

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

June 23, 2014

Council Chamber, Burlington Municipal Building

CITY MEMBERS:

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

*Not voting

EXTRATERRITORIAL MEMBERS:

Earl Jagers, Present
Rebecca Lashley, Absent
*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: Minutes of the meeting held June 23, 2014, were unanimously approved.

ITEM NO. 3: Consent Agenda:

- (A) Final plat approval for Holly Hill Mall, LLC. The property is located west of Huffman Mill Road and north of Ann Elizabeth Drive as shown on plans by Triad Land Surveying dated May 13, 2014, and contains one lot. (City)
- (B) Final plat approval for New Covenant United Holy Church. The property is located north of Apple Street as shown on plans by Donald E. Robinson land Surveying dated May 27, 2014, and containing two lots. (City)

Staff recommended approval of the final plats.

Commission Member James Kirkpatrick made a motion to recommend approval of the final plats. Commission Member Wendi Cash seconded the motion. The Commission voted unanimously to recommend approval of the final plats.

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

ITEM NO. 4: Staff to present proposed amendments to the City of Burlington Zoning Ordinance Section 32.9, Table of Permitted Uses and Section 32.13, Special Use Regulations, by adding Animal Services as a use classification.

Zoning/Subdivision Administrator Joey Lea stated, over the last couple of years we have received a lot of request for this use. There is nothing in the ordinance that will touch it. The only thing that is close is veterinary establishments and they are not the same thing; they aren't even in the same category. A lot of other cities and towns allow this in different areas and categories. The use will be by Special Use Permit within the B-2, B-3, I-1, I-1A, I-2 and I-3 districts. When I first looked at this I thought the use could be as a matter of right, but because child care requires a Special Use Permit I could not convince myself that a doggie daycare would not be required to obtain a Special Use Permit. Part of the requirements is that they sound proof to protect their neighbors since some of these may be located in shopping centers. This will constitute a change in the Table of Permitted Uses and a new section will be added to Section 32.13, Special use Regulations.

Chairman Richard Parker stated, it seems pretty restricted to me for somebody trying to start one of these businesses. How do you sound proof a building?

Zoning/Subdivision Administrator Joey Lea stated, there are standards for sound proofing. It is not a building code standard and it's not a normal standard. Under the guidelines of veterinary establishments they have to do the same thing. There are codes that tell you how to build a wall that will give you a certain sound barrier. It will pretty much be left up to the person that does it. If they don't sound proof it enough then they will have to go back and sound proof it some more.

Chairman Richard Parker asked, this doesn't include kennels or veterinary establishments?

Zoning/Subdivision Administrator Joey Lea stated, no. Veterinary establishments have their own guidelines. The kennels are in the code of ordinances while veterinary establishments are in the zoning ordinance. More than likely when we do our UDO all of this will be clumped together as one use, but right now ours is separated.

Commission Member James Kirkpatrick asked, this is just for the daycare and not overnight staying of dogs?

Zoning/Subdivision Administrator Joey Lea stated, that is one of the requirements, no overnight boarding.

Secretary John Black asked, under number 2 it says outside play area shall not be located within 100 ft. of any residential zoned property or property being used as residential; is this for the noise factor reasons?

Zoning/Subdivision Administrator Joey Lea stated, correct.

Secretary John Black asked, is there anything that would prohibit us from putting a time limit section; as in no dogs out after 7:00 at night?

Zoning/Subdivision Administrator Joey Lea stated we could, but I have been discussing this with a lady that owns and operates a business like this and this is sort of like a childcare outside area and there will only be a few dogs out there at a time. They are rotating all the dogs so all of the dogs will not be outside at the same time. I go back to equating this as childcare; children make a lot of noise also. Veterinary establishments are a little different since there are dogs there 24 hours a day. The normal hours of operations according to the lady I've been speaking with are from 7:00am – 7:00pm.

Secretary John Black stated, so if we did put 7:00pm then that wouldn't affect them at all.

Chairman Richard Parker asked, most of your zoning things are complaint driven anyway; you don't act until somebody gives you a complaint, correct?

Zoning/Subdivision Administrator Joey Lea stated, that's correct.

Secretary John Black stated, there would be no reason to act on that if there wasn't a time limit on it.

Zoning/Subdivision Administrator Joey Lea stated, we do have a noise ordinance. The reason they are to sound proof; specifically ones that are going to be in shopping centers is so that it will protect them from their neighbors.

Secretary John Black stated, this says residentially zoned property so I'm thinking about them. If you allow them to be outside barking but inside they are sound proofed it sounds contradicting. I'm just saying put a 7:00 pm level on there and say you can have them out there but at 7:00 pm it's time to bring the dogs in or have them home so they don't interrupt people trying to have supper and things like that.

Zoning/Subdivision Administrator Joey Lea stated, our veterinary establishments do not have time frames for the dogs to be inside by. There is only a separation requirement from residential. If the commission feels like a time period is necessary then that's fine but personally I don't see the need to add it.

Chairman Richard Parker asked, so if there are complaints then the noise ordinance will go into effect?

Zoning/Subdivision Administrator Joey Lea stated, the noise ordinance would probably be something after hours, probably between the hours of 6-7 the noise ordinance would kick in. That's pretty generic. It has to be noise that for example if I'm sitting in my living room and the dogs are barking and I can't hear my TV then they are disrupting my home.

Commission Member James Kirkpatrick asked, it's a decimal level isn't it?

Zoning/Subdivision Administrator Joey Lea stated, correct. That's the reason the noise ordinance will kick in. I don't expect all the commercial areas to have the outside area. If you notice in the downtown B-3 districts there is no allowance for them to be outdoors. Primarily the reason for that is there is no room. But they would still need to be sound proofed. Again if the Commission feels the need to add a time frame then we can certainly do that.

Chairman Richard Parker asked, how does the Commission feel about a time frame?

Commission Member James Kirkpatrick stated, I don't think there needs to be one.

Commission Member Wendy Cash stated, I don't think so either.

Commission Member Ryan Kirk stated, no.

Commission Member Early Kenan, Jr stated, no.

Commission Member Earl Jagers stated, no.

Secretary John Black stated, yes.

Commission Member Earl Jagers made a motion to recommend approval of the proposed text amendment. Commission Member Early Kenan, Jr. seconded the motion. The Commission voted 6 to 1 to recommend approval of the proposed text amendment. Voting to approve the proposed text amendment were Kirk, Cash, Kirkpatrick, Parker, Kenan, Jagers. Voting against the motion was Black.

Chairman Richard Parker asked Joey Lea, what about our training?

Zoning/Subdivision Administrator Joey Lea stated, we are looking to do that in September and I will keep you informed.

There being no further business to discuss, the meeting was adjourned at 7:13 p.m.

Richard Parker, Chairman

John Black, Secretary