



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

October 26, 2015

Council Chamber, Burlington Municipal Building

CITY MEMBERS:

Chairman Mr. Richard Parker, Present
John Black, Present
Early Kenan, Jr., Present
Ryan Kirk, Present
James Kirkpatrick, Absent
Nicole Enoch (Alternate), Absent
Margaret Stephens (Alternate), Present

EXTRATERRITORIAL MEMBERS

Earl Jagers, Present
Rebecca Lashley, Absent
Bill Abplanalp (Alternate), Present

STAFF PRESENT:

Amy Nelson, Director of Planning and Zoning
Joey Lea, Zoning/Subdivision Administrator
Kelly Peele, Commission Secretary

ITEM NO. 1: Chairman Mr. Richard Parker called the meeting to order at 7:00 p.m.

ITEM NO. 2: Minutes of the meeting held September 28, 2015, were unanimously approved.

Commission Member Mr. Earl Jagers made a motion to recuse Commission Member Mr. Bill Abplanalp from item number five on the agenda. Commission Member Mr. Ryan Kirk seconded the motion. The Commission voted unanimously to recuse Commission Member Mr. Bill Abplanalp from item number five on the agenda.

ITEM NO. 3: Consent Agenda:

Final plat approval for Huffman Mill Plaza Limited Partnership, a North Carolina Limited Partnership. The property is located on the north side of Garden Road between Boone Station Drive and Huffman Mill Road as shown on plans by Jimmy Barbour Surveying dated May 28, 2015 and containing 1 lot.

Commission Member Mr. Ryan Kirk made a motion to approve the final plat. Commission Member Mr. Bill Abplanalp seconded the motion. The Commission voted unanimously to recommend approval of the final plat.

ITEM NO. 4: Mr. Dan Simmons, representing Huffman Mill Plaza, to present an application to amend a conditional rezoning approved by the Burlington City Council on February 21, 2006. The request is to reduce the parking space requirements from 5 parking spaces per 1000 sq. ft. gross floor area to 4 parking spaces per 1000 sq. ft. gross floor area. The property is located on the north side of Garden Road between Boone Station Drive and Huffman Mill Road, referenced as Alamance County tax identification numbers 112794 and 112795.

Mr. Dan Simmons stated, I am with Triangle Silverworks out of Smithfield, the civil engineer for the owner of this property. Huffman Mill Plaza is a shopping center with 299,405 sq. ft. of gross useable floor area as it exists today. If you have been out there you have seen where the old Office Max building, that's

a 22,892 sq. ft. space that is vacant. The owner is attempting to release that area and we are looking for some flexibility because the people we are talking to are wanting a different size space than what is there, so there is a good chance that we can release this space but it will need to be upsized to something larger which will get us in non-compliance with the parking requirements. The current parking ratio out there right now is not in compliance; it is at 4.95 spaces per 1,000 sq. ft. I think that happened when Wal-Mart restriped their area and didn't stripe some of the spaces that were originally planned to be striped out. It's very close to the 5 but it's not the 5 spaces. I'll be glad to answer any question you may have.

Chairman Mr. Richard Parker asked, you requested this for the whole parking lot to go down to 4?

Mr. Dan Simmons stated, yes, that will give us the flexibility to go up if necessary to 60,000 sq. ft. where Office Max was. That will allow us to be able to market this to multiple tenants and give us a lot of flexibility in who we can deal with and we would like to get some very good tenants to go in there.

Chairman Mr. Richard Parker stated, I've never seen the parking lot full.

Mr. Dan Simmons stated, I haven't either and I've done a lot of Wal-Marts through the years all along the east coast. The parking lot is designed for two days a year. It's a shame we put that much asphalt for two days a year.

Commission Member Mr. Ryan Kirk stated, I have no real concerns with downsizing. If you grow to the south you are pinching in towards the Applebee's. If you go east there is that road behind it and if you go west it's sticking out.

Mr. Dan Simmons stated, we've looked at what we can do with taking up some of the small shops that are right beside it and coming out the back, increasing that space. Coming north or back towards Applebee's we will be taking up those parking spaces on the side. We can go out the back but it would be fairly expensive because we would have to construct a retaining wall back there and still maintain that road through the back.

Commission Member Mr. Ryan Kirk asked, what about the traffic pattern?

Mr. Dan Simmons stated, the traffic pattern will pretty much stay the same as it is today, we would lose a few parking spaces by coming next to Applebee's.

Chairman Mr. Richard Parker asked, Joey, has this been done elsewhere?

Zoning/Subdivision Administrator Mr. Joey Lea stated, we have done this for other shopping centers specifically for Alamance Crossing through conditional rezoning.

Chairman Mr. Richard Parker asked, what have you found at other Wal-Mart's?

Mr. Dan Simmons stated, in other places, Durham especially could not do a 5 per 1,000 sq. ft. They were required to do a 4 per 1,000 sq. ft. We have found that a lot of towns are downsizing because of the sea of asphalt. Twice a year is when you have the parking lot predominantly full. With the environmental impacts with the runoff of the asphalt and the storm runoff you get the pollutants out of the cars that are running off into our streams.

Commission Member Mr. Bill Abplanalp asked, will you be actually taking out the asphalt?

Mr. Dan Simmons stated, if we expand and go to a bigger building then yes we would be taking up some asphalt.

Commission Member Mr. Ryan Kirk asked, are there any concerns from other tenants in this plaza?

Mr. Dan Simmons stated, as far as the lease agreements with the other tenants go they will have to be approached. Once the town approves this we will have to approach the tenants for their approval because it is in their lease. They will have a say so in this.

Vice-Chairman Mr. John Black asked, am I to understand the tenants are not aware of this yet? You were going to wait and have us approve it then go back to the tenants?

Mr. Dan Simmons stated, to the existing tenants yes.

Vice-Chairman Mr. John Black asked, you weren't going to give them a heads up to come to this meeting to discuss this?

Mr. Dan Simmons stated, they have a yes or no on their leases already. We hate to go to them if it's not possible. You are the ones that say we can or can't; they also have a say so of whether we can or can't. It's written into their lease what the parking ratio is, so we would be violating their lease if we change it without their permission. Once again they will have a say so whether it's in this meeting or face to face in discussing the lease changes.

Commission Member Ms. Margaret Stephens asked, you are just requesting the change in the ratio, it does not change their ability to have their customers and clients visit their businesses? You don't have assigned spaces?

Mr. Dan Simmons stated, doesn't change it at all and it doesn't change their right to have their input. Some of the things that may influence the tenant on the lease is who we can negotiate in there. If it's a big draw the small shops there are going to want them in. No assigned spaces. Everyone has to be in agreement or we don't get this deal done.

Zoning/Subdivision Administrator Mr. Joey Lea stated, this request is consistent with what we have had done with other shopping centers. We believe this is a reasonable request. They can't violate the leases they have but this will give them some flexibility to expand and if they have a tenant that wants more area then what they are provided, it keeps the parking ratio at an even kill with everyone else. We believe the request is reasonable and staff recommends it.

Commission Member Mr. Ryan Kirk made a motion to amend the conditional rezoning. Commission Member Mr. Bill Abplanalp seconded the motion. The Commission voted unanimously to amend the conditional rezoning.

ITEM NO. 5 : Mr. Lawson Brown, representing Mr. Ed Tam, to present an application to amend a conditional rezoning approved by the Burlington City Council on September 2, 2014. The request is to reduce the parking requirements from 5 parking spaces per 1000 sq. ft. gross floor area to 4 parking spaces per 1000 sq. ft. gross floor area and to allow the parking area to be 9 feet from the property line along University Drive. The property is located on the east side of University Dr. between South Church Street and Dunleigh Drive, referenced as Alamance County tax identification number 106770.

Mr. Lawson Brown stated, it's my pleasure to be back in front of you tonight for Mr. Ed Tam on the development at the southeast corner of University Drive and South Church Street. I think Mr. Simmons

articulated very well what the need for 4 spaces verses 5 spaces. City staff has acknowledged that 5 parking spaces are being looked at because of the market place and for the very reasons you just heard. The additional request here is to allow parking 3 ft. closer to University Drive; it will not affect the sidewalks that are existing out there. Since the City Council approved this and this was before you some time ago and we've worked very hard on the tenants. This is consistent with what is occurring in the market place and we think it's a reasonable modification of a conditional zoning that was allowed by the City Council in September 2014.

Chairman Mr. Richard Parker asked, this drawing that we have is it the proposed new drawing or the old drawing?

Zoning/Subdivision Administrator Mr. Joey Lea stated, that's the original approved plan.

Chairman Mr. Richard Parker asked, have they redrawn it with the 4 spaces?

Zoning/Subdivision Administrator Mr. Joey Lea stated, no.

Chairman Mr. Richard Parker asked, so we don't know what it will look like?

Zoning/Subdivision Administrator Mr. Joey Lea stated, we don't even know what's it's going to look like with that plan. Even when it was approved it was understood that that plan was going to be altered. It's just a sketch plan pretty much for the 4 properties. It may even be less properties, it could be larger buildings; we don't really know yet until it's developed. That was given to you along with the original conditions to tell you that all of the conditions that were approved stayed the exact same, all they are doing is changing the ratio of the parking to allow some flexibility.

Chairman Mr. Richard Parker asked, will this reduce the impervious surface in this case?

Mr. Lawson Brown stated, no it will not reduce the impervious surface limitation. It's pretty much a statewide requirement we're maxing out the impervious surface but we are treating the water and in fact the Blue Stream Restoration is occurring as we speak.

Commission Member Mr. Ryan Kirk asked, I want to make sure that there is no pressure on residential or anything to the east for over flow parking?

Mr. Lawson Brown stated, we have an agreement with the neighbors to the east and we're honoring that agreement and this request tonight will actually help because there will be fewer cars in there. But there is no access between Mr. Tam's project and the neighbors to the east. In fact, Mr. Tam has been in constant contact with them about everything that is going on out there so that everybody understands what's happening.

Chairman Mr. Richard Parker asked, what is staff recommendation?

Zoning/Subdivision Administrator Mr. Joey Lea stated, we believe this is a reasonable request to allow flexibility. Staff recommends approval of the request.

Commission Member Mr. Earl Jagers made a motion to amend the conditional rezoning. Commission Member Mr. Early Kenan, Jr. seconded the motion. The Commission voted unanimously to amend the conditional rezoning.

ITEM NO. 6: Mr. Lawson Brown, representing Mr. Joe Rickman, to present an application to amend a conditional rezoning for the use of a billboard approved by the Burlington City Council on January 2, 2007. The request is to increase the size of the billboard and change the location. The property is located on the north side of Interstate 40/85 and south of Lynwood Drive, referenced as Alamance County tax identification number 121503.

Mr. Lawson Brown stated, I am representing BK Holdings, LLC, and Mr. Joe Rickman who probably most of you know has been in the sign business about as long as I've been in the legal business. He had this project approved by the Burlington City Council. About the time that got approved in 2007 the economy went the wrong way and so that project was put on hold and the existing billboard that was there is still there. This request is for a 14 x 48 bill board. I haven't dealt with billboards in quiet awhile and Mr. Rickman educated me on the sophistication of these billboards. It used to be that a V-shape billboard was something that was in but that is no longer the case. This request is for a back-to-back 14 x 48 board. The real concern here that he had this time was shielding the neighbors from any overflow. Of course these signs are much better today than they were almost 10 years ago in terms of the overflow. We talked with 4 out of the 6 neighbors who have not voiced any objections and are satisfied with it. You will see that the Leyland Cypress are being planted and will be 40 to 50 feet high at maturity; that should adequately shield the neighbors from any spillage. Mr. Rickman also talked to representatives of the Burlington Association of Charitable Elks and they have said they have no objections to that as well. We have worked very closely with staff as we do in every situation and I think we have staff recommendation.

Chairman Mr. Richard Parker asked, when we approved this the first time didn't we approve an electronic sign?

Mr. Lawson Brown stated, yes sir and that is what this is. It is an electronic billboard and I assume it will be state of the art.

Commission Member Mr. Ryan Kirk asked, this is an LED that changes regularly type of billboard?

Mr. Lawson Brown stated, yes. Mr. Rickman told me and I thought it was interesting but they can now determine if it's a bunch of pickup trucks running down the highway you display one ad and if it's a bunch of Mercedes or Jaguars you display another ad. It's pretty sophisticated.

Commission Member Mr. Ryan Kirk asked, what's the reason for moving this westward and much closer to the residents?

Mr. Lawson Brown stated, the reason is that is just a higher place on the ground and its better in the curve.

Chairman Mr. Richard Parker asked, the first time it was going to be pretty much the same spot and it was pretty far away from the houses; so now we are moving it to back up right at the houses?

Mr. Lawson Brown stated, that's right. It's fairly close to the property line; there is some distance between the residents and the back of their property lines but again we are providing a buffering and again the spillage is much less than it was almost 10 years ago.

Commission Member Mr. Ryan Kirk asked, you talk about 6 houses; these are properties that are adjoined? So if it's oriented north/south so that it's facing traffic east/west there are multiple houses that don't adjoin but will have a clear sightline to this on the curve of Moran Street?

Mr. Lawson Brown stated, we think that we're taking care of the spillage issues and the sightline issues.

Commission Member Mr. Ryan Kirk stated, on the curve on Lynnwood Drive those houses might have a clear sightline to this.

Mr. Lawson Brown stated, they will and if you notice the foliage and the existing trees that are there, they are all fairly dense and fairly high at least 50-75 ft. in the air.

Commission Member Mr. Ryan Kirk asked, what would be cleared then for the highway sightline?

Mr. Lawson Brown stated, nothing in the right-of-way for interstate 40/85 will be cleared and nothing on the property of others will be cleared.

Commission Member Mr. Ryan Kirk asked, it says there is a 65 ft. construction limit line?

Mr. Lawson Brown stated, yes.

Commission Member Mr. Ryan Kirk stated, so that could according to that map as is, be cleared all the way to those houses of concern. Because if you clear that 65 ft. construction limit line to the west there will be a direct sightline to the LED lights.

Zoning/Subdivision Administrator Mr. Joey Lea stated, just keep in mind that it was originally approved that way.

Commission Member Mr. Ryan Kirk stated, it wasn't a digital sign, right?

Zoning/Subdivision Administrator Mr. Joey Lea stated, yes it was a digital sign that originally approved. It was also approved with the Leyland Cypress trees. Basically the change from what it was originally approved is the increase in size and the relocation.

Vice-Chairman Mr. John Black asked, I understand increasing the size of the sign but your reasoning to move the sign would be in the curve there?

Mr. Lawson Brown stated, the sightline would be better off the interstate.

Vice-Chairman Mr. John Black stated, I'm looking at a straight stretch of interstate and a straight line on the property and I'm trying to find the curve which gives it a better sightline.

Mr. Lawson Brown stated, when you cross Alamance Road to the west, there is a curve so when you are heading east towards Raleigh you come out of that curve. This location will have a better sightline. Coming from east going west it's fairly straight but you do have the curve there at Alamance Road, it's not shown on the map.

Vice-Chairman Mr. John Black asked, if we approve the increase in the size but left it where it was already located is that a deal breaker?

Mr. Lawson Brown stated, yes I think that would probably be.

Chairman Mr. Richard Parker stated, I'm not too crazy about it either having almost 2.5 acres and you push the sign all the way to within 40 ft. of these property lines, I can't imagine this curve will make such a difference that nobody is going to see a flashing neon sign if it was placed in the center of the lot.

Compromise between where you propose it and where it is now and get it 100 ft. away these houses. I think it's pushing too close to the houses.

Mr. Lawson Brown stated, we understand your concerns and we appreciate your concerns but we don't think it will be intrusive to those folks and again we have talked to the 4 out of the 6 and have been able to talk to them personally and they have no objections.

Commission Member Mr. Ryan Kirk asked, can you say which 4 you have talked with?

Mr. Randy Cary stated, I've talked with 4 out of the 6 and they are the ones that have the biggest impact from this move and they didn't have any problems with this.

Mrs. Linda Abplanalp stated, my concerns are with the drivers on the highway. I'm opposed to the digital signs because as a driver I like to keep my eyes on the road. The digital signs change frequently and it's human nature to look when something is flashing; and so you have to read it and identify it and then you can't ignore it. When it keeps flashing your attention is disoriented from the highway to a flashing sign. What I learned tonight which is double troubling is that if I am driving a Mercedes I'm going to be looking at signs for people who drive Mercedes and that is going to get my attention. I'm opposed to digital signs; I'm opposed to anything that takes my attention away from where it should be. This is another distraction to drivers that are already not paying attention to the road.

Commission Member Earl Jagers asked, the brightness of the lights, has that changed any?

Mr. Lawson Brown stated, it hasn't changed in the direct sightline.

Commission Member Ms. Margaret Stephens asked, where does Mrs. Linda Abplanalp live?
Mrs. Linda Abplanalp stated, I live in Burlington near the corner of University and Church.

Commission Member Ms. Margaret Stephens asked, ok so you're not a neighbor or an adjoining property owner?

Mrs. Linda Abplanalp stated, no ma'am; just a concerned driver on the highway.

Chairman Mr. Richard Parker asked, what is staff recommendation?

Zoning/Subdivision Administrator Mr. Joey Lea stated, this was a previously approved use. I also want to state that I had numerous phone calls about this and when I explained to them what was going on the property nobody had a problem with it. A lot of them lived in the immediate area and some were just passing by but not a one had a problem with it. With that being said, staff recommends approval.

Commission Member Mr. Early Kenan, Jr. made a motion to approve the request. Commission Member Ms. Margaret Stephens seconded the motion. The Commission voted 3 in favor of the motion and 4 against the motion; the motion failed due to the lack of a majority vote. Voting in favor of the motion was Commission Members Stephens, Early, and Jagers. Voting against the motion was Commission Members Kirk, Abplanalp, Parker, and Black.

ITEM NO. 7: Staff to present an application to rezone from I-1 Planned Industrial District to R-9 Residential District. The property is located at 1319 Rayon Street, referenced as Alamance County tax identification number 139110. Staff will ask the Commission to recommend rezoning from I-1 Planned Industrial District to R-9 Residential District for all of the properties along Rayon Street that are currently being used as residential.

Zoning/Subdivision Administrator Mr. Joey Lea stated, I don't know if you have been out in this area but this is a single-family subdivision and the properties have been residential since the 1940's. The oldest map that I could find was 1946 and that map showed this area to be industrial. The only thing I can assume is that residential was allowed in whatever type of industrial they had this slated for back in the 1940's. Obviously there was a single-family subdivision built and homes built upon properties. It being I-1 Planned Industrial it currently does not allow the use for single-family homes. This particular lot is owned by Mr. Morrow. His house was completely destroyed by fire and when he came into to get the information to rebuild his house he was told he could not rebuild his home. As you can imagine that was a shock. What we are asking is in the short term to rezone Mr. Morrow's property so that he can rebuild his home; also we are asking you to recommend that the entire subdivision of the single-family homes be rezoned to R-9, which is in the area. The area zoning map shows the best example you will ever see of mixed zoning that all lives in harmony. You've got commercial, residential, industrial, and multi-family in this area. These lots do meet the requirements for R-9.

Chairman Mr. Richard Parker asked, they still have to meet the setbacks?

Zoning/Subdivision Administrator Mr. Joey Lea stated, yes they will still have to meet the setback requirements.

Commission Member Ms. Margaret Stephens asked, Mr. Morrow's lot has 9,000 sq. ft. in it?

Zoning/Subdivision Administrator Mr. Joey Lea stated, actually it is a little more than that but I cannot remember exactly what the number is.

Commission Member Ms. Margaret Stephens asked, but it would meet that R-9 requirement?

Zoning/Subdivision Administrator Mr. Joey Lea stated, yes.

Commission Member Mrs. Margaret Stephens made a motion to approve the rezoning request. Commission Member Mr. Bill Abplanalp seconded the motion. The Commission voted unanimously to approve the rezoning request.

Commission Member Mr. Ryan Kirk made a motion to recommend rezoning of the entire subdivision along Rayon Street. Vice-Chairman Mr. John Black seconded the motion. The Commission voted unanimously to recommend rezoning of the entire subdivision along Rayon Street.

There being no further business to discuss, the meeting was adjourned at 7:51 p.m.

Richard Parker, Chairman

John Black, Vice Chairman

Kelly Peele, Secretary