

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

October 25, 2010

Council Chamber, Burlington Municipal Building

CITY MEMBERS:

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

EXTRATERRITORIAL MEMBERS:

Bill Abplanalp, Present
Bud Apple, Present
Richard Franks, Present
Earl Jagers, Present
Jim Johnson, Present
Rebecca Lashley, 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 meeting held September 27, 2010, were unanimously approved. This was a City and extraterritorial item.

ITEM NO. 3: Mr. Charles Bateman, Jr., representing Mr. Keith Neighbors, presented an application to rezone from R-9, Residential District, to CI, Conditional Industrial District, to allow the use of the property for offices; warehouses; outdoor storage; agricultural implements, heavy machinery sales, repair, rental or storage; and contractors' yards, including building materials, sales and storage. The property is located at the northeast corner of Gilmer St. and Graham St. as shown on Alamance County Tax Map 32-120-108.

This was a City item.

Mr. Bateman stated that the property had been utilized for commercial purposes for many years, and Mr. Neighbors purchased it for his landscaping business. He stated that as submitted in the proposed use conditions, Mr. Neighbors had erected the past week a six-foot in height opaque fence that will screen outside storage from the residential area. He listed the following use and development conditions that had been submitted:

Use Conditions

1. Warehouses
2. Outdoor storage

3. Agricultural implements, heavy machinery sales, repairs, rentals or storage
4. Contractors' yards including building material, sales and storage

Development Conditions

An opaque fence shall surround all outdoor storage areas not otherwise adequately screened by foliage/vegetation. The existing fence as well as new fencing shall be between 5.5 feet and 6.5 feet in height.

Planning Director Harkrader noted that the commercial property was a vestige from the past as it had one time been a roofing company and prior to that a mill. He stated that the approval of the rezoning request would legitimize the current use of the property because it was currently zoned residential but had been used for commercial purposes for a number of years. Mr. Harkrader indicated that Mr. Neighbors also owns adjacent property on Gilmer Street.

Commission Chairman Byrd asked if staff had received any telephone calls inquiring about the rezoning request and was told that it had not. Mr. Byrd asked if commercial zoning would be consistent with the City's Land Use Plan and Mr. Harkrader indicated that it was. Mr. Harkrader stated that he could not see this property being used for residential purposes.

Commission Member Lashley asked for clarification on the property being requested for rezoning and was shown the site on the overhead screens.

Mrs. Linda Abplanalp, 1030 Glenview Lane, inquired about pesticide storage.

Mr. Neighbors stated that any pesticides he has would be in sealed containers and only used for personal reasons such as eliminating rodents. He noted that he calls a friend who is licensed when he's faced with a bigger situation.

Mr. Byrd asked Mr. Neighbors if he offered repair service for equipment other than his own and was told that he did not.

Commission Member Johnson noted that in Mr. Neighbors' use conditions it listed *Agricultural implements, heavy machinery sales, repairs, rentals or storage* and also listed *Contractors' yards including building material, sales and storage* which all appear to be greatly expanded on what the applicant plans to do with the property.

Mr. Neighbors stated that he would, for instance, purchase a large quantity of straw, which he would store on site and use as needed over a period of time and pointed out that the newly installed fencing would prevent neighbors from having to see the straw.

Commission Member Parker noted that it appears that Mr. Neighbors was also using the property for the storage of tires, which would not be utilized in the applicant's business.

Mr. Neighbors stated that at times he does purchase vehicles and remove usable parts and sells the vehicles to a junk car facility in Virginia. He explained that he does retain many of the tires for use on his equipment.

Commission Member Parker stated that in his opinion Mr. Neighbors' business has a detrimental effect on the residential area. Mr. Parker also had concerns about what might go there if Mr. Neighbors sold the property.

Planning Director Harkrader asked if Commission members would feel more comfortable if the applicant amended the use conditions by eliminating heavy machinery sales/rentals and adding provisions that no tires or inoperable vehicles would be stored on the property.

Commission Member Black stated that amending the use conditions would remove some of the confusion about what Mr. Neighbors plans to do with the property.

Mr. Parker asked if the applicant had made any upgrades to the building.

Mr. Neighbors stated that he had bricked up the windows for security purposes and added roll-up garage doors.

Mr. Parker inquired about upgrades to the interior.

Mr. Neighbors stated that currently there is no power but he plans to make improvements when the rezoning request was approved.

Commission Member Parker asked if the applicant would need to get permits for improvements and was told that he would.

Mr. Parker wanted it clarified that if the applicant amended the use conditions he would not be able to store tires and was told that he could only store tires for his own personal use and there would be no sale of tires on the premises.

Commission Member Apple asked if the building had been vacant for many years and was told that it had been.

Mr. Neighbors explained that he lives on Tucker Street and purchased the Graham/Gilmer St. property because he needed a warehouse for storage. He stated that he did not find out that the property was zoned residential until the City approached him with a complaint about the tire storage.

Commission Member Parker noted that it appeared that Mr. Neighbors was trying to get approved something that he was already doing.

Mr. Neighbors reiterated that in his opinion a mistake had been made years ago about the residential zoning and stated that the property had been in use as a warehouse and commercial development years before he purchased it.

Mr. Parker asked if there were currently any unlicensed vehicles on the property, and Mr. Neighbors stated that he has a dump truck without a current tag but plans to obtain one in the near future.

Planning Director Harkrader stated that as far as he knew, the property had never been used for residential purposes, and Mr. Neighbors' request would make the current use legal. The conditional rezoning would eliminate any sale of materials or equipment on the property.

Commission Member Cowan asked how long the current building had been on the property.

Mr. Neighbors answered that he did not know, but he had owned it since 2005 or 2006.

Ms. Cowan asked if he had any complaints since he had owned it – other than the recent complaint -- and Mr. Neighbors stated that he had not. Ms. Cowan added that she still had a problem with scrap cars on the site.

Commission Member Black asked if the recently installed fence was serving its purpose by eliminating a view onto the property, and Mr. Neighbors stated that it was.

Commission Member Parker stated that he was going to recommend denial of the rezoning request even with the amendments to the use conditions because he felt like the property was embedded in a residential area with residential property on both sides and behind it.

Commission Member Johnson stated that he felt Mr. Neighbors was making an admirable effort to correct a zoning error made many years ago.

Commission Member Lashley inquired about other intended screening. Mr. Neighbors stated that his intentions are to add special plantings along the walls that will avert the graffiti.

Planning Director Harkrader stated that staff recommended approval of the request for rezoning with the following amended use conditions:

1. Warehouses/offices.
2. Outdoor storage.
3. No storage of tires except for the owner's personal use.
4. No storage of inoperable vehicles.

Development Conditions

An opaque fence shall surround all outdoor storage areas not otherwise adequately screened by foliage/vegetation. The existing fence as well as new fencing shall be between 5.5 feet and 6.5 feet in height.

Commission Member Black made a motion to recommend approval of the request for rezoning with the amended Use and Development Conditions submitted by the petitioner. Early Kenan seconded the motion. The Commission voted four to one to recommend approval of the request for rezoning. Voting for the motion to recommend approval were Black, Kenan, Byrd and Cowan. Voting against the motion was Parker.

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. 4: The Commission discussed its December 2010 meeting.

Planning Director Harkrader noted that there would be a City Council work session on December 20 and suggested December 13 as an alternate date for the December Commission meeting with the deadline for submitting items on November 29. Two Commission members stated that they had other meetings already scheduled for December 13.

Commission Member Apple made a motion to cancel the December meeting. Richard Parker seconded the motion. Voting to cancel the December meeting were Apple, Parker, Byrd, Cowan, Abplanalp, Franks, Jagers and Johnson. Voting against the motion to cancel the December meeting were Black, Kenan and Lashley. The December Commission meeting will be cancelled.

This was a City and extraterritorial item.

There being no further business to discuss, the meeting was adjourned at 7:48 p.m.

George A. Byrd, Jr. Chairman

Lynn Cowan, Secretary