

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

September 25, 2006

Council Chamber, Burlington Municipal Building

CITY MEMBERS:

George Byrd, Chairman, Present
Paul Cobb, Secretary, Absent
John Black, Present
Lynn Cowan, Present
Elder Greg Hargrave, Absent
Gordon Millsbaugh, 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 7:05 p.m.

ITEM NO. 2: Minutes of the meeting held August 28, 2006, were unanimously approved. This was a City and extraterritorial item.

ITEM NO. 3: Consent agenda: (City)

(A) Mr. Rick Davenport with Samet Corporation presented an application for final plat approval of Phase 1, Kirkpatrick Professional Center Office Condominiums. The property is located on Professional Park Drive approximately 580 feet south of Crouse Lane as shown on plans by Sacks Surveying and Mapping, P.C., dated August 8, 2006, and containing one lot.

Staff recommended approval of the final plat.

Commission Member Millsbaugh made a motion to recommend approval of the final plat. Lynn Cowan seconded the motion. The Commission voted unanimously to recommend approval of the final plat.

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

ITEM NO. 4: Mr. Lawson Brown, representing CBL and Associates, was scheduled to present an application to rezone from R-15, Residential District, to CB, Conditional Business

District, to allow for uses consistent with those in the Alamance Crossing Conditional rezoning approved by City Council April 20, 2004. The property is located on the south side of Garden Road approximately 560 feet northwest of Boone Station Drive and being as shown on Alamance County Tax Map 3-24-2B.

Mr. Brown requested that this item be tabled for 30 days. He stated that he and the adjoining property owners had reached an agreement concerning the property line but they were still having a discussion on the buffer.

Commission Member Franks made a motion to table the item until the October meeting. Bud Apple seconded the motion. The Commission voted unanimously to table the item until the October 23, 2006, meeting.

ITEM NO. 5: Mr. Charles Bateman, representing Mr. Joseph Rickman, was scheduled to present an application to rezone from I-1, Planned Industrial District, to CI, Conditional Industrial District, to allow for the placement of two monopole outdoor advertising structures. The property is located on the west side of the southernmost end of Trail Two north of Interstate 85/40 as shown on Alamance County Tax Map 12-5-4.

Planning Director Harkrader distributed to Commission members a letter from Mr. Bateman requesting that this item be tabled until the October meeting.

Commission Member Millspaugh made a motion to table the item until the October meeting. John Black seconded the motion. The Commission voted unanimously to table the item until the October 23, 2006, meeting.

ITEM NO. 6: Alvita and Manuel Velez presented an application to rezone from R-15, Residential District, to B-2, General Business District, property located on the northeast corner of Catherine Drive and Peachtree Street as shown on Alamance County Tax Map 3-21-21 and property located at the northwest corner of Catherine Drive and South Mebane Street as shown on Alamance County Tax Map 3-21-22.

This was a City item.

Mr. Velez told the Commission that he was formerly employed by Westpoint Stevens and that he desires to open a restaurant. He pointed out that the City is growing and with the restaurant he could put people to work.

Commission Chairman Byrd asked about the hours the restaurant would be open. Mr. Velez stated they would probably be open from 11:00 a.m. until approximately 8:00 p.m. – for lunch and for dinner.

Planning Director Harkrader pointed out that the applicants were asking for straight B-2 commercial rezoning which staff could not support. He explained that there is a history of commercial rezoning requests in that area and with B-2 zoning, any uses allowed in B-2 could go there. He reminded the Commission that South Mebane Street would be widened in the future and a median installed, thus affecting vehicular access. Mr. Harkrader stated that B-2 zoning could create problematic traffic issues and that if any commercial rezoning were to be considered, it should probably be Conditional commercial.

Mr. Velez pointed out that property behind this lot as well as down the street was zoned B-2 and that he and his wife would be willing to donate right-of-way for the widening of Mebane Street.

Chairman Byrd asked if Mr. and Mrs. Velez were aware that there were other options besides B-2 such as Conditional rezoning. Mr. Byrd explained that the Commission must consider all uses allowed in B-2 zoning, and even though the couple hopes to open a restaurant on the lot, property could change ownership in the future.

Commission Member Millspaugh asked the petitioners if they were aware of other options. Zoning/Subdivision Administrator Cloud stated that he had talked to Mr. and Mrs. Velez about Conditional rezoning and that he had told the couple that staff could not recommend B-2 zoning for the property.

Commission Chairman Byrd asked how many seats would the restaurant have and was told 80 to 100.

Commission Member Black asked what was located on the adjacent lot. Mr. Cloud stated a vacant house was on the lot next door.

Ms. Debra Morgan, 2411 Catherine Drive, stated that she lives across the road from the lot and that she was representing several of the neighbors, who were in attendance.

Ms. Morgan listed several reasons why the property should not be rezoned to General Business including the fact that it was a highly congested area and difficult to not only get onto Mebane Street or Huffman Mill Road but also to turn onto Catherine Drive and any of the side streets. She stated that many residents exit the neighborhood via Peachtree Street where there is a hazardous curve. Ms. Morgan maintained that motorists seem to have no regard for traffic patterns in the residential area and to rezone the property to B-2 could be detrimental to elderly neighbors because of the additional traffic. In conclusion, she stated that residents were opposed to odors and smells as well as possible rodents created by a restaurant.

Ms. Morgan presented to the Commission a petition signed by 60 neighbors opposing the rezoning. She stated that B-2 zoning would benefit the applicants but not the neighborhood.

Ms. Mitzi Wegerek, 2408 Catherine Drive, stated that she had lived in the attractive residential neighborhood for 41 years and that when the mall was built, the City stated that it would not allow commercial development to cross Huffman Mill Road. Then, she stated, the City maintained that there would be no commercial development past the two houses on South Mebane Street and that the houses would become a buffer between commercial development and the residential area. She stated that commercial development had continued to progress along South Mebane Street and asked the Commission to deny the application for rezoning to General Business District.

Ms. Bonnie Harper, 2824 Wagner Drive, pointed out that the area is a quiet residential neighborhood and they were all so happy when Kentucky Fried Chicken moved to another location so they would not have to smell the grease. Ms. Harper stated that she and neighbors do not want to lose the peace and quietness in their area.

Ms. Barbara Scoggins, 2603 Catherine Drive, stated that she had lived in Alamance County all her life and that she knew from experience while living on Maple Avenue how

rezoning property to commercial and business would reduce the value of surrounding residential property. She stated that residents in the Catherine Drive area had spent a lot of time and money upgrading and maintaining their homes and many of the residents were retired elderly. She stated that she was opposed to the B-2 rezoning application and requested that the yield sign at Peachtree and Catherine Drive be changed to a stop sign.

Ms. Minnie Hale, 2410 Catherine Drive, stated that she too had concerns about additional traffic as well as the litter and noise. She pointed out that there are so many vacant sites in the area where the couple could open a restaurant.

Commission Member Millspaugh made a motion to recommend denial of the request for rezoning.

Commission Member Black asked Mr. Velez when he purchased the property was it his intent to rezone it to B-2 and open a restaurant. Mr. Velez stated that since the property behind the lot was already zoned B-2, he and his wife thought there would be no problem in rezoning their lot to B-2. Mr. Black seconded the motion to recommend denial of the rezoning application. The Commission voted unanimously to recommend denial of the request to rezone from R-15 to B-2.

Planning Director Harkrader explained to Mr. and Mrs. Velez that they had the right to appeal the Commission's decision to City Council. They would have 30 days to submit an appeal to the City Manager's office and to request that City Council set a date of public hearing to consider the rezoning request. At that point City Council may or may not set a date for a public hearing.

Ms. Hale asked how neighbors would know if the couple had appealed to City Council. Mr. Harkrader explained that adjoining property owners would be notified by first-class mail if a date of public hearing was set and a notice would also be published in the newspaper. He told the neighbors that they were welcome to call the Planning Department or City Manager's office to inquire about the status of the rezoning appeal.

Planning Director Harkrader told Commission members that City Council had set a date of public hearing to consider amending the future land use elements of the Southwest/Western Loop Planning Area. The public hearing is scheduled for Tuesday, November 7, 2006, at 7:30 p.m. in the Council Chamber.

There being no further business to discuss, the meeting was adjourned at 7:37 p.m.

George A. Byrd, Jr., Chairman