

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

**November 26, 2007**

**Council Chamber, Burlington Municipal Building**

**CITY MEMBERS:**

George Byrd, Chairman, Present  
Paul Cobb, Secretary, Present  
John Black, Present  
Lynn Cowan, Absent  
Elder Greg Hargrave, Present  
Gordon Millspaugh, Present

**EXTRATERRITORIAL MEMBERS:**

Bud Apple, Present  
Richard Franks, Present  
Earl Jagers, Present  
Jim Johnson, Present  
Ellis Piper, Absent  
Bob Ware, Present

**STAFF PRESENT:**

Robert R. Harkrader, Planning Director  
David Beal, Assistant Director of Planning Services  
Haywood Cloud, Zoning/Subdivision Administrator  
Dianne Fogleman, Office Assistant

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

**ITEM NO. 2:** Minutes of the meeting held October 22, 2007, were unanimously approved. This was a City and extraterritorial item.

**ITEM NO. 3:** Consent agenda: (City)

- (A) Mr. Mark Reich, representing Wakefield Development Company, presented an application for preliminary plan approval of Parcel J-2, Mackintosh on the Lake Subdivision. The property is located on the east side of Bonnar Bridge Parkway north of Glenkirk Drive and south of Abernethy Trail as shown on plans by Alley, Williams, Carmen and King, Inc., dated October 3, 2007, and containing 73 lots.
- (B) Mr. Aden Stoltzfus, representing Haw River, LLC, presented an application for preliminary plan approval of the Riverbend Subdivision. The property is located at the southernmost end of Cottage Place and the easternmost end of Avalon Road as shown on plans by Fleming Engineering, Inc., dated October 12, 2007, and containing 144 lots.
- (C) Mr. Mark Reich, representing Mr. Wade Williamson, presented an application for final plat approval of Phase 1B, Waterford West Subdivision. The property is located on the south side of US Highway 70 (South Church Street) as shown on plans by Alley, Williams, Carmen and King, Inc., dated October 3, 2007, and containing two lots.

(D) Mr. Mark Reich presented an application for approval of the Habitat for Humanity of Alamance County, Inc., recombination and right-of-way dedication plat. The property is located on the east side of Rauhut Street, south side of Key Street and north side of Dudley Street as shown on plans by Alley, Williams, Carmen and King, Inc., dated November 12, 2007, and containing six lots.

Staff recommended approval of (A), (B) and (D) and recommended approval of (C) contingent upon completion of street construction or the applicant posting proper surety with the City Engineering Department prior to recording the plat.

Commission Secretary Cobb made a motion to approve (A) and (B); to recommend approval of (C) with the contingency outlined by staff; and to recommend approval of (D). Gordon Millspaugh seconded the motion. The Commission voted unanimously to approve (A) and (B); to recommend approval of (C) contingent upon completion of street construction or the applicant posting proper surety with the City Engineering Department prior to recording the plat; and recommended approval of (D).

**ITEM NO. 4:** Mr. Lee Wilson, representing Savannah West, LLC, presented an application to amend a Conditional Business rezoning for Savannah West Shopping Center approved by City Council November 2, 2004. The request is to allow off-site advertising on an existing digital advertising screen. The property is located on the west side of St. Mark's Church Road approximately 800 feet north of Garden Road as shown on Alamance County Tax Map 3-26A-3.

This was a City item.

Mr. Wilson stated that the existing digital advertising screen is 10 feet by 10 feet and is located on the clock sign at the shopping center. He advised that he was misinformed by the owner of the sign company, Mr. Joe Rickman, that he could advertise for businesses not located within the shopping center and told the Commission that he was ignorant of the City's sign regulations and proceeded to advertise off-site businesses.

Planning Director Harkrader stated that the advertising sign was brought to staff's attention recently and that essentially the sign was a billboard because it was advertising off-site businesses. He informed the Commission that the Zoning Ordinance does not permit a billboard at that location, and staff informed Mr. Wilson that he would be required to amend the Conditional rezoning in order to allow other businesses to advertise on the sign. He stated that staff recommended denial of the request.

Commission Member Black wanted it clarified that if the sign advertised businesses located within the shopping center, it would be acceptable; but it would not be allowed for businesses that were located elsewhere. He was told that was correct. Mr. Black asked if the sign at Dick Shirley advertised for off-site businesses. Mr. Harkrader stated that to his knowledge, it did not.

Mr. Wilson stated that he was told that other businesses were engaging in off-site advertising, and he had asked a representative of the sign company to attend the meeting; however, no representative could attend.

Commission Member Hargrave asked if it were the digital aspect of the sign that was questionable. Assistant Director of Planning Services Beal explained that it was the off-site advertising that is not permissible.

Planning Director Harkrader pointed out that a billboard would not be allowed at the site. He explained that with digital media, a message could be switched often – a message advertising either an on-site or off-site business.

Commission Member Black asked Mr. Wilson what kind of timeframe did he have with advertisers, and Mr. Wilson responded that he did not have any contracts.

Commission Member Ware commented that he passes the shopping center often and finds the sign to be tasteful. He admitted that he had not paid any attention to the businesses being advertised and that the sign looks better than those steel ones with letters often missing. He pointed out that Mr. Wilson's sign is not the size of a billboard and suggested that perhaps the City needs to enforce regulations for more obtrusive signs – those that are unattractive, obscuring traffic, located every 40 to 50 yards apart, and those towed on trailers.

Planning Director Harkrader stated that it is a constant balancing act to appease both property owners and businesses as far as temporary signs are concerned – property owners complaining about the location and appearance and businesses that claim the signs are crucial to their commerce.

Mr. Ware stated that he understands Mr. Wilson's dilemma and questioned why the City allows eyesores such as Tate Realty signs everywhere and digital signs like the one Mr. Bateman is requesting along Interstate 85/40.

Mr. Harkrader reiterated that digital media is different, and in Mr. Wilson's case, he did not include an off-site, off-premise advertising sign in his request for Conditional rezoning. He stated that it could set a precedent to allow off-site advertising on other digital signs. He also noted that City staff had not recommended approval of several signs recently, including the two digital interstate signs, but that the Planning and Zoning Commission and/or City Council had recommended to allow them.

Mr. Ware questioned if Mr. Wilson purchased a delivery truck that had three sides with changing advertising, would that be considered off-site advertising.

Mr. Harkrader answered it would probably be permissible if it were a legal operating vehicle.

Mr. Wilson pointed out that there is such a truck being driven around town already.

Questioning the possibility of setting a precedent by allowing the off-site advertising on the sign, Commission Member Franks asked if property was zoned Conditional, wouldn't the developer be required to submit an application for such a sign unless off-site advertising was included in the Conditional request. He also pointed out that in Conditional zoning a sign would be restrictive as far as size was concerned.

Mr. Harkrader stated that property would be required to be zoned to allow off-site advertising and that could be accomplished through the Conditional rezoning process. He stated that staff might be inquiring about other cities' digital advertising requirements.

Commission Chairman Byrd asked if the original application included what was going to be advertised on the sign, and was told that it did not.

Commission Member Ware stated that he remembered dealing with the clock sign when the application was first presented to the Commission but he could not remember if the application mentioned what was going to be advertised on the sign.

Planning Director Harkrader stated that only on-site businesses could advertise on the sign, not off-site businesses.

Commission Member Millspaugh pointed out that digital signs are popping up all over town, and while they are pleasing to view, he had concerns that off-site advertising could be on the horizon.

Mr. Harkrader admitted that staff needs to be more attentive to signs being approved and what is being requested.

Commission Member Black stated that Mr. Wilson should have included this request when he presented the request for the clock tower sign to the City and that he should not have taken the word of whoever sold him the sign that off-site advertising was allowable. He pointed out that as it stands now, advertising any business located at Savannah West was allowed, and that Mr. Wilson has the right to appeal to City Council, but he made a motion to recommend denial of the request to amend the Conditional rezoning to allow off-site advertising on the clock tower sign.

Commission Member Millspaugh seconded the motion. Commission Secretary Cobb asked that he be allowed to abstain from voting. The Commission voted unanimously to allow Mr. Cobb to abstain from voting. The Commission voted unanimously to recommend denial of the request to amend the Conditional rezoning to allow off-site advertising on the sign.

**ITEM NO. 5:** Mr. Lawson Brown, representing CBL and Associates Management, Inc., presented an application to amend a Conditional Business rezoning for Alamance Crossing originally approved by City Council on April 20, 2004. The request is for modification of the Development Conditions to allow drive isles, parking areas and pedestrian walks within five feet of the property lines. The property is located east of University Drive, south of Garden Road, west of Westview Terrace and north of Interstate 85/40 as shown on Alamance County Tax Map 3-19, Lot 3; Alamance County Tax Map 3-24, Lots 1, 3, 11, 12, 14, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 33 and 35; and Alamance County Tax Map 3-26, Lots 20, 34 and 56.

This was a City item.

Mr. Brown stated that the original Conditional rezoning was amended in 2005 to address the setback requirements for buildings; however, the language was not as it should have been. This amendment will allow drives isles, parking areas and pedestrian walks to be within five feet of the property lines.

Commission Member Jagers asked if this would include a sidewalk along University Drive, and Mr. Brown responded that he was unsure at this time.

Staff recommended approval of amending the Conditional Business rezoning.

Commission Secretary Cobb made a motion to recommend approval of amending the Conditional rezoning. Greg Hargrave seconded the motion. The Commission voted unanimously to recommend approval of amending the Conditional Business rezoning to allow drive isles, parking areas and pedestrian walks within five feet of the property lines. All previously approved Use and Development Conditions will remain in effect.

**ITEM NO. 6:** Mr. Charles Bateman, representing SDL Properties, LLC, presented an application to amend a Conditional rezoning for SDL Properties, LLC, approved by City Council August 7, 2007. The request is as follows: (A) rezone a portion of Lot 16 from CI, Conditional Industrial, to I-1, Planned Industrial District; (B) rezone a portion of the lot from I-1 to CI; and (C) relocate the previously approved outdoor advertising structure to the newly requested CI rezoned portion of Lot 16. The property is located on the south side of Interstate 85/40 at the northernmost end of Lawndale Drive as shown on Alamance County Tax Map 6-5-16.

This was a City item.

Mr. Bateman stated that the proposed digital sign is an expensive one – approximately \$400,000 – and the bank didn't like the easement provided to get to the sign. By way of an overhead projector, Mr. Bateman indicated the proposed site and easement and stated that the easements shown on the original site map would be abandoned. He pointed out that there would be no additional rezoning, and the balance of the property would be conveyed to the church. In addition, the sign would be the only structure on the rezoned property, and the previously approved location would not be built upon. Mr. Bateman concluded that he had talked with adjoining property owners, and they did not oppose the request.

Commission Member Ware commented that this sign was definitely for off-premise advertising.

Planning Director Harkrader reminded Commission members that staff had recommended denial of the Conditional rezoning in April 2007 to allow the advertising sign, but the Commission recommended approval and the City Council approved the request in August 2007. He stated that the current request could be considered a modification of the original Conditional rezoning and staff could see no reason to oppose it.

Commission Member Black inquired if all adjoining property owners were aware of the current request because he didn't want a property owner showing up six months from now saying they were unaware of the rezoning. Mr. Bateman assured him that adjoining property owners were informed of the rezoning.

Commission Secretary Cobb made a motion to recommend approval of amending the Conditional rezoning. Gordon Millspaugh seconded the motion. The Commission voted unanimously to recommend approval of amending the Conditional rezoning as follows: (A) rezone a portion of Lot 16 from CI, Conditional Industrial, to I-1, Planned Industrial District; (B) rezone a portion of the lot from I-1 to CI; and (C) relocate the previously approved outdoor advertising structure to the newly requested CI rezoned portion of Lot 16. All previously approved Use and Development Conditions will remain in effect. The Commission found that the request was consistent with the Comprehensive Land Use Plan for Burlington and its environs.

There being no further business to discuss, the meeting was adjourned at 7:40 p.m.

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**George A. Byrd, Jr., Chairman**

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**Paul E. Cobb, Jr., Secretary**