

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

January 28, 2008

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, 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 December 17, 2007, were unanimously approved. This was a City and extraterritorial item.

ITEM NO. 3: Consent agenda: (City)

- (A) Mr. J. B. Lee, Jr., representing Burlington Alamance County Development (BACD) General Partnership, presented an application for final plat approval of the Burlington Alamance County Development Sanitary Sewer Easement Dedication and Recombination Plat. The property is located on the north side of North Church Street approximately 154 feet west of North Sellars Mill Road as shown on plans by Boswell Surveyors dated January 21, 2008, and containing one lot.
- (B) Mr. Bill Price with Price Holdings Limited presented an application for final plat approval of Phase 1, Courtyards at Holly Ridge Subdivision. The property is located on the east side of Forestdale Drive approximately 600 feet southeast of Commerce Place as shown on plans by Carolina Cornerstone Land Surveying and Design dated December 31, 2007, and containing eight lots.

Staff recommended approval of (A) and (B).

Commission Secretary Cobb made a motion to recommend approval of (A) and (B). Greg Hargrave seconded the motion. The Commission voted unanimously to recommend approval of (A) and (B).

ITEM NO. 4: Mr. Joel Martin presented an application to rezone from R-9, Residential District, to O-I, Office-Institutional District, the property located on the west side of Alamance Road (510 and 512 Alamance Road) approximately 200 feet north of Trail Six as shown on Alamance County Tax Map 186-750, Lots 27 and 28.

This was a City item.

Ms. Charlotte Straney, 805 Lynnwood Drive, stated that she was speaking as a concerned citizen regarding development on Alamance Road and traffic. She commented that she was opposed to the development of Home Depot and was concerned now with a proposed Sheetz facility at the current Libby Hill location. She questioned the continued approval of commercial development along Alamance Road even with its future widening.

Planning Director Harkrader stated that in the past much study had been conducted on the section of Alamance Road from the Interstate as one of the main corridors into the City. It has been the consensus of City Councilmembers that there would be limited commercial development from Trail Six to South Church Street; however, development has presented challenges from Trail Six to the Interstate.

Mr. Harkrader explained that staff and Councilmembers conclude that Office-Institutional zoning is less intrusive to the residential areas because O-I presents less traffic and night activity. He stated that on the basis that the change would be compatible with land use planning in the Alamance Road corridor and the transition to Office-Institutional uses within the corridor, staff recommends approval of rezoning Lots 27 and 28 from R-9 to O-I.

Commission Secretary Cobb made a motion to recommend approval of the request for rezoning. Gordon Millsbaugh 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. 5: Mr. Sam Moore, representing William H. Somers Revocable Trust, presented an application to rezone from O-I, Office-Institutional District, to B-2, General Business District, the property located on the south side of South Church Street approximately 930 feet west of Collinwood Drive as shown on Alamance County Tax Map 3-18, a portion of Lot 7A. The balance of Lot 7A is already zoned B-2.

This was a City item.

Mr. Moore explained that the rezoning was being requested in order to relocate a driveway that would align with a drive across the street. The proposed driveway will also benefit vehicular traffic including garbage disposal trucks, and there will be no construction on the newly rezoning portion; only a driveway.

Staff recommended approval of the request for rezoning on the basis that it will be an appropriate extension of existing B-2 zoning.

Commission Member Black made a motion to recommend approval of the request for rezoning. Lynn Cowan 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. 6: Mr. Tony Winn and Mr. Timothy Brown with TNT Towing and Recovery LLC, representing Mr. Lamonte McDonald, presented an application to rezone from B-2, General Business District, to CB, Conditional Business, to allow for motor vehicle towing and storage. The property is located on the northeast corner of Trail Seven and Trail One as shown on Alamance County Tax Map 182-732-1.

This was a City item.

Mr. Winn stated that the company wants to relocate from its current location on North Church Street and become a part of the City's towing and storage rotation. He informed the Commission that the existing building at the corner of Trails Seven and One was formerly an automotive facility.

Mr. Steve Reavis, representing Grove Park Baptist Church, expressed concerns about attack dogs on the premises. He stated that church members were fearful of the possibility of escape by the dogs and pointed out the close proximity of Grove Park Elementary School.

Mr. Tom Williamson stated that he owns property in the vicinity and he also had concerns about the nearby church and elementary school as well as the proposed six-foot tall fence and lighting. He pointed out that the facility would be visible from Alamance Road, one of the main entrances into the City. Mr. Williamson summarized that while the applicants present themselves as "nice guys," they would not be the owners of the property and questioned the future of the proposed facility.

Mr. Larry Lee stated that he is a realtor, builder and developer and owns property at the corner of Trails One and Seven. He pointed out that there is a variety of zoning along Alamance Road, which is one of the main entrances into the City, and stressed the importance of decent and attractive appearances along the corridor. He stated he views the six to eight-foot fence as being a visual distraction and was opposed to the rezoning request.

Ms. Charlotte Straney, 805 Lynnwood Drive, told Commission members that she is a client of Mr. Lee's and that she would be uncomfortable visiting Mr. Lee's premises after hours with the towing and storage facility located nearby. In addition, she maintained that the facility would not be aesthetically pleasing.

Commission Member Millspaugh asked the applicants if they plan to have guard dogs. Mr. Brown responded that they did not but would have security cameras on the premises. Mr. Brown explained that the proposed fence would be meshed, offering 95 percent obscuring and would be topped with barbed wire not razor wire.

Commission Member Hargrave inquired if the applicants would meet the 5,000-foot square minimum once the fence had been installed and was told that the minimum would be met. He also pointed out that he noticed a sign on the building warning of dogs on the site. Mr. Brown stated that the signs were posted on the building when it was a muffler shop.

Mr. Lee stated that he did not see guard dogs on the site when it was previously a limousine-rental facility.

Mr. Hargrave also inquired about the "No Towing Trucks Allowed" sign on Mr. Williamson's property.

Mr. Williamson stated that his company had posted the sign previously so that truck traffic would be routed around back.

Commission Member Cowan asked the hours of the facility and was told that while the business would be available 24 hours a day, seven days a week, someone would not be at the site all the time but would be close by.

Mr. Brown informed the Commission that he and Mr. Winn plan to upgrade the site including new paint on the building.

Commission Member Millspaugh questioned in six months could the applicants come back and request guard dogs.

Planning Director Harkrader stated that one of the contingencies for recommending approval of the rezoning could be that no guard dogs be allowed on the site. He asked if the applicants would be in agreement with that contingency, and they stated that they would.

Mr. Harkrader stated that staff recommended approval of the request for rezoning with the Use and Development Conditions submitted by the petitioner. To alleviate the church's concern regarding guard dogs, the applicants have agreed to not maintain the animals on site. He informed the Commission that the applicants do have guard dogs at their current facility. He also pointed out that there are a number of uses that would be allowed by right under the current zoning of B-2 and that the applicants are somewhat restricting themselves more with Conditional Business rezoning. In addition, the applicants presented with a good track record, and the area would benefit from the proposed improvements to the property.

Mr. Lee questioned if there would be light mechanical work taking place at the facility – such as motors being pulled and left outside.

The applicants answered that minor mechanical work would be offered and that it would take place only inside the building.

Commission Chairman Byrd asked if mechanical work would be taking place on the weekends and was told that if it did take place during the weekends, it would be inside the facility.

Commission Secretary Cobb asked if someone doesn't pick up his vehicle that day, would the vehicle be parked outside the fence. He alluded to the repair facility located at the corner of East Davis Street and Tucker with all the stacked tires and questioned this facility allowing junked cars around the premises. Mr. Cobb was told that all vehicles would be parked inside the fence and that no more than 50 vehicles would be allowed within the fenced area at any time.

Commission Member Black commented that he noticed a large buffer area around the facility and asked if the buffer would be disturbed and was told that it would not be removed.

Mr. Lee asked if the applicants no longer managed the facility, would it revert to its previous zoning of B-2 and was told that it would not revert; it would remain rezoned Conditional Business with the same submitted use and development conditions.

Commission Member Millspaugh commented that he had faith that the applicants would adhere to the submitted use and development and stated that he recommended approval of the rezoning request with use and development conditions submitted by the applicants as well as three additional development conditions: (1) that there be no guard dogs on the site; (2) that no towed vehicles be permitted outside the privacy fence; and (3) that all mechanical work take place within the building.

Commission Secretary Cobb seconded the motion with the additional development conditions offered by Mr. Millspaugh. The Commission voted unanimously to recommend approval of the request for rezoning with the submitted and additional use and development conditions 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 presented and agreed upon by the petitioners:

Use Condition

A maximum of no more than 50 vehicles at any one time shall be stored on the property. All towed vehicles shall be stored in an approved vehicle towing and storage area.

Development Conditions

1. The minimum size of the fenced storage area shall be 5,000 square feet.
2. A fence minimum of six feet in height shall be provided around all accessible sides of the storage area. All entrances to and from the storage area shall be secured and locked whenever an employee is not present on the property.
3. All motor vehicles within the storage area shall be concealed from view from a public street and from all adjacent residentially-zoned property or property in residential use through screening six feet in height with 95 percent obscurity from outside view.
4. All lighting shall be shielded so as not to cast direct light upon any adjacent residential property.
5. No storage area shall be permitted within 100 feet of any residentially-zoned property or within any required front yard.
6. There shall be no guard dogs permitted within the fenced facility.
7. No towed vehicles shall be parked outside the fenced facility.
8. All mechanical labor shall be conducted within the building.

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.

Chairman Byrd announced that Commission Secretary Cobb had requested to address the recent assaults at Great Stops located on North Church Street at Fisher Street. Note: The request to rezone the property for Great Stops was recommended for approval by the Burlington Planning and Zoning Commission at its meeting on Aug. 22, 2005, and was approved by City Council Oct. 4, 2005.

Mr. Cobb referred to recent newspaper articles concerning two recent severe assaults at Great Stops. It was noted that the Burlington Police Department has responded to over 360 calls averaging 31 a month since the commercial facility opened.

Mr. Cobb read from the Aug. 22, 2005, Planning and Zoning Commission minutes: Commission Member *“Cobb asked about security, and Mr. Sutton (Frank Sutton with Great Stops, LLC) stated that there would be four or five on staff at all times, that security cameras would be present as well as off-duty policemen on the weekends if there was a need.”*

Mr. Cobb asserted that there evidently is a need for more security at Great Stops. He inquired about what can be done about the situation. He questioned if the Planning Commission or City Council could call the developers in to address the situation.

Planning Director Harkrader replied that the Planning Department could follow up and determine if the developers are complying with their commitments. He stated that he was not sure if the City could go back and make the developers provide more security.

Planning Secretary Cobb addressed Police Staff Sgt. Doug Murphy, who was in attendance at the Planning and Zoning Commission meeting as security. Sgt. Murphy stated that there are security cameras located within the building but none on the outside or front parking lot. He maintained that the Police Department has beefed up patrols around the facility, and officers are parking and completing paperwork in its parking lot. He noted that there are usually two clerks on duty at Great Stops and at least one at Subway.

Commission Member Hargrave inquired as to who makes sure developers comply with submitted use and development conditions. Mr. Harkrader answered that the City’s Zoning Enforcement Officer or Code Enforcement Officer.

Commission Member Black commented that the criminal activities at Great Stops cannot be good for business, and therefore the developers should be willing to do whatever it takes to make a safer environment.

Commission Secretary Cobb inquired as to what could the Commission do as follow-up.

Mr. Black suggested that if there has been a breach of submitted development limitations by the developers, the City Attorney should advise the Commission and/or City Council as to what action could be taken.

Commission Member Millspaugh shared that he frequents Great Stops for coffee several times a week at around 5:30 or 5:45 a.m. on his way to work and has noticed several people loitering in the parking lot during those early hours. He stated that he has noticed the absence of “No Loitering” signs posted on the site and suggested that the loitering issue be addressed.

Planning Director Harkrader advised that he would meet internally with City staff to discuss the situation.

Commission Chairman Byrd requested that Mr. Harkrader give Commission members an update at its next meeting

There being no further business to discuss, the meeting was adjourned at 7:59 p.m.

George A. Byrd, Jr., Chairman

Paul E. Cobb, Jr., Secretary