



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

**November 28, 2016**

**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  
Matthew Dobson (Alternate), Present\*  
\*Present but not voting

**EXTRATERRITORIAL MEMBERS:**

Earl Jagers, Present  
Bill Abplanalp, Present

**STAFF PRESENT:**

Amy Nelson, Director of Planning and Zoning  
Joey Lea, Zoning Administrator  
Kelly Peele, Commission Secretary

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

**ITEM NO. 2:** Minutes of the meeting held September 26, 2016, were unanimously approved.

**ITEM NO. 3:** Mr. David Shepherd to present an application to amend a conditional rezoning approved by the Burlington City Council on September 19, 2006. The request is to reduce the front setback requirement from 50 feet to 35.6 feet to allow for an expansion of the building. The property is located at 3117 Garden Road referenced as Alamance County tax identification number 112791.

Mr. David Shepherd stated, the building is the old Panda Express building and it isn't quiet big enough for Zaxby's. We are planning on keeping the building like it is; just remodel it to make it look like a Zaxby's like the one in Graham and the one in Mebane; this one will have more of the Mebane look. The way it is right now it is impossible to operate it.

Chairman Mr. Richard Parker asked, how far are you coming out in the front?

Mr. David Shepherd stated, I think it said on my map 7.8 feet. Around back it is around 16 feet. In the back it will mostly be freezers and coolers which will be covered. My freezers have to be 12 ft. by 10 ft. freezers and a cooler side-by-side, the cooler that's in there is 5ft. by 6ft. We will have to take them out and extend out the back to give us more room for the kitchen. The drive-thru stays the same, parking lot stays the same, and I think you have requested a sidewalk by the side of the road and that is not a problem with us.

Chairman Mr. Richard Parker asked, were there any phone calls about this property?  
Zoning Administrator Mr. Joey Lea stated, no.

Chairman Mr. Richard Parker stated, this is a public meeting and I will ask if there is anyone in the audience tonight that would like to speak on this item. No public comment. What is the recommendation from the Planning Department?

Zoning Administrator Mr. Joey Lea stated, the staff recommendation is to approve the request. We were going to allow this through an administrative amendment because it meets the requirements set forth in the ordinance that allows us to do that. However, we felt like the encroachment into the 50 foot setback would not fall under that.

Chairman Mr. Richard Parker asked, is that the shaded area you are showing us?

Zoning Administrator Mr. Joey Lea stated, correct. As you can see there is an outdoor seating area, this was already in the setback. At some point in time DOT took 15 feet of additional right-a-way. Without that they wouldn't be here requesting this. Staff recommends approval of the request.

Commission Member Mr. James Kirkpatrick made a motion to approve the rezoning. Commission Member Mr. Earl Jagers seconded the motion. The Commission voted unanimously to approve the rezoning request.

**ITEM NO. 4:** Mr. Adam Tucker to present an application to amend a conditional rezoning approved by the Burlington City Council on September 20, 2005, amended January 2, 2008 and May 15, 2012. The request is to allow the subdivision of lot 5 into 2 lots and for future subdivision of the development into no more than 10 lots. The property is located at the south west corner of University Drive and South Church Street referenced as Alamance County Tax identification numbers 171514, 106646, 171511, 171512 and 171513.

Mr. Adam Tucker stated, we developed this property 9 years ago and the reason we are here tonight is when we were here before we asked for a sit down restaurant along Church Street and we got a purchaser for that so the only way we can sell it to him is to subdivide the lot. Right now there is about a 5.5 acre lot out there we are going to take 2.5 acres and sell to him and keep the other 3 acres. We are just asking to reserve the right to do so for future subdivisions because of the conditional rezoning and anytime you want to subdivide it you have to technically rezone again. We are asking to subdivide and not really change our lots.

Chairman Mr. Richard Parker asked, how many lots are there now?

Zoning Administrator Mr. Joey Lea stated, 5 lots.

Commission Member Mr. Ryan Kirk asked, that includes the Lowes lot and CVS?

Zoning Administrator Mr. Joey Lea stated, right. They are shown here on the map by the blue lines. There are 5 lots and this lot here is the lot they want to subdivide.

Chairman Mr. Richard Parker asked, there is a median here in the road, how are people going to get to the restaurant?

Mr. Adam Tucker stated, they can enter at the light on University Drive. That side road that is there off of South Church Street will remain there.

Commission Member Mr. Ryan Kirk asked, we have 5 lots going up to 6 and could potentially go up to 10 lots? The language is consistent to call it a development, is this built into the zoning where all these parcels are linked?

Zoning Administrator Mr. Joey Lea stated, yes, it is a unified business development. You have 10 lots and it acts as one when it comes to access, parking and landscaping..

Commission Member Mr. Ryan Kirk asked, 10 lots does not seem realistic; is this just a given number out there?

Zoning Administrator Mr. Joey Lea stated, yes I guess it's possible but in all likelihood there may not be that many. It's just a simple subdivision which as you know now are approved by staff so with that flexibility they will be able to subdivide off other lots without having to come back and rezone every time. The plat and the development itself will all be reviewed and approved by staff.

Commission Member Mr. Ryan Kirk asked, there are procedures in place to protect against the developer just slicing that up into 4 really tiny lots. This is the technical review process?

Zoning Administrator Mr. Joey Lea stated, right one of the conditions is that it has to meet our subdivision regulations.

Vice-Chairman Mr. John Black asked, this road running through there is that an actual City or State maintained road?

Zoning Administrator Mr. Joey Lea stated, it is a private drive. That will provide internal access. I doubt very seriously there will be any more access on Church Street.

Vice-Chairman Mr. John Black asked, who maintains this drive?

Zoning Administrator Mr. Joey Lea stated, the developers.

Chairman Mr. Richard Parker asked, you don't think DOT would allow access?

Zoning Administrator Mr. Joey Lea stated, I can't guarantee any of that.

Commission Member Mr. Earl Jagers asked, sidewalks on Church Street, I know you don't have any right now but I do a lot of walking around that area and there is a lot of other people that walk in that area; is there anyway for that developed part to add sidewalks?

Mr. Adam Tucker stated, I think that would be a question for the applicant when they come through to develop.

Chairman Mr. Richard Parker stated, the problem is DOT is going to make this a 5 lane road eventually, so if you put in a sidewalk it's going to get erased on the remodel.

Mr. Adam Tucker stated, they don't even share their development plans with me so I don't know anything they are planning. It's not for me to dictate.

Zoning Administrator Mr. Joey Lea stated, why don't we try this and state it as a condition that any future development of the outparcel shall install sidewalk along South Church Street with the recommendation of NCDOT and the City of Burlington. That puts the actual placement of the

sidewalk on the developer. It will be the developer's responsibility to put in a sidewalk by recommending it through DOT and the City then they will look at future right-a-way acquisition and let them know where it can be. I think if you throw that in the conditions then that takes it away from the landowner and put it on the developers.

Commission Member Mr. James Kirkpatrick asked, does the City Council ultimately has the final say and they may or may not include that sidewalk final version?

Zoning Administrator Mr. Joey Lea stated, that is always a possibility. All conditions attached to conditional rezoning have to be agreed upon between the developer and the City Council.

Chairman Mr. Richard Parker stated, it's just our recommendation.

Zoning Administrator Mr. Joey Lea stated, this request was simply to subdivide the property. It really wasn't meant to get into the development requirements.

Commission Member Mr. James Kirkpatrick made a motion to approve the rezoning as is presented by Mr. Tucker. Commission Member Mr. Earl Jagers seconded the motion. The Commission unanimously voted to approve the rezoning.

**ITEM NO. 5:**

Staff to present a proposed amendment to the City of Burlington Zoning Ordinance, Sections 32.8, Modification of Yard and Height Regulations relating to School Bus Shelters.

Zoning Administrator Mr. Joey Lea stated, do you know of a bus stop shelter anywhere in town? We actually have a request that will involve several developments that want to put in a bus stop shelter but there is nothing in our ordinance that addresses this. The only thing we have close to it was for industrial districts for security stations. To sort of piggy back on that and put in a section that would cover all zoning districts because there are some commercial areas that have multi-family and are close to industrial that have school bus pick up. We wanted to include that in all areas. The size requirement is not very large but they want it to sort of mirror the stops that Transit has done. Even though it's only limited to 100 sq. ft. in size if they needed more they can build another shelter right beside it. This actually addresses school bus stops shelters that haven't been addressed in the ordinances before.

Chairman Mr. Richard Parker asked, if Transit wanted to have some buses at some of their busier locations then this would apply to them?

Zoning Administrator Mr. Joey Lea stated, I think if there was a location that was suitable for Transit they could ask if they could use it. This is not connected to Transit; this is simply a bus stop shelter that would be located in residential areas.

Chairman Mr. Richard Parker asked, you call this a school bus shelter? If you struck out the word school would it still work for school buses and Link Transit?

Zoning Administrator Mr. Joey Lea stated, even with the school bus in there it still could work for either one, if they could make it work.

Chairman Mr. Richard Parker asked, does a homeowner have to give up space on their lot to place this or does this go in the right-a-way?

Zoning Administrator Mr. Joey Lea stated, this is going on private property. If the City was to do this then it would go in the right-a-way unless they got property owners permission.

Chairman Mr. Richard Parker asked, do you know of a place where one would be?

Zoning Administrator Mr. Joey Lea stated, the request came through Burlington Housing Authority. There are 3 or 4 places being looked at.

Vice-Chairman Mr. John Black asked, this would be on private property, not City property?

Zoning Administrator Mr. Joey Lea stated, right because there are setback requirements.

Vice-Chairman Mr. John Black asked, so because of that they would build it, maintain it and they would be responsible for it?

Zoning Administrator Mr. Joey Lea stated, that's right just like an accessory structure.

Chairman Mr. Richard Parker asked, would it be permitted and someone inspect it?

Zoning Administrator Mr. Joey Lea stated, correct.

Vice-Chairman Mr. John Black asked, setback is 5 feet?

Zoning Administrator Mr. Joey Lea stated, yes.

Chairman Mr. Richard Parker asked, why are we approving this just because someone wants one?

Zoning Administrator Mr. Joey Lea stated, there is a need for it.

Commission Member Mr. Ryan Kirk made a motion to approve the proposed amendment. Commission Member Mr. James Kirkpatrick seconded the motion. The Commission unanimously voted to approve the proposed amendment.

**ITEM NO. 6:**

Commission to discuss December meeting date.

The Commission decided the December meeting date has been moved to December 19, 2016. The deadline is now December 2, 2016.

There being no further business to discuss, the meeting was adjourned at 7:34 p.m.

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**Richard Parker, Chairman**

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**John Black, Vice Chairman**

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**Kelly Peele, Secretary**