

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

June 23, 2008

Council Chamber, Burlington Municipal Building

CITY MEMBERS:

George Byrd, Chairman, Present
Paul Cobb, Secretary, Present
John Black, Present
Lynn Cowan, Absent
Bishop Greg Hargrave, Present
Gordon Millspaugh, Present

EXTRATERRITORIAL MEMBERS:

Bud Apple, Present
Richard Franks, Present
Earl Jagers, Present
Jim Johnson, Absent
Ellis Piper, Present

STAFF PRESENT:

Robert R. Harkrader, Planning Director
David Beal, Assistant Director of Planning Services
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 meetings held April 28, 2008, and May 27, 2008, were unanimously approved. This was a City and Extraterritorial item.

ITEM NO. 3: Consent agenda: (City)

- (A) Mr. Heath Williams, representing Mr. Wade Williamson, presented an application for final plat approval of the Waterford West Subdivision, Phase 1B. The property is located at the southeast corner of South Church Street and Cappelquin Way and north of Crestwell Drive as shown on plans by Alley, Williams, Carmen and King Inc. dated May 8, 2008, and containing two lots.
- (B) Mr. Craig Fleming, representing KDS Investments LLC, presented an application for final plat approval of the Commerce Park Subdivision. The property is located in the loop of Hanford Road west of Anthony Road and Maple Avenue as shown on plans by Fleming Engineering Inc. dated June 3, 2008 and containing two lots.

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

Commission Secretary Cobb made a motion to recommend approval of (A) and (B) with the contingency outlined by staff. Greg Hargrave seconded the motion. The Commission

unanimously recommended approval of (A) and recommended approval of (B) 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 Engineering Department.

(Extraterritorial)

- (C) Mr. Doug Yarborough and Mr. Dustin Seamster presented 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. This item was recommended for approval at the May meeting; however, the vote was invalid due to the lack of a quorum of extraterritorial Commission members.

Staff recommended approval of (C).

Commission Member Franks made a motion to recommend approval of (C). Earl Jagers seconded the motion. The Commission unanimously recommended approval of (C).

ITEM NO. 4: 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 item was considered and voted on (unanimously recommended) at the May 27, 2008, meeting; however, according to the Burlington Code of Ordinances, the vote was invalid due to the lack of a quorum of extraterritorial Commission members.

This was a City and extraterritorial item.

Mr. Longest stated that he was available to answer any questions.

Staff recommended approval of the amendments.

Commission Secretary Cobb made a motion to recommend approval of the amendments. Richard Franks 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 **in** the building or parking structure **within the site plan** associated with ~~the~~ development **in 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.
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(s) 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.

ITEM NO. 5: Mr. Lawson Brown, representing World Tang Soo Do Association, presented an application to rezone from B-2, General Business District, to CB, Conditional Business District, to allow a non-academic martial arts school, retail business, offices and attached or detached dormitory and/or living quarters for students and instructors. The property is located in the Burlington Commerce Park at the northwest corner of Anthony Road and Hanford Road and being as shown on Alamance County Tax Map 12-6, a portion of Lot 1.

This was a City item.

Mr. Brown introduced Mr. Kevin Sasser, who would be purchasing the site and be the developer and contractor; Master Jim Mars, Region 7 Director and Chairman of the Building Committee for the World Headquarters, World Tang Soo Do Association; and Mr. Craig Fleming with Fleming Engineering.

Mr. Brown stated that the World Tang Soo Do Association was located in 33 countries and had a membership of 130,000. The proposed local facility would become the international as well as district headquarters for the association. The facility would be situated on four acres and be developed in three phases. The first phase would include the construction of a two-story 17,800 square foot building for offices and studios. Phase 2 would be the development of commercial space including perhaps a health food store. The construction of a gymnasium is planned for Phase 3. Mr. Brown stated that the first phase would include parking and landscaping.

In conclusion, Mr. Brown maintained that the facility would be a positive development for Burlington and Alamance County and CB zoning would be consistent with other zoning in the area.

Commission Chairman Byrd asked about the hours. Master Mars stated that the offices would be open during normal business hours and the training studios probably from 10:00 a.m. until 9:00 p.m.

Commission Member Byrd inquired about signage. Mr. Brown stated that signage would be consistent with requirements in B-2 Districts.

Commission Member Hargrave asked in which phase would the dormitories be built. Master Mars stated that the living quarters would probably be developed in Phase 3 or 12 to 18 months from the start of development of Phase 1. However, during the first phase, living quarters to accommodate five to 10 students and/or instructors would be included.

Mr. Brown added that the association has several teaching seminars annually with approximately 1500 participants.

Commission Secretary Cobb inquired about why Burlington was chosen for the international headquarters.

Mr. Brown stated that Master Mars lives in Chapel Hill and was a friend of Mr. Sasser. He stated that the association had a hard time finding a suitable site in Pennsylvania, and in addition, the weather here was more favorable. Mr. Brown informed the Commission that Mr. Sasser showed Master Mars approximately 25 local sites and chose this site due to its proximity to airports.

Staff recommended approval of the request for rezoning with the Use and Development Conditions submitted by the petitioner. Planning Director Harkrader stated that the development would be a permitted use in the current B-2 zoning if it weren't for the request for living quarters.

Commission Secretary Cobb made a motion to recommend approval of the request for rezoning with the Use and Development Conditions submitted by the petitioner. John Black 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. Non-academic martial arts school; retail business; offices; and dormitory and/or dwellings attached to detached for students and instructor.
2. Automobile parking lot serving uses permitted in district in which lot is located.
3. All uses permitted in B-2 zoning district with the exception of adult bookstores, adult motels, club, amusements, drive-in restaurants or theaters.

Development Conditions

1. Phasing in accordance with the World Tang Soo Do Headquarters Rezoning Sketch Plan dated May 16, 2008, by Fleming Engineering, Inc. (Project #2539101), herein "Plat" for which there is no set timetable.
2. Setbacks in accordance with the submitted plan.
3. Landscaping, planting yard and parking lot rates in accordance with the submitted plan.
4. Utilities in accordance with the submitted plan.
5. Off-street parking in accordance with the lesser of the submitted plan or the City of Burlington Zoning Ordinance.
6. Curb cuts and driveway permits in accordance with the submitted plan.
7. Subdivision of the property in accordance with the City of Burlington Zoning Ordinance and Subdivision Regulations.
8. Off-site wet detention pond as required by the City of Burlington to be located on other property of the owners.
9. Buildings in the approximate location and at square footages not to exceed the square footages shown on the submitted plan.
10. Paving schedules in accordance with the submitted plan.
11. Dwellings and parking at the approximate locations shown on the submitted plan.
12. Lot dimensions in approximate locations shown on the submitted plan.

13. Monument and/or pylon sign in the approximate location in accordance with the submitted plan and B-2 zoning regulations.

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.

Planning Director Harkrader stated that Mr. Scott Wallace, president of Keystone Group Inc., had requested to address the Commission.

By consensus, Commission members stated that they would hear Mr. Wallace's request.

Mr. Wallace stated that he had made a mistake and missed the deadline for the Commission's June agenda. This mistake has created a hardship due to the fact that he had a closing scheduled for next week and the plat has not been recorded. He explained that the plat was for Woods at Grove Park Townhomes, Phase Five, for two townhomes. The buyers of one of the townhomes were from Virginia and have already made plans to move next week. Mr. Wallace stated that he was begging for the Commission to consider his request and to send it to City Council with its blessing.

Planning Director Harkrader stated that Mr. Wallace did not meet the deadline and it was at the Commission's discretion to consider Mr. Wallace's request. He explained that in other jurisdictions where Mr. Wallace had developments, staff could approve final plats. He pointed out that this was an honest mistake on Mr. Wallace's part and that he was a good builder and it was a good development and an asset to the City.

Commission Chairman Byrd stated that Commission members were sympathetic towards Mr. Wallace's plight; however, there were rules and regulations for agenda deadlines and he felt that the Commission could be setting a precedent if members allowed Mr. Wallace to present the request.

Commission Secretary Cobb asked if the request would have been on the Commission's consent agenda and was told that it would.

Commission Member Black asked what was the hardship. Mr. Wallace stated that one of the families plans to close and move into one of the townhomes next week. He explained that there was one building with two units. Mr. Black asked that if the Commission did not consider Mr. Wallace's request, would it push the homeowners back one month, and was told that was correct.

Commission Member Hargrave asked if the Commission did consider Mr. Wallace's request, would the fact that Mr. Wallace missed the deadline and made the request to the Commission be passed on to City Council and was told that it would not.

Commission Secretary Cobb reminded Commission members of a situation several years ago when members thought they were doing an applicant a favor by expediting the approval of a final plat. He stated that created a fairly significant situation, and he was reluctant to sway from the regulations again.

Commission Member Hargrave asked if Mr. Wallace could still present his request to the City Council.

Planning Director Harkrader stated that Mr. Wallace would have to request to be placed on the City Council agenda, and that when he appeared before Council, it would be at Councilmembers' discretion whether or not to consider the request.

Commission Member Millspaugh stated that he hated to penalize the homeowners but he felt it would put the City in potential jeopardy. He made a motion to deny Mr. Wallace's request to present the final plat application.

Commission Secretary Cobb seconded the motion.

Commission Member Franks commented that it's not like this was the first time someone had missed the deadline, but in this case, Mr. Wallace had missed it by almost two weeks. He stated that everyone was sympathetic towards Mr. Wallace's situation. He asked if this request would have been a City item on the agenda and told that it would have been.

The Commission voted unanimously to deny Mr. Wallace's request to consider the final plat.

There being no further business to discuss, the meeting was adjourned at 7:40 p.m.

George A. Byrd, Jr., Chairman

Paul E. Cobb, Jr., Secretary