

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

February 25, 2008

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, Absent

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 January 28, 2008, were unanimously approved. This was a City and extraterritorial item.

ITEM NO. 3: Consent agenda: (City)

- (A) Mr. Wayne Perry, representing CIH/TDG LLC, presented an application for final plat approval of Phase 1, Section 7, Glenmoor Townhomes, Mackintosh on the Lake, Section J2. The property is located on the south side of Tweed Lane southeast of Bonnar Bridge Parkway as shown on plans by Alley, Williams, Carmen and King, Inc., dated February 8, 2008, and containing three lots.
- (B) Mr. Wayne Perry, representing Hilldrup Properties, Inc., presented an application for final plat approval of the Hilldrup Properties, Inc., Subdivision. The property is located on the north side of Anthony Road approximately 1,600 feet southwest of Industry Drive as shown on plans by Alley, Williams, Carmen and King, Inc., dated February 2, 2008, and containing two lots.
- (C) Mr. Rodney Herring, representing ABC Development LLC, presented an application for final plat approval of Phase 1, Ashton Park Townhomes. The property is located on the south side of Ashton Park Lane west of Plantation Drive as shown on plans by Simmons Engineering and Surveying Inc., dated February 11, 2008, and containing nine lots.

(D) Mr. Wayne Perry, representing Windsor Investments LLC, presented an application for final plat approval of Phase Two, Section One, Park Place Townhomes. The property is located on the northeast corner of Oliver Park Drive and Springwood Village Drive as shown on plans by Alley, Williams, Carmen and King Inc. dated February 8, 2008, and containing four lots.

Staff recommended approval of (A), (B), (C) and (D).

Commission Secretary Cobb made a motion to recommend approval of the four final plats. Gordon Millspaugh seconded the motion. The Commission voted unanimously to recommend approval of (A), (B), (C) and (D).

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

ITEM NO. 4: Mr. Charles Bateman, representing Springwood Partners LLC, successor to SSJ of Alamance #1 LLC, presented an application to amend a Conditional rezoning approved by City Council December 8, 2003, for SSJ of Alamance. The request is to allow the replacement of the two existing outdoor advertising structures with two double-faced electronic (optional LED or LCD) structures. The property is located west of Springwood Church Road and south of Whitsett Park Road as shown on Guilford County Tax Map 800004800015.

This was a City item.

Mr. Bateman maintained that in his opinion this was a technical amendment. He explained that there was some disagreement with City staff as to whether or not the advertising structures were included in the Conditional rezoning that was approved in 2003. Therefore, this request was being presented to avoid any confusion.

Planning Director Harkrader stated that the advertising structures were referred to in the original rezoning request; however, the signs were not part of the Conditional rezoning request. He explained that the advertising structures are located on property zoned Multifamily and that the property rezoned to Conditional is to the rear of that property. He stated that the signs are legal non-conforming advertising structures and therefore could not be expanded upon. Due to this factor, staff recommended denial of the request. He informed the Commission that the advertising structures would also have to be approved by the North Carolina Department of Transportation.

Commission Chairman Byrd asked if staff had received any calls concerning the request and was told that it had not.

Commission Secretary Cobb asked if the Commission and Council endorse the request would NCDOT still have to approve it.

Planning Director Harkrader stated that NCDOT would have to approve the signs; however, NCDOT usually bases its approval upon local endorsement.

Commission Member Millspaugh questioned the rationale of NCDOT approving the advertising structures when the signs are considered non-conforming.

To clarify staff's position, Mr. Harkrader read the following from the NC Administrative Code Section O2E.0211:

(c) *The Department of Transportation shall not issue permits for new outdoor advertising signs at a sign location (as defined by Rule .021 of this Section) as follows:*

(3) *Where the zoning is not part of comprehensive zoning or was zoned primarily to permit outdoor advertising structures or constitutes spot zoning or strip zoning as defined in 19 NCAC 2E.0201(4)(b)(iii).*

Mr. Kevin Sasser, representing Springwood Partners LLC, stated that he had presented the proposal to NCDOT and received verbal approval contingent upon approval by the City.

Commission Member Millspaugh asked if the current advertising structures could remain in place unless they were destroyed and was told that they could stay unless they were 60 percent destroyed.

Commission Member Johnson asked if the signs were considered to be “grandfathered” and was told that they were.

Planning Director Harkrader reminded Commission members that it is staff’s opinion that property should not be rezoned for the sole purpose of accommodating advertising structures.

Commission Secretary Cobb asked Mr. Sasser if he had plans to sell the property.

Mr. Sasser answered that Springwood Partners LLC has a 99-year lease on the property where the two advertising signs are located along with an agreement for access to the signs for maintenance purposes.

Commission Member Millspaugh commented that there would be a lot of light in the area from the multifamily zoning and with the advertising structures.

Commission Member Black also suggested it would be beneficial if the petitioner had a letter from the property owners stating their understanding and approval of the requested change.

Commission Secretary Cobb made a motion to recommend denial of the request. Greg Hargrave seconded the motion. The Commission voted unanimously to recommend denial of the request to allow the replacement of the two existing outdoor advertising structures with two double-faced electronic structures.

ITEM NO. 5: Mr. E. Lawson Brown, Jr., representing LHS Burlington LLC, Sheetz, Inc., and Home Depot/HD Development of Maryland, Inc., presented an application to rezone from B-2, General Business District, to CB, Conditional Business District, to allow for the construction of a convenience store with gas pumps and a restaurant. The property is located on the northeast corner of Kirkwood Drive and Alamance Road as shown on Alamance County Tax Map 12-12, Lot 99A, and a portion of Lot 100.

This was a City item.

Mr. Brown stated that he represented Sheetz, Inc., and introduced Mr. John Davenport of Winston-Salem, a traffic engineer, and Mr. John Maxwell and Mr. James Gerhart, both with Sheetz, Inc., and his assistant, Ms. Jennifer Bogacki.

Mr. Brown gave a brief history of Pennsylvania-based Sheetz noting that there are currently 130 locations.

He pointed out that while a convenience store would be permitted in B-2 zoning, Conditional rezoning was being requested due to the design of the proposed facility as well as curb cuts. Mr. Brown displayed a site plan, which he noted had been in the planning stages with NCDOT and City Planning staff for over a year.

Mr. Brown estimated that there would be a 30 percent increase in traffic at the intersection of Alamance Road and Kirkwood Drive, and therefore NCDOT has proposed aligning the intersection with the Alamance Road/Ramada Road intersection. Mr. Brown also announced that a new street joining Kirkwood Drive and Heather Road would be constructed east of the proposed Sheetz. With the assistance of an overhead projector, Mr. Brown highlighted proposed traffic patterns around the facility. He also told Commission members that a 29-foot tall gas signage sign would be erected in lieu of the usual 40-foot tall sign.

Commission Chairman Byrd asked if there would be nine gas pumps and told that there would be.

Planning Director Harkrader acknowledged that the convenience store would be a prolific traffic generator; however, during the past year NCDOT and the City proposed a number of off-site improvements to the developers prompting extensive discussions regarding Interstate off-ramp traffic as well as on-site traffic. He stated that Sheetz had cooperated fully with both agencies in addressing traffic concerns. He stated that staff recommended approval of the rezoning request with the Use and Development Conditions submitted by the developers in addition to two more Development Conditions:

- (1) The triangular-shaped parcel currently owned by Home Depot be incorporated into the proposed Sheetz development.
- (2) Final designs for off-site improvements be approved by the City and NCDOT.

Mr. Brown stated that the developers were in agreement with the two additional Development Conditions.

Commission Member Millspaugh asked if the new street would be deeded to the City and was told that it would be and that it would be a public street.

Mr. Harkrader made the comment that the right-of-way dedication, intersection and ramp improvements, changes in signalization, and other off-site improvements were critical to the Sheetz project being successful.

Commission Secretary Cobb stated that he had concerns with security at the proposed convenience store.

Mr. Brown commented that his concerns were understandable due to the incidents on the east side of town where he maintained that the convenience store did not have adequate cameras or the presence of law enforcement.

Mr. Gerhart informed the Commission that there would be a minimum of two employees present on every shift as well as four exterior and four interior cameras. In addition, each employee would wear an alarm pendant that can be activated to notify both local police and the corporate office of any problems. Interior cameras would focus on gas pumps to discourage drive-offs.

Mr. Cobb questioned the possibility of people congregating outside the facility.

Capt. Chris Verdeck with the Burlington Police Department stated that the owners of Great Stops had met with the department, and with the installation of additional cameras and the presence of law enforcement, there has been less loitering.

Commission Secretary Cobb commented that he would like to see cameras cover walkways and recommended that the request be added to the Development Conditions. Mr. Gerhart responded in agreement.

Commission Member Hargrave questioned proposed traffic patterns and the possibility of traffic backing up on Alamance Road.

Mr. Brown maintained that the realignment of lanes would allow traffic to run more smoothly, and Mr. Davenport added that the realignment would get rid of the traffic-weaving problem.

Mr. Hargrave asked how far away from the intersection was the proposed new street, and Mr. Brown estimated 400 feet. Commission Secretary Cobb asked if there would be a stoplight at the intersection of the new street and Heather Road and was told that there would not be signalization.

Commission Secretary Cobb made a motion to recommend approval of the request for rezoning with the Use and Development Conditions submitted by the petitioner as well as the two additional Development Conditions presented by staff and the recommendation that exterior security cameras be added to cover walkways. Gordon Millspaugh 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 and three additional Development Conditions submitted by staff and Commission members:

Use Conditions

1. Construction of a convenience store with gas pumps and a restaurant.
2. All uses permitted in B-2 zoning districts excluding the following: adult bookstores and audio video stores; adult cabarets; adult motels; and nightclubs.

Development Conditions

1. Removal of existing conditions as set forth on the Demolition Plat, sheet 3 of 14, dated February 1, 2008.
2. Road and traffic improvements as set forth on submitted Sheet RD 3.1 and RD 3.1.1.
3. Right-of-way dedication as shown on submitted plans of *Sheetz, Inc., for Alamance Road/Highway 62, Burlington, North Carolina* dated February 2, 2008, by LE & D Professionals, PC.
4. Improvements of existing storm drains, installation of curb and gutter and other improvements as shown on a Utility Plan Plat, Sheet 4 of 14, dated February 1, 2008.

5. Signage shall be in accordance with a plan identified on Page 5, *Sheetz Store Signage Plan*, depicting front and side and rear and side exterior elevations.
6. All conditions shown on the plans of *Sheetz, Inc., Alamance Road, Highway 62, Burlington, NC*, dated February 1, 2008, by LE & D Professionals, PC.
7. Landscaping as set forth on Landscaping Sheet Number 8 of 14 dated February 1, 2008, by LE & D Professionals, PC.
8. The triangular-shaped parcel currently owned by Home Depot shall be incorporated into the proposed Sheetz development.
9. That final designs for off-site improvements shall be approved by the City and NCDOT.
10. That exterior security cameras be added to cover walkways.

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. 6: Mr. Craig Fleming with Fleming Engineering, representing Mr. Gary Rutledge, presented an application to rezone from R-9, Residential District, and I-1, Planned Industrial District, to MF-A, Multifamily District, the property located on the west side of Plantation Drive approximately 620 feet northwest of Tucker Street as shown on Alamance County Tax Map 12-11-8.

This was a City item.

Mr. Fleming maintained that MF-A zoning would be more consistent with surrounding property.

Staff recommended approval of the request for rezoning on the basis that MF-A would be an appropriate extension of existing zoning densities in the area.

Commission Secretary Cobb made a motion to recommend approval of the request for rezoning. Greg Hargrave seconded the motion. The Commission voted unanimously to recommend approval of the request for rezoning.

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 recommended that the official zoning map and the Comprehensive Land Use Plan be amended to reflect the change. The Commission found that the request was consistent with the Comprehensive Land Use Plan for Burlington and its environs.

ITEM NO. 7: Mr. Stanley Smith presented an application to rezone from R-15, Residential District, to O-I, Office-Institutional District, the property located on the south side of Garden Road east of Westview Terrace as shown on Alamance County Tax Map 3-19, Lots 36, 37 and 46.

This was an extraterritorial item.

Commission Member Franks asked where the proposed driveways would be on the property.

Planning Director Harkrader stated that the properties would probably be recombined into one and that the entrance would likely be on Garden Road.

Commission Member Millspaugh asked if the petitioner would have to return to get approval of an entrance and was told that he would not and that driveways are approved by the City and NCDOT.

Mr. Harkrader stated that staff recommended approval of the request for rezoning on the basis that it will be an appropriate extension of existing zoning and that O-I zoning serves as a buffer between commercial and residential developments.

Commission Member Franks made a motion to recommend approval of the request for rezoning. Bud Apple seconded the motion. The Commission voted unanimously to recommend approval of the request for rezoning.

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 recommended that the official zoning map and the Comprehensive Land Use Plan be amended to reflect the change. The Commission found that the request was consistent with the Comprehensive Land Use Plan for Burlington and its environs.

Planning Director Harkrader gave Commission members an update on Great Stops. He noted that there had been a number of off-site improvements following meetings with the property owners and the Burlington Police Department. Capt. Chris Verdeck had informed him that officers would be on site during peak hours and that Great Stops had offered rewards leading to the arrests of individuals that had assaulted customers. Mr. Harkrader stated that he had a meeting with Chief Mike Williams who told him that Great Stops is working hard to make the store safe and cooperating fully with the department.

Commission Chairman Byrd stated that he has noticed a return of business to the establishment, and Commission Member Millspaugh noted that there was less loitering. Commission Member Franks stated that he had stopped there earlier that day and noted that the only one standing outside was a Burlington policeman.

There being no further business to discuss, the meeting was adjourned at 8:03 p.m.

George A. Byrd, Jr., Chairman

Paul E. Cobb, Jr., Secretary