

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

December 17, 2007

Council Chamber, Burlington Municipal Building

CITY MEMBERS:

George Byrd, Chairman, Present
Paul Cobb, Secretary, Present
John Black, Present
Lynn Cowan, Present
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
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 November 26, 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 final plat approval of Phase 1, Kenross Townes, Mackintosh on the Lake, Parcel O. The property is located on the north side of Bonnar Bridge Parkway and south of Danbrook Road as shown on plans by Alley, Williams, Carmen and King, Inc., dated November 30, 2007, and containing 65 lots.

Staff recommended approval of the final plat contingent upon the developers posting proper surety with the City of Burlington for completion of street construction prior to recording the plat and contingent upon street plans and profiles, water and sewer plans and storm drainage plans being submitted to the City Engineering Department and approval of same by the City Engineering Department.

Commission Secretary Cobb made a motion to recommend approval of the final plat with the contingency outlined by staff. Gordon Millsbaugh seconded the motion. The Commission voted unanimously to recommend approval of the final plat contingent upon the developers posting proper surety with the City of Burlington for completion of street construction prior to recording the plat and contingent upon street plans and profiles, water and sewer plans and storm drainage plans being submitted to the City Engineering Department and approval of same by the City Engineering Department.

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

ITEM NO. 4: Mr. R. L. Justice, representing Trollinger Street Service Center, presented an application to rezone from B-1, Neighborhood Business District, to CB, Conditional Business, to allow motor vehicle towing and storage. The property is located at the southeast corner of Trollinger Street and Askew Street at 506 Trollinger Street as shown on Alamance County Tax Map 85-601, a portion of Lot 100.

This was a City item.

Staff recommended approval of the request for rezoning subject to the Use and Development Conditions submitted by the petitioner.

Commission Secretary Cobb made a motion to recommend approval of the request for rezoning with the Use and Development Conditions submitted by the petitioner. Elder Hargrave seconded the motion. The Commission voted unanimously to recommend approval of the request for rezoning and recommended that the official zoning map and the Comprehensive Land Use Plan be amended to reflect the change. The following Use and Development Conditions have been submitted by the petitioner:

Use Conditions

1. A maximum of 50 vehicles at any one time shall be stored on the property.
2. All towed vehicles shall be stored in the approved towing and storage area.
3. All buildings used to protect stored motor vehicles shall be located on the approved lot.

Development Conditions

1. The size of the fenced storage area shall be no less and 5,000 square feet and shall not exceed 6,050 square feet – 55 feet by 110 feet.
2. The security fence shall be a minimum of six feet in height and shall be provided around all accessible sides of the storage area.
3. All entrances to and from the storage area shall be secured and locked whenever an employee is not present on the property.

4. All motor vehicles within the storage area shall be concealed from view from the public street and from all adjacent residentially-zoned property or property in residential use through screening. Screening shall include one of the following: (1) A chain-link fence with slats that are two-inch weave with 1 7/8 inch panels or 1 ½ inch weave with 1 3/8 inch panels; or, (2) mesh fabric designed to partially obscure property from view – 70 percent obscurity standard; or, (3) any fence material screening that meets or exceeds the 70 percent obscurity standard.
5. All lighting shall be shielded so as not to cast direct light upon any adjacent residentially-zoned property.

The Commission found that the zoning change as requested would not adversely affect the adjoining property and would be in keeping with land use planning in the area. The Commission further found that the request was consistent with the Comprehensive Land Use Plan for Burlington and its environs.

ITEM NO. 5: Staff presented a proposed amendment to Section 32.9, Table of Permitted Uses, of the Burlington Zoning Ordinance that would eliminate boarding and rooming houses being permitted by right in multifamily zoning districts.

Planning Director Harkrader distributed three map exhibits: (1) map showing areas within the City where boarding/rooming houses were permitted prior to March 2004 when Council adopted amendments to the Zoning Ordinance which included boarding/rooming houses being eliminated by right in R-6 and R-9 zoning districts; (2) a map showing areas where boarding/rooming houses were permitted by right after Council adopted the amendments in March 2004; and (3) a map depicting areas where boarding/rooming houses would be allowed if the proposed amendment eliminating boarding/rooming houses being permitted by right in multifamily zoning districts is approved.

Commission Secretary Cobb asked for the definition of boarding houses.

Mr. Harkrader stated that basically a boarding house is a facility containing five or less guest rooms that are separately rented, and since March 2004, the property owner or lessee must reside on the same premise.

Commission Member Black asked if the rooms were generally rented by the week, and Mr. Harkrader answered that they were usually rented by the week or month.

Planning Director Harkrader told Commission members that a few months ago, representatives from the Beverly Hills neighborhood approached the City with concerns about the boarding houses in that section of the City. He explained that there are good and bad boarding and rooming houses and that it was the bad ones giving all of them a bad name.

Commission Member Black asked who regulates boarding houses and where does one file to open a boarding house. Mr. Harkrader stated that the Fire Department inspects the common areas and they are only regulated by the State Building Codes. He indicated that most boarding houses in the area are non-conforming or grandfathered, meaning they existed before the Zoning Ordinance was adopted or amended but are regulated or restricted under future ordinances or amendments.

Mr. Harkrader stated that what the amendment will do is allow future boarding and rooming houses to be permitted by right essentially in commercial zoning districts. However, the amendment would not affect boarding and rooming houses already in use.

Commission Member Millspaugh asked how many rooming and boarding houses would be affected.

Mr. Harkrader explained that the majority of current boarding and rooming houses are non-conforming and therefore will not be affected.

Commission Chairman Byrd asked if a boarding house burns down and is non-conforming, could it be rebuilt as a boarding house and was told that it could not.

Commission Member Millspaugh asked if a current boarding house changed ownership, could it continue to be used in that capacity under new ownership. Mr. Harkrader explained that it could but would not be allowed to be expanded or altered.

Commission Member Franks asked if a boarding house closed, could it reopen again as a boarding house. Mr. Harkrader stated that after six months, the facility could not reopen as a boarding house.

Commission Chairman Byrd asked if a non-conforming boarding house was closed by the courts because of illegal activities, could it reopen at the same relocation, and was told that it could not.

Commission Member Hargrave asked what were the criteria in March 2004 to decrease the zoning districts where boarding and rooming houses could be located.

Planning Director Harkrader stated that before that date, boarding and rooming houses were permitted in R-6 and R-9 residential zoning districts, and by eliminating those permitted zoning districts, it was placing them in more commercial settings.

Commission Secretary Cobb questioned if they would be allowed in Office-Institutional and General Business zoning districts. Mr. Harkrader explained that boarding and rooming houses would be permitted by right in commercial and O-I zoning districts.

Commission Member Hargrave asked if someone could circumvent this and get one in a residential area.

Mr. Harkrader stated that an applicant could apply for Conditional rezoning in other districts; however, the application would have to be presented to the Commission and then go through the public hearing process before City Council prior to approval. He explained that perhaps a boarding house would be appropriate in a particular area, and the Conditional rezoning process would offer that means.

Commission Secretary Cobb made a motion to recommend approval of the amendment. Bob Ware seconded the motion. The Commission voted unanimously to recommend approval of amending Section 32.9 of the Zoning Ordinance text to eliminate boarding and rooming houses being permitted by right in MF-A and MF-A, Multifamily, zoning districts.

ITEM NO. 6: Planning Director Harkrader informed members that the March 2008 Planning and Zoning Commission meeting will fall on the 24th, which would be Easter Monday. He explained that the City does not observe Easter Monday as a holiday, but staff did not know Commission members' schedules. He stated that Commission members could think about the observance and make a decision at the January meeting.

The majority of Commission members stated that they observed Good Friday and not Easter Monday.

Commission Member Millspaugh pointed out that he did not know if the school system would observe those days as spring break, but he was concerned that applicants would be affected by the meeting being held on what many observe as a holiday.

Commission Member Franks made a motion to change the March 2008 meeting to the third Monday in March and change the deadline for submitting items for the agenda accordingly. Paul Cobb seconded the motion. The Commission voted unanimously to change the March 2008 meeting date to the 17th and to change the deadline for submitting agenda items to February 29, 2008, at 5:00 p.m.

There being no further business to discuss, the meeting was adjourned at 7:25 p.m.

George A. Byrd, Jr., Chairman

Paul E. Cobb, Jr., Secretary