

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

October 27, 2008

Council Chamber, Burlington Municipal Building

CITY MEMBERS:

George Byrd, Chairman, Present
Paul Cobb, Secretary, Absent
John Black, Present
Lynn Cowan, Present
Early Kenan, Jr., Present
Gordon Millspaugh, Present

EXTRATERRITORIAL MEMBERS:

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

STAFF PRESENT:

Robert R. Harkrader, Planning Director
David Beal, Assistant Director of Planning Services
Daniel Shoffner, Planner
Joey Lea, Zoning/Subdivision Administrator
Dianne Fogleman, Office Assistant

ITEM NO. 1: Commission Chairman Byrd called the meeting to order at 7:01 p.m.

ITEM NO. 2: Minutes of the meeting held September 22, 2008, were unanimously approved. This was a City and extraterritorial item.

Chairman Byrd welcomed Mr. Kenan as a new City member.

ITEM NO. 3: Consent agenda: (City)

(A) Mr. Leo Boswell presented an application for final plat approval of the Benjamin H. and Lucinda Bridgers Subdivision. The property is located on the north side of West Webb Avenue at 1247 West Webb Avenue as shown on plans by Boswell Surveyors, Inc., dated January 21, 2008, and containing two lots.

- (B) Mr. Heath Williams, representing CIH/TDG, LLC, presented an application for final plat approval of Phase 1, Section 8, Glenmoor Townhomes, Mackintosh on the Lake. The property is located on the southeast corner of Tweed Lane and Bonnar Bridge Parkway as shown on plans by Alley, Williams, Carmen and King, Inc., dated October 9, 2008, and containing three townhome lots.
- (C) Mr. Aden Stoltzfus, representing Price Holdings Limited Partnership, presented an application for preliminary plan approval for Holly Ridge Park Place. The property is located west of International Drive and east of Forestdale Drive as shown on plans by Fleming Engineering, Inc., dated September 15, 2008, and containing twelve lots.

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

Commission Member Millspaugh made a motion to recommended approval of (A) and (B) and to approve (C). Lynn Cowan seconded the motion. The Commission voted unanimously to recommend approval of (A) and (B) and to approve (C).

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

ITEM NO. 4: Mr. Frank Gailor, representing Glencoe Mill, LLC, presented an application to rezone from O&I, Office-Institutional District, B-2, General Business District, and R-9, Residential District, to CI, Conditional Industrial District, to allow the following: (1) offices; (2) artist studios, machine shops, blacksmithing, manufacturing, metal shops, etc.; (3) residential uses including dwellings within mixed use structures, dwellings attached, multifamily, condominiums and townhouses; (4) hydro plant; (5) community, exhibition and public buildings; (6) retail businesses; (7) child care facilities; and (8) all uses permitted in I-2, Light Industrial zoning. The property is located on the south side of Mill Race Road, River Road and Glencoe Street to the west of NC Highway 62 North as shown on Alamance County Tax Map 5-23, Lots 116, 117, 121, 122 and 124.

This was a City and extraterritorial item.

Ms. Carrie Ehrfurth, Preservation Specialist with Hedgehog Holdings, LLC, outlined the three stages for the rehabilitation and redevelopment of the 6.28-acre Glencoe Mill Village. Phase One would include rehab of the machine shop, hydroelectric plant, picker house, cotton warehouse and cotton sheds. She told Commission members that anticipated uses for the machine shop would be offices and accessory buildings. Offices are also the anticipated uses for the cotton warehouse. She stated that the picker house was in need of extensive repairs including the replacement of exterior walls. Planned uses include a common area and child-care facilities. Offices, community buildings, public parks with recreational facilities and public buildings are anticipated uses for the cotton sheds.

Ms. Ehrfurth stated that Phase Two for the project include rehab of the napper house and the abandoned dye house. Likely uses for the dye house include the following: offices, artist studios, child-care facilities, community buildings, exhibition buildings, recreational facilities for a public park, public buildings, restaurant, retail and other uses permitted in I-2 zoning. Similar uses are also proposed for the napper house.

Phase Three of the project include the main mill and an addition to the main mill. Uses for this phase are also similar to those for the napper house and dye house.

Commission Chairman Byrd asked staff if they had received calls regarding the project. City Planner Daniel Shoffner, who is staff advisor for the Burlington Historic Preservation Commission, stated that he had discussed the rezoning application and proposed uses with Mrs. Helen Walton, Chairman of the HPC, and that she had no objections to the rezoning request. Other than Mrs. Walton, he stated that he had not received any calls.

Mr. Hank Pownell, 2440 Glencoe Street, asked if the Commission was approving the rezoning request or the site plan and was told both. He pointed out that there was no proposed lighting indicated on the site plan.

Mr. Gailor stated that because of the proximity of parking to the residential area, he was very sensitive to neighbors' concerns about lighting. To alleviate those concerns, Mr. Gailor explained that grading would allow parking to be at a lower level and there would be "under" lighting. There would be no pole lighting except for normal streetlights. Mr. Gailor also stated that there should be no "under" lighting after 9 or 10 p.m.

Mr. Pownell asked if "under" lighting would be similar to landscape lighting and was told it was. He also asked if the Commission dictated the size of trees and shrubs scheduled for planting.

Planning Director Harkrader stated that the developer would be required to plant whatever size was stipulated on the site plan.

Commission Member Apple asked if the hydroelectric plant would be put back into use.

Mr. Gailor stated that the company had submitted a Letter of Intent to produce electricity three years ago and had secured authorization and thus should be selling electricity to Duke Energy by March 2009.

Commission Member Black asked if there would be public facilities that would allow canoeists to dock and shop or dine and was told that there would not be such facilities.

Ms. Ann Hobgood, 2617 Glencoe Street, asked if approving the rezoning request would lock the proposed parking in place and should she address parking concerns. She was encouraged to voice her concerns.

Ms. Hobgood stated that one of the proposed parking lots would encroach to within five feet of her garage and because of illegal activities in the area the parking lot proposes a safety concern for her and her family.

Mr. Gailor clarified Ms. Hobgood's comment about encroaching onto her property – the parking lot would be on property owned by the company and would meet the City's setback requirements. He explained that because of setbacks, the proposed development would offer 212 parking spaces.

Mr. Pownell inquired about the diameter of the trees and shrubs specified on the site plan. He noted that there would be a big difference in a five-year-old holly tree versus a sapling.

Commission Member Cowan asked if the application and site plan had been submitted to the Burlington Historic Preservation Commission and was told that it had not. She informed Mr. Pownell that the caliper and types of trees would be reviewed when the site plan is presented to the HPC.

Ms. Hobgood asked if parking would also be addressed when the site plan is reviewed by the HPC.

Commission Member Cowan stated that the site plan would go through several channels for review including with the National Park Service.

Mr. Gailor told Commission members that Hedgehog Holdings was prepared to make a 6 to 10 million dollar investment in Glencoe Village and that he had been in the development business for 35 years. He stressed the desire to become a good neighbor to surrounding property owners.

Commission Member Millspaugh inquired about the timeframe for the various phases.

Mr. Gailor stated that Phase I consists of approximately 10,000 square feet of floor space and the company has already leased about half. A lease is also in place for the hydroelectric plant. A lot of work has already been completed in Phase 2 and noted that there are several badly compromised areas in that phase. He stated that the company hopes to complete Phase 1 during the summer of 2009. He also added that the market would indicate the best routes the company would take for retail, offices and housing.

Staff recommended approval of the request for rezoning with the Use and Development Conditions submitted by the petitioner. Planning Director Harkrader explained that City Council would first need to rezone the properties. Landscaping including the caliper and types of trees would be regulated by the City Zoning Ordinance. He distributed copies of a letter from Mr. Bryan Hagood, Director of the Alamance County Recreation and Parks Department, endorsing the development. Mr. Harkrader stated that the letter would become part of the October 27, 2008, Planning and Zoning Commission minutes.

Commission Member Jagers asked since he was a member of the Alamance County Recreation and Parks Commission, would he need to abstain from voting. Mr. Harkrader stated that he would not.

Commission Member Apple made a motion to recommend approval of the request for rezoning with the Use and Development Conditions submitted by the petitioner. Earl Jagers 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:

Offices; artist studios allowing machine shops, blacksmithing, manufacturing, metal shops, etc.; residential including dwellings within mixed-use structures, dwellings attached, multifamily, condominiums and townhouses; hydro plant; community, exhibition and public buildings; retail businesses; child care facilities; and all other uses permitted in I-2, Light Industrial zoning districts.

DEVELOPMENT CONDITIONS:

Development shall occur in accordance with the following standards and requirements in addition to those specified in the City of Burlington Zoning Ordinance:

- 1) U.S. Secretary of the Interior's Standards for Rehabilitation (Attachment A).
- 2) Preservation NC Rehabilitation Agreement for Historic Structures (Attachment A).
- 3) Burlington Historic Preservation Commission Design Review Standards to the extent applicable and not inconsistent with 1 and 2 above.

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, representing Dr. Thomas E. Powell III, presented an application to rezone from R-9, Residential District, to B-2, General Business District, the property located on South Church Street near the Alamance Road intersection (ACTM 188-754, Lots 51 and 52) and to rezone from R-9 to CB, Conditional Business (ACM 188-754, Lot 7), the property located on Laurel Hill Drive approximately 170 feet from Alamance Road for the use of a driveway.

This was a City item.

Chairman Byrd requested to abstain from voting. Commission Member Millspaugh made a motion to allow Mr. Byrd to abstain from voting. Lynn Cowan seconded the motion. The Commission voted unanimously to allow Chairman Byrd to abstain from voting.

Commission Member Franks stated that he would be seated in the audience and not take part in the discussion of Item No. 5.

Due to the absence of Commission Secretary Cobb, Commission Member Millspaugh led the discussion of Item No. 5.

Mr. Longest pointed out that the request for B-2 zoning for Lots 51 and 52 was the same as the application presented to the Commission at its September 22, 2008, meeting. Instead of requesting B-2 zoning for Lot 7, Mr. Longest explained that the applicant was currently requesting CB, Conditional Business, rezoning to allow a 30-foot wide ancillary driveway running from Lots 51 and 52 to Laurel Hill Drive and this was being made at City staff's recommendation.

Mr. Longest stated that an eight-foot tall opaque fence as well as six-foot tall Leyland cypresses would be installed and planted along both sides of Lot 7. He told Commission members that he anticipates most of the traffic from the Laurel Hill Drive exit would be turning left enroute to Alamance Road. He distributed copies of a letter he received from Mr. Mark May who owns property at 202 Laurel Hill Drive. In the letter, Mr. May said that he did not oppose the rezoning on Laurel Hill Drive because he thought the driveway would not be a factor for additional traffic.

Mr. Longest stated that the driveway would offer an alternate source of ingress and egress for the future development of the two lots on South Church Street. He noted that the three properties are surrounded by B-2 zoning and a transmission facility is directly across from Ms. Morris (Cathy Morris, 108 Laurel Hill Drive).

Ms. Cathy Morris, 108 Laurel Hill Drive, stated that Mr. May, who had submitted the letter to Mr. Longest, owns and rents the property on Laurel Hill Drive and does not live there. She stated that she has concerns about lighting at night as well as the safety of children because of trucks going in and out of the proposed driveway. Ms. Morris asked Mr. Longest what was going to be developed on Lots 51 and 52.

Acting Chairman Millspaugh explained that the applicant was requesting straight B-2 zoning for the two lots on South Church Street and therefore would not be required to share plans for future development. He stated that the Commission should consider all uses permitted in B-2 zoning.

Ms. Katie Hollars, 107 Laurel Hill Drive, asked if the proposed driveway would be located where the rezoning sign was currently being displayed. Mr. Longest showed on the site plan where the driveway would be located. Ms. Hollars stated that she was concerned that dump trucks or big transfer trucks might use her driveway or yard to make turns into or from the development. She added that she was also concerned about lighting.

Mr. Longest pointed out that a Duke transmission facility was located directly across from the proposed driveway and that no lighting was planned for Lot 7. He added that more traffic would be generated if apartments were built on the lot and there would be no heavy dump trucks using the driveway except during construction.

Commission Member Cowan asked since the proposed driveway would act as a service road, wouldn't garbage trucks be utilizing it. Mr. Longest answered that the City dictates the placement of Dumpsters, and at this point he did not know where refuse facilities would be located within the development.

Commission Member Black asked if a driveway could be located on Lot 7 if it remained zoned R-9.

Planning Director Harkrader stated that a commercial driveway serving the two lots on South Church Street could not be developed on Lot 7 if the lot remained zoned residential. He explained that this rezoning request was the same request presented at the September Commission meeting except the applicant was now requesting conditional rezoning for Lot 7. He stated that due to the commercial nature of zoning on Church Street, staff could support B-2 rezoning for Lots 51 and 52, but due to the speculative nature of how the lots would be developed in the future, staff could not recommend approval of rezoning Lot 7 for a driveway servicing Lots 51 and 52. He added that the City and neighbors have been told to accept this rezoning without knowing what would be developed on Lots 51 and 52 and that neighbors deserve some answers. Traffic from the driveway on Laurel Hill Drive could turn right and use Bell Street in order to get to Church Street, and this traffic would impact both Laurel Hill Drive and Bell Street residents. Mr. Harkrader also pointed out that development on South Church Street could also warrant street as well as storm water improvements.

Commission Member Johnson questioned why the Commission was even considering this application since members recommended denial of the request at last month's meeting and the petitioner appealed the Commission's decision to City Council. He noted that Council has set of public hearing for November 18 to hear the petitioner's appeal, so why was this request being considered now?

Planning Director Harkrader explained that a public hearing had been granted for November 18 to consider the petitioner's appeal to rezone Lots 51, 52 and 7 to B-2, which is the application presented to the Commission at its September meeting. If the Commission recommends denial or approval of the application being presented at this meeting, the petitioner may choose to withdraw the first request for a public hearing.

Mr. Johnson asked how much road frontage are the lots on South Church Street and was told approximately 477 feet. He then commented that there would likely be two drives on South Church Street for the anticipated development of Lots 51 and 52 and questioned why was the applicant so intent on providing another drive on Laurel Hill Drive.

Assistant Director of Planning Services Beal pointed out that the Commission was assuming that Lots 51 and 52 would be combined as one development, and, if so, that DOT could restrict access to one driveway on South Church Street. If the lots remained as two separate parcels and were developed independently, then there would be two driveways on South Church Street with one serving each lot.

Commission Member Black asked staff did it matter what was going to be developed on Lots 51 and 52 if the lots were to be rezoned.

Planning Director Harkrader stated that it does matter because of all uses permitted in B-2 zoning including drive-through and fast-food restaurants.

Mr. Longest commented why have the Zoning Ordinance if everything was speculative.

Acting Chairman Millspaugh asked for a motion by Commission members. Since no Commission member responded, Mr. Millspaugh made a motion to recommend approval of the request for rezoning. The motion died for lack of a second.

Mr. Millspaugh then made a motion to recommend denial of the request for rezoning. Lynn Cowan seconded the motion. Commission Member Kenan asked Mr. Longest if the petitioner had already purchased the three lots and was told that he had not. The Commission voted three to one to recommend denial of the request for rezoning. Voting to recommend denial were Cowan, Black and Kenan. Voting against the motion to recommend denial was Millspaugh. Chairman Byrd abstained from voting.

ITEM NO. 6: Commission members discussed the December meeting date.

Planning Director Harkrader stated that the normal December meeting date would be the 22nd, and in the past, several Commission members were unable attend a December meeting when it was scheduled during what is considered Christmas week. He stated that the Commission could vote to meet the third Monday in December which would be the 15th. However, the deadline for a December 15th meeting would be November 26th due to the Thanksgiving holidays on November 27 and 28.

After a discussion, the Commission voted unanimously to have the December meeting on the regular meeting date, December 22.

This was a City and extraterritorial item.

There being no further business to discuss, the meeting was adjourned at 8:19 p.m.

George A. Byrd, Jr., Chairman

Paul E. Cobb, Jr., Secretary