



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

July 28, 2014

Council Chamber, Burlington Municipal Building

CITY MEMBERS:

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

*Not voting

STAFF PRESENT:

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

EXTRATERRITORIAL MEMBERS

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

ITEM NO. 1: Acting Chairman Mr. Richard Parker called the meeting to order at 7:04 p.m.

ITEM NO. 2: Commission Member Mr. Earl Jagers made a motion to adopt Chairman, Vice Chairman and Secretary for the leadership of the Planning and Zoning Commission Board. Commission Member Ms. Nicole Enoch seconded the motion. The Commission voted unanimously to adopt Chairman, Vice Chairman and Secretary for the leadership of the Planning and Zoning Commission Board.

Commission Member Mr. James Kirkpatrick made a motion to elect Richard Parker as Chairman. Commission Member Ms. Nicole Enoch seconded the motion. The Commission voted unanimously to elect Richard Parker for Commission Chairman for 2014-2015.

Commission Member James Kirkpatrick made a motion to elect John Black as Vice Chairman for 2014-2015. Commission Member Earl Jagers seconded the motion. The Commission voted unanimously to elect John Black as Vice Chairman for 2014-2015.

Commission Member James Kirkpatrick made a motion to elect Kelly Peele as Secretary for 2014-2015. Commission Member Earl Jagers seconded the motion. The Commission voted unanimously to elect Kelly Peele as Secretary for 2014-2015.

ITEM NO. 3 Minutes of the meeting held June 23, 2014 were unanimously approved.

ITEM NO. 4: Mr. Tom Hall presented an application to amend the rezoning of Springwood at the Park approved by the Burlington City Council on December 8, 2003. The request is to rezone from CR-Conditional Residential District and CB-Conditional Business District to CR-Conditional Residential District for the use of a 144 unit Apartment Complex, as shown on Guilford County tax parcels 103312, 103313 and a portion of Guilford County Tax parcel 103247.

Mr. Kevin Sasser stated, we purchased the property in 2004 and extended utilities to the property. In 2004 Windsor Homes also bought the 16.654 acreage from the partnership which is the townhome project and developed 76 townhome lots. To date they have sold 32 townhomes and have 44 left in the first phase. The remaining 7.28 acreage which is part of the property being considered tonight has been graded and utilities have been installed on it. The other 4.82 acres which is zoned Conditional Business is approved for a daycare site for 100 children and a convenient store site with a maximum of 3,000 sq. ft. That property for the convenient store and daycare lot has been marketed since day one. We've had them with a realtor trying to sell them but due to the market we've been unable to attract anyone. We also held a neighborhood meeting on July 22 at 6:30 p.m. at my office. We invited the Springwood Church that is across the road, the apartment developer that is across the road also, we invited the single-family homeowners and we also invited the townhome owners. That meeting was held at my office so we could explain what the rezoning was about.

Chairman Mr. Richard Parker asked, how many buildings are you going to build?

Mr. Kevin Sasser stated, there will be six, three story buildings.

Commission Member Ms. Nicole Enoch asked, how was the turn out at the meeting you held?

Mr. Kevin Sasser stated, I don't have an actual head count but the room we met in was full of neighboring residents.

Chairman Mr. Richard Parker asked, how did the meeting go?

Mr. Kevin Sasser stated, we had a lot of opposition to it.

Commission Member Mr. James Kirkpatrick asked, in your own words what was their opposition about?

Mr. Kevin Sasser stated, traffic was one concern and I feel like we've addressed that the best that we can. We're trading off our daycare for 100 children and a convenient store site we thought would be very successful right next to the park. We know there are a lot of trips that would have come in there if we could have got one in with the existing townhomes that you would have had anyway. We felt like traffic was a fair trade off. The other concern was crime. Everyone knows that is a hard thing to control. We've got crime everywhere.

Chairman Mr. Richard Parker asked, what kind of apartments are you proposing? The price range for example.

Mr. Kevin Sasser stated, at this moment we're trying to see if we can get it rezoned and we are definitely not considering any type of low-end-rent apartments.

Commission Member Mr. James Kirkpatrick asked, what dollar figure are you looking to generate per unit?

Mr. Kevin Sasser stated, somewhere in the \$600-\$900 a month. Like I said we're not trying to get a low-end apartment there. We don't think the area needs that. We feel like there is a need there. There is a park right there for people to utilize. This is the best use we can come up with for the money that is in the dirt at this moment. The infrastructure that was ran to it and Windsor Homes is the owner of the townhouse site. They have already graded it and put the utilities in the subject property. The three of us combined own the convenient store and daycare lot together.

Mr. Jared Manning stated, I live at 7329 Green Park Trail in Whitsett. I am in the single-family area that you see on the map. We did have a meeting about this last week that was drawn from all aspects of the neighborhood both single-family and the townhomes. It was a very rushed meeting and needless to say it's a safe bet that everybody has spoken against this rezoning plan. One of the big concerns is the crime aspect. Last year we had a bomb incident at the apartments that are already there. It became big news and a lot of people showed up for it. We've also had shootings at those apartments that are adjoining to our properties on the southern end. That's one aspect we are worried about. Another aspect is our land value. What will adding more apartments to the area do to our home value? Traffic is another aspect we are worried about. We already see a lot of traffic coming into Springwood Park for the ball fields. There are ball tournaments all year long there. Everyone is concerned with the noise; we have a lot of people that drive thru the neighborhood day or night like motorcycles, big trucks and such to get to the already existing apartments. We want to think long term. We're trying to grow our community but we want to grow it the right way. We're looking at a situation where whenever everyone purchased their homes, we were under the assumption they were going to be townhomes. We were ok with that and we felt it would grow with our community. We didn't buy our homes under the notion that those were going to be apartment complexes right at our back door. It concerns us that those apartment buildings will be run-down looking after 10-20 years of use. No one wants to go to a beautiful park and have to look at run-down apartments. I understand they have a lot of money already invested in this property but building apartments is not a long term fix, it is a short term fix to a long term problem. We started a petition this weekend and we already have 171 signatures from the neighborhood opposing this rezoning.

Chairman Mr. Richard Parker asked, when you say in 20 years they will be run-down apartments what makes you say that? I've been in apartment management for years and I've got apartments that are 50 years old that aren't run-down, why would you say that?

Mr. Jared Manning stated, I can't predict the future but I'm just using what I've learned from past experiences living in apartments and in an urban setting. I also speak from where the apartments that are already there how they are managed. Considering how the ones that are there now are handled then it's not looking promising for the future ones.

Commission Member Bill Abplanalp asked, when did you find out about this meeting?

Mr. Jared Manning stated, the day the yellow sign was put out I called to ask about it. It was about 2 weeks ago. Something that disturbed me was obviously this plan has been in place for quite a while to develop this rezoning idea. It's been a long time coming and they just told us last week. They waited till the last minute to tell us and I think they did it that way because they suspected how we would feel about it.

Commission Member Mr. James Kirkpatrick stated, the notification is part of the due process of the Planning and Zoning Department, correct?

Zoning/Subdivision Administrator Mr. Joey Lea stated, we are not obligated to put the signs up prior to this meeting. We've always have and always will. That's part of the courtesy the city extends to the neighborhood. There is a requirement for notification in a certain amount of time for a public hearing with City Council.

Mr. Jared Manning stated, as far as I understand everything was followed to a "T", that's not a problem; it's the fact that this development plan before the city has been a long time coming. They literally waited until they had to say something to us about this before they would. We wished we would have known 6 months or a year ago so we could have played a part and helped with the development of this plan.

Commission Member Ms. Margaret Stephens stated, I just know the due process is far from what you believe. There's a conditional use requirement on this type of project and it's a long process. There's lots of money tied up in doing that so it has to go through that due process before it comes to us. It's not something I think just all of a sudden happened.

Mr. Jared Manning stated, no ma'am I'm under no assumption it just happened. We feel if they wanted to develop this plan they could have involved the community in the planning at least in the early stages before getting this far and having invested so much money and trying to go forward with it.

Vice Chairman Mr. John Black stated, I knew it wasn't something we had to do but in the past the yellow sign that announces the rezoning for some reason I thought it was posted for 30 days.

Zoning/Subdivision Administrator Mr. Joey Lea stated, the signs do not go up until the day after the deadline for this meeting. Sometimes it will be a couple days after that deadline.

Ms. Deborah Green stated, I'm a homeowner at 1505 Daisy Park Drive in Whitsett. One of the reasons I suspect they waited so long to mention to the homeowners about the plan was because they were still building homes and the last home finally sold that they were building back in the spring. Probably one of the reasons they didn't mention it was the homeowners wouldn't have purchased the home knowing that an apartment complex was going to be built there. I am the secretary of our community; they just turned the association over to us. I think our last meeting was in April that Windsor Homes were a part of. We asked them what would happen with the property. They didn't know what they were going to do with it. My husband and I have been

there since 2007, we moved there with the assumption that one day we would retire there. We love the community. I moved here from Durham. Since Whitsett is a smaller community we like the atmosphere there. We have had no problems until the newer apartments that were built in the past few years came to be. Since then as they have mentioned, the crime has gotten worse. I've had my vehicle stolen out of my driveway and people's cars have been broken into since the apartments have been built. When you own your own home or you own your own townhome you have an investment in the community; your money is invested. When you are an apartment owner you're in transit. You're there for a small time. You aren't invested, that is why I don't think it's about the run-down apartments. I think it's more about what you have invested in your community. Since the apartments came I'm a little fearful to walk around the neighborhood in the hours that I would walk by myself. I'm a nurse so I have odd hours. But when people aren't home now I don't want to walk because we've had bomb threats, we've had shootings and we've had robberies. I've installed an alarm system and I've gotten a big dog. I shouldn't have to feel that way. I am against the apartments coming into the community.

Ms. Vicki Axsom stated, I live at 1435 Daisy Park Drive in Whitsett. My concerns are all that have been voiced so far. I was one of the one's that had their vehicles broken into one night. The police came out and took finger prints. I think there were a total of 8 or 11 cars that were broken into that night. They said they never found anything and probably where our location is right there on I-40 & I-85 they can get on and off really quick. How is it that the utilities were already put on this property but it was zoned for townhomes, how could those utilities be used for an apartment complex? Wouldn't that take a lot of changing? That infrastructure wouldn't work on apartments would it?

Commission Member Mr. James Kirkpatrick stated, regardless of what you put in there, basically you are providing a main trunk line whether it's townhomes or apartments. The main line is there but it just needs to be reconfigured to fit whatever is put on that property.

Ms. Vicki Axsom stated, I must have missed understood because Mr. Sasser said everything is already in the ground.

Commission Member Mr. James Kirkpatrick asked, I think that is what he is referring to unless I am incorrect?

Mr. Kevin Sasser stated, Mr. Kirkpatrick is correct.

Ms. Vicki, Axsom stated, I did attend the meeting at Mr. Sasser's office and during that meeting it was stated, they had no immediate plans to build apartments on that property. It may turn out that they would broker the property and sell it to someone else. Then we won't know who is coming in and building. That's a concern of the communities. At the meeting I brought up the point to Tom with Windsor that all the Windsor properties are selling their single-family homes as fast as they can build them; from Mebane all the way to Forsyth County. We would love to see it rezoned to single-family homes, the townhomes are fine but they say they can't sell them and there's not a market for them right now. The alternative we would love would be single-family homes be built there by Windsor.

Ms. Sarah Jones stated, I am the property owner of 1513 Daisy Park Drive in Whitsett. One of the things I would like to mention is that there are quite a few homeowners in the single-family and in the townhomes that are single women and some have small children. This past winter during one of the snow storms we had someone in a vehicle on the dirt road behind the easement behind my house climb over a privacy fence and go towards the back door of a woman's home with 2 small children. The children are the ones that noticed the individual coming over the fence and into their backyard. The homeowner called the police and by the time they arrived he was gone. The children saw the guy but could not give a description of him. As Deborah stated earlier her van was stolen out of her driveway, she lives next door to me. When the police officer came to my door on that Saturday morning and said we had a van stolen out of the driveway; for me as a single woman living in a development that was quite scary. We have had a lot of theft in the neighborhood. We have a lot of people from the apartment complex that walk thru the single-family section because we have sidewalks. They like to walk their dogs there but they don't clean up after them. They enjoy the ability to walk thru a nice neighborhood, look at all the houses, look at the yards that are kept up well but they don't care what they drop and leave behind. It's coming from the apartments that are already there. We've had problems with the pool being vandalized in the summertime. The owners of the single-family homes and the owners of the townhomes are the ones that pay for the upkeep of the pool.

Ms. Sarah Jones stated, we have police officers that live in our neighborhood but it's not unusual to drive down that road and see 2 or 3 tractor trailers parked along the side of the main road going into the development. It is an eyesore. I purchased my home for a place where I could be there for a number of years and I feel like I was safe. There were no apartments back then when I purchased my home. I have spoken with Mr. Sasser personally on the phone and he was kind enough to explain to me what their plans were and had been from the very beginning and I had no idea that the plans were for a daycare and for a convenient store until he shared that information with me. I wouldn't have had a problem with those plans because this is a community that could use a daycare but that didn't work out the way they had planned it. I understand they are in the business to make money but I agree there is a better way to make use of the property they have been sitting on all this time other than to build more apartments and we have to deal with more of the problems that are associated with apartments.

Ms. Sarah Perry stated, I live at 1603 Daisy Park Drive. I moved into the area in 2011. My concerns are the same as my neighbors but one thing I would like to add is that the existing apartments that are there I consider an eyesore. They are 3-story apartment's buildings that hover over our neighborhood. They are literally in the back yards of my neighbors that live along Scenic Village Drive. There are no barriers in between and some neighbors have put up fences which don't do much since they only go up to 6ft. The difference in height between 1 or 2 story single-family homes versus a 3 story apartment building is a big difference. Since there is no barrier some neighbors have planted trees but of course that will take years before they are large enough to help block the view. Right now these apartment's renters can look into our backyards and windows giving no real privacy. More apartments are going to do the same. These proposed apartments are on the side with the townhomes so they will do the same to them as the existing apartments do to the single-family homes now. The townhomes

don't have a lot of yard but they do have some yard space, so the apartments will be in their backyard just hovering over them. This is a concern for me.

Chairman Mr. Richard Parker stated, Mr. Sasser we have heard a lot here tonight about crime and noise not so much about traffic. I'm not sure that all the crime is associated with the apartments but it sounds like some of it maybe. What do you say to these residents that bought in to these communities, retired here, make this their home and getting wrapped around these apartments?

Mr. Kevin Sasser stated, I tried to make as many notes as I could about the concerns. I would like to go through the list and address them. The question about the infrastructure that is in place; I did not want to misrepresent that in anyway. The infrastructure is in place, grading has been done. Our engineer overlaid this plan and worked off the infrastructure that is already in place minimizing the changes that would have to take place to put apartments in here. The apartments would be the least modifications that would need to be made to go in here. As far as single-family, I've tried to address that at the meeting we held in my office and the problem is I know some of you have all been involved in the development from time to time but when you take a plan like this and gather your land cost and your offsite cost which is bringing utilities to the property and you allocate cost to every single parcel of property. Unfortunately with the remaining property; if you put single-family homes on it there is no possible way to come out even.

Chairman Mr. Richard Parker stated, but you gambled on the utilities.

Mr. Kevin Sasser stated, we did, absolutely. Every day we open our doors we gamble as developers. I'll be honest with you, we are very lucky to be standing here today. A lot of our fellow developers are no longer in business. We have been very lucky that we are diversified enough to get through this. A lot of properties have been turned back to the banks where you have no control. The banks don't care. We have not done that to this community. We have held on to it, we've made bank payments on it and we continue to search what we could do to get through this project. Windsor Homes has the largest investment here because they've got the infrastructure in the ground. The partnership has a smaller piece of the investment. We've tired and met many times on what we could do. We have to submit our plans to the City of Burlington and they have a review process that has to go over the plans and give us their comments about it before we have anything to show anyone. It could have been kicked down at that level and said no, we're not interested or no, it does not meet our criteria. This plan here, I heard someone say they did not know apartments were going to be there. This plan from day one has been zoned like that to the letter. We built sidewalks down the main drive at a very hefty cost. That was the City's requirement and we followed it. These sidewalks lead to the park; we can't control people from using them. I heard someone mention the pool. I developed Ashley Wood's newest phased area which is a very high-end community and very nice people. Those people in that neighborhood have trashed my pool. I cannot control people. I've had them climb the pool fence and throw all the pool furniture in the pool. Unfortunately we have crime everywhere. I don't know how to handle that any better besides telling you that we are responsible developers and I have answered honestly to everyone whether or not we would build apartments. First thing we would do is look for the rezoning and then our partnership would have to decide if we want to speculate again on building apartments or market the property for an apartment developer. We have discussed the possibility about

building them but we are not committed. We don't have plans drawn up or anything. We have not invested anymore additional money into this project other than the plans you have before you tonight. Originally there was 145 townhomes approved. 69 are in the phase we are asking to rezone and 44 are in the remaining phase that is left to be finished.

Zoning/Subdivision Administrator Mr. Joey Lea stated, there are two ways to look at this development from the Land Use aspect as far as density is concerned. The original proposal with the single-family and townhomes based on the acreage comes out to 5.24 units per acre. The new proposal which comes out to 6.3 units per acre. You can see from an overall density perspective that there is very little change in the density so they are not asking for a large amount of increase.

Commission Member Mr. Earl Jagers asked, on the landscaping buffer, what type of buffer are you planning on?

Mr. Kevin Sasser stated, we are actually following the City of Burlington's Landscaping Ordinance.

Commission Member Mr. Earl Jagers stated, some of the neighbors have questioned the view from the 3rd floor down and I didn't know if we could decide on a certain tree so it could grow 20-30 ft. pretty quick.

Zoning/Subdivision Administrator Mr. Joey Lea stated, if that is a concern you can request it but keep in mind that the young trees will take time to grow.

Commission Member Mr. Earl Jagers asked, an evergreen that grows fairly rapidly would help, would that be an issue?

Mr. Kevin Sasser stated, I know that we would have no issue. We want to be responsible and want to be good neighbors to the community.

Chairman Mr. Richard Parker asked, is there a fence to help buffer?

Mr. Kevin Sasser stated, no there's no fence. We would have no problem with the evergreen and we can make that a condition.

Chairman Mr. Richard Parker stated, building 4 and 5 pose the most intimate threat if you will to the neighbors. The other buildings are quite a ways away. Is there any way to configure this differently so that there is more distance between the homes instead of building 4 and 5 being right up to these townhomes? Can this be refigured at all? What's the distance between building 4 from the property line to the townhomes?

Mr. Tom Hall stated, 34.27 ft. is the distance. I know it was a little bit of a challenge for our engineer to lay that in there but we can certainly look at it further. As Kevin has said we would have no problem doing something back there where there might be the most possible obstruction on the other neighbors. We could certainly work with Staff and our engineer to figure out what we could plant there.

Chairman Mr. Richard Parker stated, I think the concerns of the neighbors are real. They are concerned about being boxed in by all these apartments and they certainly

have a lot of evidence that they have had problems with the existing apartments and crime. It just seems to me that if it was reconfigured so that these parking lots were moved to the rear and the buildings were moved to where the parking lots are that you could get a larger buffer, maybe the engineer could address that for us.

Commission Member Mr. Bill Abplanalp asked, in this application is there anything that limits this to 6 buildings and 144 units?

Zoning/Subdivision Administrator Mr. Joey Lea stated, their proposal is limited to 144 units and 6 buildings. They can't add more.

Commission Member Mr. Bill Abplanalp asked, even if they sell the property to another developer, is he limited to this on the proposal?

Zoning/Subdivision Administrator Mr. Joey Lea stated, yes, if they sell to someone else to develop it and they want to make changes they would have to come through this process.

Commission Member Mr. James Kirkpatrick asked, so what you are saying is that they are tied to this density?

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

Chairman Mr. Richard Parker asked, what is staff recommendation?

Zoning/Subdivision Administrator Mr. Joey Lea stated, from a Land Use perspective, looking at the area to the north there is a development called Ethan's Way which is also a single-family development with a multi-family townhome development to the west. This proposal is consistent with what's in the area. Having explained the density; the request is in line with what the original proposal was. Also, our Technical Review Committee has reviewed and approved this plan from a traffic stand point. One thing I don't think we have discussed is, if you notice the only access points are from Springwood Village Dr., which means the traffic from these apartments will not go through the townhouse development. With the proposed density, the plan being approved by the Technical Review Committee and being consistent with the development in the area, staff is recommending approval.

Vice Chairman Mr. John Black asked, Joey where's the closes substation for the police for this location or is there one?

Zoning/Subdivision Administrator Mr. Joey Lea stated, I'm not sure but I do know we're in the process of building a fire station out by Mackintosh on the Lake.

Ms. Deborah Green stated, I think the closet one is over near Alamance Crossing and that's why it takes a while for the police or fire to get out to our community.

Vice Chairman Mr. John Black asked, the fire station that is being built over at Mackintosh on the Lake, that is just a fire station or are there plans to put a substation there as well?

Zoning/Subdivision Administrator Mr. Joey Lea stated, to my knowledge there has been no discussion about a substation there and it will just be a fire station.

Vice Chairman Mr. John Black asked, Mr. Sasser you are saying that your development out here is as tight as it could be and in your opinion there would be no room on this to be set aside for a police substation or anything like that? I'm just asking because in all that I have heard I haven't heard anything about traffic. I haven't heard much of anything except for crime in the area. I live a block from Alamance Country Club and cars are stolen at night in my neighborhood so I mean it's not that. Someone made the statement they had 3 or 4 policeman that live in the community and I would have liked to have heard from them. Especially concerning the crime out there or the tractor trailers parked on the roads. Are any of you policemen that live out there? I would have liked to have heard their comments.

Mr. Kevin Sasser stated, what we can do and would be willing to do is we would take a unit and dedicated it for the City to use as a substation for that area so that someone would be onsite there which may work out well for the park too.

Commission Member Mr. Earl Jagers made a motion to amend the proposal to add additional landscaping between the apartments and the townhomes, to accept the offer to allocate one dwelling unit for the use of a Police Substation and to approve the rezoning for Springwood Park.

Vice Chairman Mr. John Black seconded the motion.

The Commission voted 5 to 1, with one member abstaining, recommending approval of the rezoning. Voting to approve the rezoning were Stephens, Enoch, Parker Jagers, and Black. Voting against the motion was Abplanalp. Member abstaining was Kirkpatrick.

This was a City item.

There being no further business to discuss, the meeting was adjourned at 8:22 p.m.

Richard Parker, Chairman

John Black, Vice Chairman

Kelly Peele, Secretary