage the type of development near the interchanges along major streets such as Anthony Road and Maple Avenue. Also the area to the south is planned for commercial development but despite that we are still planning on proving the buffer as it is currently residential. We are going beyond what the comprehensive plan envisioned in terms of buffering to the south. Then finally, I mentioned that we are dedicating the right-of-way in our plan in accordance to the transportation policies so for those reasons it's consistent as reviewed by the staff and consistent with the comprehensive plan.

Tom Anastasi stated, I am a Sheetz employee and I work in the store development division as an engineer project manager for North Carolina and Virginia. I would like to go through just a little bit over the site plan from where we started to where we are now. When we first started this project we started with a 6,489 square foot drive-thru building. We had a meeting with the City and NCDOT just to show the project and get some feedback. As a result, the feedback that we received from DOT and the City staff recommended a 60ft right-of-way dedication through the property and also recommended to remove the drive-thru. We investigated that and we noticed that a 60ft right-of-way took up about 20% of the site but we were able to change our offering to go down to a smaller building and remove the drive-thru to make everything work. So where we are currently is a 6,407 square foot building with six pumps, twelve fueling positions, and about 44 parking spaces. We did perform a traffic-impact study, and our site plan was approved is consistent with that traffic study. We actually have longer storage lanes on our site plan than what was recommended in the traffic study. So we will have a full movement driveway across Hanford Road, a dedicated right-in driveway off of Maple Avenue which we understand and anticipate as a temporary drive-thru, when Anthony does get realigned that right-in movement most likely will be abandoned or closed. We also have a full movement driveway across from Lewis Drive on 49. Out of that traffic study the recommendations were a left-turn lane on Anthony Road to access Hanford Road, a left-turn lane to access our site, and also along Maple Avenue a left-turn lane to access Lewis Drive, a left-turn lane into our site, and a right-turn deceleration lane into our site as well. We do show a stormwater runoff management facility. It is a surface facility that's going to treat for both water quantity and water quality per regulations. Along the southern portion of the boundaries we do show a 30 foot type "B" buffer intended to separate residential and commercial uses and I would like to note that we are showing a fence. On the TRC plan the fence terminates at the retaining wall of the stormwater facility but we did not take the 10 foot reduction, we kept the thirty foot wide buffer and we're showing the landscaping at the required density of two canopy trees, four understory trees, and twenty shrubs for every hundred feet of that buffer. We did hold a neighborhood meeting on April 23, 2014 and we got a lot of feedback at that meeting. For example, it was recommended that the trash enclosure be relocated because of potential odors that maybe coming from the trash enclosure. It was recommended that we have a fence that goes

from property line to property line. As I mentioned before on the TRC approved plans that terminates at the retaining wall, so we extended it now from property line to property line, it's a 5 foot tall vinyl fence. One other suggestion that was brought up at the neighborhood meeting was to consider a 6-8 foot tall masonry wall. Kimley-Horn prepared perspective views from that property. There is a view looking towards the stormwater feature and a view looking towards the store. If you look at the one that shows towards the store and it shows a 5 foot tall fence, as you can see the fence in addition to the landscaping and mature growth shows, in our opinion, satisfactory screening of the building. We have another view showing a five foot fence and one showing an eight foot fence. There is really no difference between the two except for the height difference of the fence. They seem to be accomplishing the same thing. With the building architecture, we have elevations if you would like to see them but we construct our buildings mainly out of stone and brick materials. This particular building is 24ft towards the top of the roof framing; it will have about 27 indoor seats and 32 outdoor seats. We have Kimley-Horn here who is our civil engineer and we have our traffic consultant here as well who can answer the really specific questions about the site plan.

Commission Chairman Mr. Richard Parker asked, your Graham store has an 8ft vinyl fence on the east boarder and drops down to 6ft, correct?

Tom Anastaci stated, correct. It is a similar situation except at the Graham store the fence is kind of at the bottom of the hill and what we proposed to do at this store is put the fence up at the top of the slope so that it will give it a greater height. We put the fence there because we thought it would be the right thing to do and not take that 10ft reduction in the buffer. We did hear everyone's concerns; we heard them out at the neighborhood meeting and we did look at it with the five feet, six feet, or eight feet wall or fence and it just doesn't seem to be accomplishing anything other than adding cost to the project.

Commission Member Mr. Ryan Kirk asked, is there a sound reduction benefit between a wall and a fence?

Commission Chairman Mr. Richard Parker stated, the vinyl fence in Graham looked pretty stout to me. You don't play any music or anything do you?

Commission Member Mr. James Kirkpatrick stated, I've never heard anything coming from a gas station other than cranking up a motor.

Commission Member Mr. Ryan Kirk stated, just that. You have coming in and out, the beep beeps of the trash trucks coming in weekly or whenever.

Mr. Tom Anastaci stated, if you are talking about a sound barrier against an interstate, I don't think a six foot wall will accomplish anything like a sound barrier would with one that was actually designed for that purpose.

Commission Member Mr. James Kirkpatrick asked, what were some of the concerns that the residents had when you had your neighborhood meeting?

Tom Anastaci stated, we heard that as a commercial use they understood but a 24 hour commercial use they didn't understand. They were concerned about movement. They said a lot of people make this left turn and they wanted to see a storage lane but when we looked back over our numbers and talked with our traffic consultant we had maybe one car in a 15 minute period make that left turn when we counted vehicles during a peak time. We heard about the trash enclosure which we did accommodate by moving it further away from the residential. The height and material of the fence, which we didn't do anything with the height or material as you can see in the renderings, but the length of the fence was a concern so we added about 156 more feet to screen the stormwater feature. The lighting we have are the full cutoff lights and the canopy lights are LED featured flush mounted to the ceiling so they direct the lighting downwards. The full cutoff features that are around the perimeter shows one foot candle at the property lines so there is no light trespass. I think that when we explained that they understood that, yes they would be able to see the lights but not shinning in their bedroom windows and blinding.

Commission Member Mr. Ryan Kirk asked, can you give us a little more details on the DOT plans?

Mr. Mike Horn stated, in working with TRC and with NCDOT we identified a concern called intersection spacing. Basically from the intersection with Anthony and Maple and the next one to the north and what they wanted was a bit more separation and what we were able to do is relocate Anthony and provide more distance so now your TRC and NCDOT are more happy with it.

Commission Chairman Mr. Richard Parker asked, so this is what is already proposed by the DOT?

Zoning/Subdivision Administrator Mr. Joey Lea stated, right now they are just reserving this plan. It may never be used.

Mr. Mike Horn stated, not to be real technical but we are dedicating it. It is reserved for future use if the DOT wants it.

Commission Chairman Mr. Richard Parker asked, you are not going to be putting any improvements out there that couldn't easily be removed?

Mr. Mike Horn stated, correct.

Commission Member Mr. Ryan Kirk asked, the arc coming down with the three lines, that's a right-a-way?

Mr. Mike Horn stated, that is basically the right-a-way with the three lines. Each line is 60 ft. total width and that would be the width of the right-a-way and the road itself would not be that wide. The road will fit within that 60 ft. of right-a-way.

Commission Chairman Mr. Richard Parker asked, so they would just abandon the other section of Anthony Road?

Mr. Mike Horn stated, yes sir.

Ms. Ruth Hide stated, I live at 2658 Maple Avenue, Burlington NC which is directly across from where Sheetz is planning on going. I did go to the community meeting and we brought up some other concerns that the Sheetz representatives did not mention. They are saying that the traffic will not increase there because they don't think anyone is going to go to this station except people who drive by there anyways. I assume they will advertise and hope that people will come to this station and buy product. So I'm assuming they will have an increase in traffic there. We have children that are standing out to catch a bus on that road and there was really no discussion about safety for them. There are no sidewalks. I currently do not have kids that stand out and wait for the bus but there are kids that do on highway 49. I have been there 30 years and I have lived across the street from the light commercial building that is there but there is a big difference between light commercial and a light commercial business that's not opened 24/7 with traffic coming in and out. There is a big difference in that and what has been there for the past 30 years. I'm not sure why other people across the street weren't notified about this meeting, we got no letter, no notification that there was a meeting. Sheetz says that it's your responsibility to tell us. So we had no notification at all. The only way I knew about this meeting was to go to the neighborhood meeting.

Commission Chairman Mr. Richard Parker asked, there was a sign on the property about the rezoning?

Ms. Ruth Hide stated, yes but it just told us to call and we were told by the Sheetz representative that we would be getting letters to notify us of this hearing and that didn't happen.

Chairman Mr. Richard Parker stated, normally they notify adjoining properties owners.

Zoning/Subdivision Administrator Mr. Joey Lea stated, we only do that for the public hearing we do not send out notifications for the Planning and Zoning Commission Meetings. Notification is a sign placed on the property notifying that there is a rezoning.

Ms. Ruth Hide stated, well whether it was required or not it would have been the right thing to do. It might not be required by law but it would have been nice for the people that will be impacted by this to be notified better.

Chairman Mr. Richard Parker stated, the public hearing hasn't happened yet and yes there will be one.

Ms. Ruth Hide stated, we brought up property values, safety, increase in traffic and the fact that it's going to be open 24/7 and doesn't close on the weekends. I don't think there is anybody that would disagree that there is a difference between a business that's open 24 hours a day 7 days a week and one that's closes during normal business hours. I think that a question that we asked that never got answered was; what does it do for us? What's the positive impact it will have on our neighborhood? The answer is that there is no positive impact. The people that profit from it is only Sheetz and the property owner who is either going to sell or lease that property and make a profit from that. The houses on either side of me are rental properties. On one side the owner of the property doesn't know anything about this because he doesn't live her but in another state and rents the house so he isn't even here to speak his opinion or concerns on this and the property owner on the other side of me is owned by the person that owns the property that Sheetz is going to so they don't object. I don't think anyone behind us in the whole residential section knows anything about it or has a concern but clearly I do because I live right across the street and I think it will impact the value of my home, impact the traffic, and the safety on highway 49.

Mr. Marshall Evans stated, good evening I am one of the member managers of Withrow and Evans, LLC. We actually own the Anthony Pines Condominium project directly behind Sheetz. I would think we would have a more negative impact than anyone on that particular site. We did meet with the Sheetz employers while at the neighborhood meeting and we have had a couple conversations with Sheetz since that time and have passed several emails back and forth. At our request they did move the dumpster a little further away and we also ask that they be sensitive about when they dump that dumpster. The residents that live back there don't want to hear the dumpster being dumped at 7:00 in the morning or 9:00 at night. I think that is just a phone call to whoever provides the dumpster to make sure that can happen. I think that will be fairly simple. Our number one concern is the fence. We did ask the fence to be moved from property line to property line. We also asked for that fence to be a more permanent structure to provide a more permanent safety net for the residents. This is a condominium project which means that we cannot fence the patios where the condominium is located. Each one of these condos that backs up to the adjacent property has a patio on back because as a condo project we cannot fence that or fence it away from where the condos can use the community area. We are restricted about what we can and cannot do. Because of that we have asked Sheetz to provide a 6ft or 8ft permanent brick fencing similar to what we see in a lot of the other areas here. I know that there is one behind Harris Teeter which we sent the City some pictures of that today. That fence's one and only purpose is to separate the commercial from the residential properties behind Harris Teeter. We asked for that same type fence to be placed here. Now the condos are brick and vinyl construction. They are very nice quality and we have maintained a really high occupancy rate there but at some point in time they will be sold to individual residents. That is what our plan has been all along. Our concern is if that fence is not of a permanent nature a couple things could happen. It's easy to scale a five foot vinyl fence, it's easy to crawl under vinyl fencing, not to mention the trash can blow underneath the fence. Now if you look at the cost for a brick fence and the longevity of a brick fence verses a vinyl fence out of about 20 years there is probably no negative impact on Sheetz. There is some initial upfront cost but at the 20 year mark there is no additional cost for this fence. Another thing, this is a 24 hour operational gas station so we want to protect those residents that are sitting on their patios from anything coming through that fence and coming down that hill and landing up in those backyards. It would be easy for a driver to make a mistake and come right through the vinyl fence and land on the patio of one of the resident's property 50ft away. We want to make sure we can do everything we can to protect those residents and a brick fence will give us some sounds protection and safety protection. That 6-8ft masonry fence will be harder for anyone to scale over. We want to keep the kids that live in this area out of the Sheetz parking lot and we want to keep the cars in the Sheetz parking lot and out of the patios of the residents. We are just trying to prevent something from happening and provided safety for our residents that we cannot provide on our own. We are also really concerned about the property values here. This is a retirement project for us and we have spent quite a bit of money on it. The project of Sheetz will hurt our property value and that's why we are asking that Sheetz does everything that it can to help us protect our property values. That's why we think a solid 6-8ft masonry brick fence will help protect our property values somewhat. We know that we will still lose money but at the same time we know it will be everything that can be done to protect our investments, the safety of the residents, and protect the safety of the kids that are in the neighborhood with really no cost to the project if you look out 20 years.

Commission Member Mr. James Kirkpatrick asked, how many units are in your condominiums?

Mr. Marshall Evans stated, there are seven individual condos and a house that is in the condominium project as well. Of those, five have patios that are adjacent to this project. So those residents cannot come out of their back doors and sit on their patios without having the Sheetz project not impacting them and their life.

Commission Member Ms. Rebecca Lashley asked, even if they put up the brick fence, the way that they define the property with the fence sitting on top of the hill, what kind of impact will it have to drain the water flow.

Mr. Marshall Evans stated, we have not been privilege to the site plans for Sheetz but I'm sure they will have the drainage for whatever fence is figured out.

Commission Member Mr. James Kirkpatrick asked, when were these condominiums built?

Mr. Marshall Evans stated, 9 years ago.

Commission Member Mr. James Kirkpatrick asked, did you build the condos? Did you have to come before this board to get rezone for your project as well?

Mr. Marshall Evans stated, yes and yes. At that time I don't think this piece of land was zoned for commercial use. I think that has happened since we have built our project.

Chairman Mr. Richard Parker asked, could there be a compromise here on the fence to where there may be a 4ft brick fence then 4 more feet of vinyl fence on top?

Mr. Marshall Evans stated, I think we can but when you look at the cost difference on paper there is a very little difference between the two.

Mr. Mack Paul stated, I appreciate the feedback and I think it has been a very productive dialog back and forth and I think it's really good that we are honing in on some ways to address the issues. One thing I wanted to point out is as far as values, I don't think that there is any study showing that this will negatively impact the property values of the homes. I think that it could help increase the values. One other thing to point out is that there is going to be substantial landscaping in there so there is not much risk of a vehicle going thru the trees.

Commission Chairman Mr. Richard Parker stated, I like the fence you have in Graham. It's an eight foot fence.

Mr. Jamie Gearheart stated, the fence in Graham is a six foot fence up to a section that we did eight feet. What happened there was that we had a good relation with the owner of the house directly behind Sheetz and because of their windows he asked the construction manager if they could do two more feet. We looked at it and saw what he was saying was true so we did it for that section. What was approved in Graham was a six foot fence and that went into conjunction with all the well-organized home owners association of the attached residential. We agreed on six feet and it was built that way which goes along good with the houses behind it. There have been no complaints of trash going through or under it. We

could do a six foot or eight foot fence at this location in Burlington but I'm just not sure the issue of scaling it whether it's five foot, six foot, or eight foot. Nowhere have we said that this is supposed to be a security fence. If someone wants to walk around the side of the fence then they can do that. No one is going to scale a fence when they can walk around the side of it. This fence that we have from day one offered is an additional screen with the landscaping.

Mr. Tim Withrow stated, I am member manager with Marshall Evans in that we own the condos there on Anthony Road. Mr. Chairman it seems to be not a question about the separation between the 2 properties and the barrier that will separate the 2 properties but there does seem to be a protocol with the City of Burlington about the defined separation and there has already been some examples shown over in west Burlington and I don't see any difference in not establishing a clear separation between residential and commercial in this case. I think it should be a brick structure that clearly separates the zoning properties.

Commission Secretary Mr. John Black asked, the brick fence at Harris Teeter, has it always been there and is it going all the way around the back of the store?

Chairman Mr. Richard Parker stated, yes it has. I was a part of the deal and that was the thing that clenched the deal for those homeowners. They were not going to approve the shopping center without it.

Secretary Mr. John Black asked, it was mentioned about proper separation, do you feel that the vinyl doesn't separate the properties properly? If you are looking for a separation it would appear to me that a 6ft high vinyl fence is quite a separation. I don't see why the material matters.

Mr. Marshall Evans stated, I'm sure this fence was put up considering the property values that sit behind this shopping center. If we are simply looking at the property values being equal then that fence provides some additional safety that will uphold our property values. I'm sure that is why that fence was approved in west Burlington because it does a better job of holding those property values. That vinyl fence gives you separation and when you are living in a brick constructed project and someone puts a vinyl fence in between to separate a commercial and a residential area. We are just trying to protect our property values just the same way that the residents did in west Burlington with the brick fence behind Harris Teeter.

Chairman Mr. Richard Parker stated, when the fence behind Harris Teeter was built there were no homes behind it. Once the fence was built then they divided up the property for the sales of homes.

Mr. Marshall Evans stated, we're just trying to protect our property values.

Chairman Mr. Richard Parker stated, to be reminded that this is a Planning and Zoning Commission recommendation to the City Council. It will go to a public hearing in front of City Council. Our word is not the last word; we are just the advisory citizen committee.

Secretary Mr. John Black asked, were there any calls about this rezoning?

Zoning/Subdivision Administrator Mr. Joey Lea stated, we have had numerous calls; they were all pretty much opposed. The residents that I spoke with were not in favor of this project.

Ms. Ruth Hide stated, it seems like the only concern is for the property values on the same side of the road and not about the homes on the other side of the road.

Commission Member Mr. Ryan Kirk stated, I share your concern ma'am.

Commission Member Mr. James Kirkpatrick stated, no ma'am that isn't the case at all. This was just the last thing that was talked about. When you are up here we have to look at will it fit and how many it will affect.

Zoning/Subdivision Administrator Mr. Joey Lea stated, staff is recommending approval based on the fact that this project does meet our current Land Use Plan for commercial use. This is a commercial corridor and has been used and approved for commercial uses in the past. Also because of the road improvements this has received full approval from our Technical Review Committee.

Secretary Mr. John Black made a motion to recommend approval of the rezoning. Commission Member Mr. James Kirkpatrick seconded the motion. The Commission voted 5 to 2 to recommend approval of the rezoning. Voting to approve the rezoning were Kirkpatrick, Parker, Enoch, Jagers and Black. Voting against the motion was Kirk and Lashley.

This was a City item.

ITEM NO. 5:

Staff to present proposed text amendments to the City of Burlington Zoning Ordinance Section 32.10.A(3), Portable Storage Units.

Zoning/Subdivision Administrator Mr. Joey Lea stated, this requested amendment is to our ordinance for portable storage units that was adopted a few months back. At the time we did a little research and we discovered that our Community Development Department does new construction on houses and when they do, they use a unit that is 20 ft. long and 8 ft. in height. We had the unit being at 16 ft. and we are requesting that we change that length to 20ft since that is what they use and it was for 60 days and now it will be for 90 days. They do not go over 90 days but generally it takes the whole 90 days.

Commission Member Mr. James Kirkpatrick made a motion to recommend approval of the proposed text amendment change. Commission Member Mr. Earl Jagers seconded the motion. The Commission voted unanimously to recommend approval of the proposed text amendment change.

ITEM NO. 6:

Staff to present proposed amendments to the City of Burlington Zoning Ordinance Section 32.9, Table of Permitted Uses, Auditoriums.

Zoning/Subdivision Administrator Mr. Joey Lea stated, this requested text amendment is for the additional use for recreational buildings within the I-1 and I-1A district. Looking at the ordinance this use which is an indoor use talks about commercial use and it's in about every district expect for these two. We cannot logically come to the conclusion why it would prohibit them from the I-1 and I-1A districts. We have a classification for recreational buildings under athletic fields but that is for nonprofit. For example like a church or City Park or something like that. And we do not have a classification for recreational

buildings that would be commercial so this will add that use under auditoriums and allow it to be in the I-1 and I-1A districts.

Chairman Mr. Richard Parker asked, what would be the use for a recreational building?

Zoning/Subdivision Administrator Mr. Joey Lea stated, indoor soccer fields, volleyball, etc...

Commission Member Mr. Ryan Kirk made a motion to recommend approval of the proposed text amendment change. Commission Member Mr. James Kirkpatrick seconded the motion. The Commission voted unanimously to recommend approval of the proposed text amendment change.

ITEM NO. 7:

Commission to discuss the date of the May meeting.

Commission decided on Monday, May 19, 2014 for the May meeting.

There being no further business to discuss, the meeting was adjourned at 8:13p.m.

Richard Parker, Chairman

John Black, Secretary