

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

**May 27, 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, Absent  
Jim Johnson, Present  
Ellis Piper, Absent

**STAFF PRESENT:**

Robert R. Harkrader, Planning Director  
Daniel Shoffner, Planner  
Dianne Fogleman, Office Assistant

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

**ITEM NO. 2:** Since there was not a quorum of extraterritorial members present to approve the April 28, 2008, meeting minutes, by consensus, the Commission continued with City items.

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

- (A) Mr. Glenn Brown was scheduled to present an application for approval of the Fidelity Bank Right-of-Way Dedication Plat. The property is located at the northwest corner of South Church Street and Tribek Drive as shown on plans by Glenn L. Brown Surveying dated March 28, 2008.
- (B) Mr. Darrell Taylor, representing Zimmer Development, was scheduled to present an application for approval of the Shoppes at Waterford Right-of-Way Dedication Plat. The property is located at the southwest corner of South Church Street and University Drive as shown on plans by the John R. McAdams Company Inc. dated June 1, 2007.
- (C) Mr. Mark Johnson presented an application for approval of the LHS Burlington LLC Right-of-Way Dedication Plat. The property is located at the northeast corner of Alamance Road and Kirkwood Drive as shown on plans by LE & D Professionals PC dated January 24, 2008.

Representatives for Items (A) and (B) were not present. Commission Secretary Cobb made a motion to wait until the end of the meeting to see if the applicants appeared. John Black seconded the motion. The Commission voted unanimously to wait until the end of the meeting to consider Items (A) and (B).

Staff recommended approval of (C) contingent upon the developers posting proper surety with the City of Burlington for completion of construction prior to recording the plat. The amount of surety shall be determined by the Engineering Department.

Commission Member Millspaugh made a motion to recommend approval of (C) with the contingency outlined by staff. Paul Cobb seconded the motion. The Commission unanimously recommended approval of (C) contingent upon the developers posting proper surety with the City of Burlington for completion of construction prior to recording the plat. The amount of surety shall be determined by the Engineering Department.

(Extraterritorial)

- (D) Mr. Doug Yarborough was scheduled to present an application for final plat approval of the Connie H. Seamster and Robert W. and Betty B. Dyer Subdivision. The property is located on West Old Glencoe Road northeast of Burch Bridge Road between Ridge Road and Willow Lake Road as shown on plans by Landmark Surveying Inc. dated February 20, 2008 and containing two lots.
- (E) Mr. Glenn Brown was scheduled to present an application for approval of the Keck Drive Area Sanitary Sewer Right-of-Way Easement Dedication Plat. The easement crosses properties from Keck Drive to near Anthony Court South as shown on plans by Glenn L. Brown Surveying dated April 24, 2008.

Item (E) was withdrawn prior to the meeting.

No one was in attendance to represent Item (D) and the item was continued until the end of the meeting.

**ITEM NO. 4:** Mr. Peter Barcus, representing Hospice and Palliative Care Center of Alamance-Caswell, presented an application to rezone from O-I, Office-Institutional District, to COI, Conditional Office-Institutional District, to allow for all uses associated with the operation of a hospice and palliative care facility including but not limited to a hospital, medical offices, auditorium, etc., in a multi-use building facility with a campus-like setting. The property is located at 918 Chapel Hill Road east of Collins Drive as shown on Alamance County Tax Map 110-459, Lots 112 and 129.

This was a City item.

Mr. Barcus stated that another office building is planned that will offer a counseling room and grief areas for family members and for children. An expansion to the Hospice Home will generate space for four additional beds. He noted that the 10-acre tract will be laid out with a campus-like atmosphere.

Commission Secretary Cobb asked how much property is available to the rear of the current facility, and Mr. Barcus answered 1 ¼ acres and stated that Hospice also owns land on Kilby Street.

Chairman Byrd asked the occupancy rate and was told it has an 11.6 average.

Commission Member Johnson asked if the facility was non-profit. Mr. Barcus stated that Hospice had been a non-profit facility for 26 years, was staffed by volunteers and operates on Medicare and Medicaid funds and mainly through fund-raisers.

Commission Member Hargrave inquired about the hospital-status included in the rezoning request. Mr. Barcus explained that “hospital” was included in the request but that was rather misleading. Bishop Hargrave asked if the facility had to apply for a Certificate of Need from the state for the four-bed expansion. Mr. Barcus stated that the Certificate of Need was required for the expansion but requirements for a hospice home were not the same as those required for a hospital or skilled nursing facility. He stated that the Hospice Home offers short-term, 24/7 attention that a caregiver can’t provide at the end stages of one’s life. Mr. Barcus maintained that the home offers care, not cure.

Staff recommended approval of the request for rezoning with the Use Conditions submitted by the petitioner.

Commission Member Black made a motion to recommend approval of the request for rezoning with the Use Conditions submitted by the petitioner. Secretary Cobb 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 Conditions have been submitted by the petitioner:

### **Use Conditions**

All uses associated with the development and operation of a hospice and palliative care facility. Uses shall include but are not limited to a hospital, medical offices, an auditorium, etc., in a multi-use building facility in a campus-like setting.

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:** Mr. Frank Longest, Holt, Longest, Wall, Blaetz & Moseley P.L.L.C., presented proposed amendments to the City of Burlington Zoning Ordinance text pertaining to Conditional Planned Employment Center (CPEC) zoning districts.

This was a City and extraterritorial item.

Due to the lack of a quorum of extraterritorial Commission member present, Chairman Byrd asked for direction from staff and Commission members.

Commission Member Franks asked what constitutes a quorum. He pointed out that since there are currently five extraterritorial Commission members, it would seem that three represented a quorum. Commission Member Johnson stated that it was his understanding that a quorum was based on the current number of members serving. Mr. Franks stated that he thought the Commission should vote on the extraterritorial items.

Planning Director Harkrader stated that the Commission could proceed and vote on extraterritorial items and that he would discuss the situation with the City Attorney.

Mr. Longest stated that on behalf of his client, Five Star Investment Group, he was requesting the City to clarify text in the Zoning Ordinance pertaining to CPEC zoning districts. Five Star Investment Group’s CPEC rezoning request for a full service hotel and office complex at the intersection of Bonnar Bridge Parkway and Danbrook Road was approved by City Council April 17, 2007. Mr. Longest explained that at that time the lot requirement for a CPEC was five acres and he was proposing that the text permit the subdivision of its current

parcel. In addition, the amendments would allow that CPEC zoning districts could be composed of two or more parcels that when combined would equal five or more acres. Mr. Longest stated that his client could then develop the hotel site on a 3.45 acre portion of the current approved site plan and separately develop, finance and transfer ownership of the current approved office building project site plan on the remaining 1.88 acres with cross easements for access and parking between the two respective developments. This would enable the current owner of the hotel site to sell the outparcels with different lenders for each project.

Mr. Longest proposed that a CPEC could include outparcels that are no less than 1.25 acres (54,500 square feet) each and that those outparcels could be sold or leased separately and could be intersected by a public street. These amendments to the Zoning Ordinance text for CPEC zoning districts would be comparable to requirements for the City's Unified Business Developments.

Referring to the proposed amendment change to Section F.6.a. - "Lot Area" -- Commission Member Franks questioned what if a buyer of an outparcel was not willing to abide by the requirements.

Planning Director Harkrader stated that the buyer would have to conform to the requirements, apply to have the requirements amended or not purchase or lease the outparcel. Mr. Harkrader compared the proposed amendments to CPEC zoning districts to requirements in a Unified Business District where lots could be subdivided and have intersecting streets as well as sharing driveways, parking, signage, etc.

Commission Member Millspaugh questioned if 1 ¼ acres would be sufficient for an outparcel. Mr. Harkrader pointed out that a development classified as a CPEC has a five-acre minimum requirement with outparcels no less than 1.25 acres and if a buyer desired, he could petition to have the requirement amended.

Commission Member Hargrave inquired about housing or commercial uses on a 1.25 acre parcel.

Mr. Harkrader stated that CPEC zoning does not allow residential development and is not designed for a shopping center or strip mall. It does allow 20 percent devoted to commercial uses as long as density ratios were met and used a cafeteria within the Guilford Center as an example.

He stated that staff recommended approval of the amendments.

Commission Secretary Cobb made a motion to recommend approval of the amendments. Bud Apple seconded the motion. The Commission voted unanimously to recommend approval of the following amendments:

**AMEND SECTION 32.7A, SECTION F, AS FOLLOWS:**

**FROM:**

4. Commercial Retail Provision - The commercial uses allowed in this district including restaurants are only permitted as an accessory to office, light manufacturing, research and development and hotel building uses. Commercial retail uses can occupy no more than 20 percent of the total floor area of the development or building.

5. Commercial Retail Bonus - Additional floor area beyond 20 percent of total may be devoted to commercial uses if the following conditions are met: (Density bonuses are expressed as a percentage of total floor area of the development or building.)
  - a. All required parking is contained within the building or parking structure associated with the development: 2.5% bonus
  - b. Child-care facilities are provided within the development: 2.5% bonus
  - c. Any six of the following enhanced pedestrian spaces and amenities are provided: 2.5% bonus
    - (1) Plazas
    - (2) Arcades
    - (3) Galleries
    - (4) Courtyards
    - (5) Outdoor cafes
    - (6) Widened sidewalks (more than six feet wide outside of public right-of-way)
    - (7) Benches
    - (8) Shelters
    - (9) Street furniture
    - (10) Public art
    - (11) Kiosks
  
6. Lot Requirements
  - a. Lot Area – Five acres.
  - b. Lot Setbacks:
    - (1) Front Setback – A minimum 40-foot setback is required.
    - (2) Side and Rear Yard - Minimum setback of 25 feet is required.
  - c. Lot Coverage - The maximum site coverage by buildings and structures shall be 50 percent.
  - d. Fences - Fencing is permitted inside a boundary line where it is necessary to protect property of the industry or the business concerned. No sight-obscuring fence shall be constructed adjacent to a major arterial or other public right-of-way in excess of four feet in height within the perimeter setbacks. Any chain link or other wire fencing must be screened with green growing plant materials or contain slats.
  - e. Height Requirements – There shall be no height requirement within CPEC zoning districts. However, the height of structures within the district may be subject to Airport Overlay Zoning and Federal Aviation Administration requirements.
  
7. Development Standards - Where this ordinance is silent on any development standard, the development standards for an OI, Office-Institutional, Zoning District shall apply.
  
8. Pedestrian Access Plan - An on-site pedestrian circulation system must be provided that connects the street to the public entrances of the structure(s) on site:

- a. The circulation system shall be at least five feet wide.
- b. Where the system crosses driveways, parking and/or loading areas, the system must be clearly identifiable through the use of elevation changes, speed bumps, varied paving materials or other similar methods approved by the reviewing authority and in compliance with the Americans with Disabilities Act (ADA).
- c. The on-site pedestrian circulation system and parking areas must be lighted to a level that provide adequate lighting so that parking areas can be used safely when natural light is not present.
- d. The pedestrian system must connect to site and adjacent streets. The pedestrian system must also connect public open space or parks, commercial and Office-Institutional developments to adjacent like uses and developments for all buildings set back 45 feet or farther from the street lot line when existing development does not preclude such connection. Development patterns must not preclude eventual site-to-site connections, even if an adjacent site is not planned for development at the time of the applicant's development.

**TO: (Changes shown in bold type)**

- 4. Commercial Retail Provision - The commercial uses allowed in this district including restaurants are only permitted as an accessory to office, light manufacturing, research and development and hotel building uses. Commercial retail uses can occupy no more than 20 percent of the total floor area of ~~the~~ **each site** development or **of a** building **within the CPEC District**.
- 5. Commercial Retail Bonus - Additional floor area beyond 20 percent of total may be devoted to commercial uses if the following conditions are met: (Density bonuses are expressed as a percentage of total floor area of the development or building.)
  - a. All required parking is contained within the building or parking structure **within the site plan** associated with ~~the~~ development **within the CPEC District**: 2.5% bonus
  - b. Child-care facilities are provided within ~~the~~ **each** development: 2.5% bonus
  - c. Any six of the following enhanced pedestrian spaces and amenities are provided **within each development**: 2.5% bonus
    - (1) Plazas
    - (2) Arcades
    - (3) Galleries
    - (4) Courtyards
    - (5) Outdoor cafes
    - (6) Widened sidewalks (more than six feet wide outside of public right-of-way)
    - (7) Benches
    - (8) Shelters
    - (9) Street furniture
    - (10) Public art
    - (11) Kiosks

6. Lot Requirements

- a. Lot Area – ~~Five acres.~~ **A Conditional Planned Employment Center shall be constructed on one or more multiple properties that are contiguous and when combined equal five or more acres. The development shall be planned, organized and managed to function as a unified whole and feature common driveways, parking, signage and landscaping. A Conditional Planned Employment Center may include outparcels that are no less than 1.25 acres (54,500 square feet) each. Outparcels may be for sale or lease and may be intersected by a public street.**
- b. Lot Setbacks:
  - (1) Front Setback – A minimum 40-foot setback is required.
  - (2) Side and Rear Yard - Minimum setback of 25 feet is required.
- c. Lot Coverage - The maximum site coverage by buildings and structures shall be 50 percent.
- d. Fences - Fencing is permitted inside a boundary line where it is necessary to protect property of the industry or the business concerned. No sight-obscuring fence shall be constructed adjacent to a major arterial or other public right-of-way in excess of four feet in height within the perimeter setbacks. Any chain link or other wire fencing must be screened with green growing plant materials or contain slats.
- e. Height Requirements – There shall be no height requirement within CPEC zoning districts. However, the height of structures within the district may be subject to Airport Overlay Zoning and Federal Aviation Administration requirements.

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- a. The circulation system shall be at least five feet wide.
- b. Where the system crosses driveways, parking and/or loading areas, the system must be clearly identifiable through the use of elevation changes, speed bumps, varied paving materials or other similar methods approved by the reviewing authority and in compliance with the Americans with Disabilities Act (ADA).
- c. The on-site pedestrian circulation system and parking areas must be lighted to a level that provide adequate lighting so that parking areas can be used safely when natural light is not present.
- d. The pedestrian system must connect to site and adjacent streets. The pedestrian system must also connect public open space or parks, commercial and Office-Institutional developments to adjacent like uses and developments for all buildings

set back 45 feet or farther from the street lot line when existing development does not preclude such connection. Development patterns must not preclude eventual site-to-site connections, even if an adjacent site is not planned for development at the time of the applicant's development.

At the end of the meeting, no one was present to represent Items 3(A) and 3(B). Chairman Byrd asked if Commission members wanted to continue the application requests until the next meeting or consider them at this meeting. Secretary Cobb pointed out that he had made the effort to get to the meeting and he thought the applicants should have also.

After a brief discussion among Commission members, Planning Director Harkrader stated that it was entirely up to the Commission whether or not to consider the plats. He stated that, however, both plats were in order and both represented rights-of-way needed by the City and the State. He noted that if the applications were for rezoning requests, he would recommend that the Commission continue the items until the next meeting.

Commission Member Millspaugh made a motion to recommend approval of Items (A) and (B). Greg Hargrave seconded the motion. The Commission voted four to one to recommend approval of the two plats. Voting to recommend approval were Millspaugh, Hargrave, Byrd and Black. Voting against the motion to recommend approval was Cobb.

Chairman Byrd asked for staff recommendation for Item 3 (D).

Mr. Harkrader stated that the plat was in order and that staff recommended approval.

Commission Member Franks made a motion to recommend approval of (D). Bud Apple seconded the motion. The Commission voted five to three to recommend approval of Item (D). Voting to recommend approval were Franks, Apple, Byrd, Hargrave and Johnson. Voting against the motion to recommend approval of (D) were Cobb, Millspaugh and Black.

Chairman Byrd asked if Commission members had received minutes for the meeting of April 28, 2008, and were there any changes. The Commission voted unanimously to approve the minutes.

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**