



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

**May 23, 2016**

**Council Chamber, Burlington Municipal Building**

**CITY MEMBERS:**

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

**EXTRATERRITORIAL MEMBERS:**

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

**STAFF PRESENT:**

Amy Nelson, Director of Planning and Zoning  
Joey Lea, Zoning 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 March 28, 2016, were unanimously approved.

**ITEM NO. 3:** Mr. Harold Owen to present proposed amendments to the City of Burlington Zoning Ordinance Section 32.10.Y as it pertains to agricultural sales within residential districts.

Mr. Harold Owen stated, let me start by saying this is an extension of something that started last year in my previous role that Council had asked that I attempt to look into and figure a possible merging of minds to get to what the new comprehensive plan talks about. In the memo it indicated that in an effort to expand on a recently adopted comprehensive land use plan by raising the bar on political standards. The attached ordinance is to encourage healthy foods and options to allow small farm stands in a residential neighborhood. As we all know most local stores have disappeared, it's wonderful to have farmers markets but for a kid who grew up on a farm who did this concept of a farmers day market is simply not practical for most farmers. Farmers, if they get into the product itself there is not a significant amount of profit in this. I'm not going to sit here and tell you that we will have a lot of farmers participating in this at this point. What makes the problem more difficult is the corps coming in the area around May thru summer. It starts with strawberries and goes thru late summer. To turn things around it's almost if you don't have refrigeration, which is a major capital expense, you really can't do this one day a week, you've really got to have something that is multiple days a weeks because as you harvest your crops, to keep it fresh you have to have it out for use. Last year we had a couple situations and Joey and Amy were very much aware of this, were we have had some people to do something similar to this and technically in the past ordinance it didn't meet the qualifications. I admit I went out and finally closed the stand down.

Chairman Mr. Richard Parker asked, where was it located Mr. Owens?

Mr. Harold Owen stated, out on Highway 62 South.

Chairman Mr. Richard Parker stated, I used to by my produce from there.

Mr. Harold Owen stated, I bet you did as did a lot of other people, I was told many times last summer. We always talk about the health of our young people and us older people but the realization of this is calories are cheap but quality of food isn't. Any change in ordinance is difficult but I've worked a great deal with Joey and I can't tell you how much help he has been. We have dealt with David Huffman, City Attorney and what we have attempted to come up with is to modify the ordinance where there are limited opportunities, opportunities being a maximum of 120 days a year. That 120 days will be from May thru August. The only minimal farmer I know in this community is a gentleman out on the southern part in Alamance who does nothing but corn. He does this similar concept outside of the City where he has produce every day for a short period of time, there are people out there selling it. As we got into this in the spring I got out and started talking with to various farmers and it's pretty interesting that the profit here is so limited it's difficult for them to pack up and move to certain areas from one day to another day depending on the markets. In Burlington we are trying our very best over at North Park Farmers Market a lot of that is very good food and outstanding product and organic based. Unfortunately organic food is really expensive and there is a difference between organic and culture based foods. What I'm talking about are the basic agriculture farmers. The ordinance as it is written says you can do this if you own the property. That sounds great but in a high density area you are not going to have lots big enough to do this. It sounds great but it's not practical. What we have tried to come up with here is a practical approach to give people the opportunity to do this where people could go in and buy fresh vegetables during the season. I think that you notice in here it does not allow you to go in and do sales of plants, this is based on fresh vegetables type approach.

Chairman Mr. Richard Parker asked, so the idea then would be that the corn guy in the southern part county could come over to Engleman Avenue and sell corn on Engleman Avenue?

Mr. Harold Owen stated, that is correct but the difference is for the purpose for this exception, in its determination of compatibility with neighborhood standards, the City shall evaluate the following criteria: hours of operation; traffic flow in the vicinity and, overall safety to neighboring property owners, residents and pedestrians. Signs for residential sales of plants, fruits, and vegetables shall comply with section 32.12 of this ordinance. So it's not like anybody can come in and do this. The other part of it is that a particular person would have to come in and have a signed contract with the property owner. So it would not be one of these where you come in and set up a stand one weekend and it's gone the next. Talking with farmers they are not happy with our ordinance that allows commercial growth that can sell South Carolina Peaches. Talking with the gentleman he was disappointed but never threatening to us. I had a complaint about all the accidents on this section of the road and I investigated this and learned there had only been 1 accident there in four years. The guy had a circular driveway that you could pull off the road and put seven to eight cars in there. One day I was waiting to buy some strawberries from him and he was serving a customer and I remember vividly there was a legal pad and he must have had eight to ten pages of names on that legal pad of his customers that wanted him to remain open. I wish I could tell you that this will go so well that we have a number of farmers that would be willing to do this, it might be able to grow in time but right now the business is in Carrboro, farmers markets where their product will raise a little bit more money and have more profitability. I think there are some that we could do this with and I've been watching around the state and the whole concept of neighborhood stores and still having to drive is becoming more and more prominent. I think this will give an opportunity to people to give them the produce they

want and an opportunity to do it in an affordable price and I believe if it is properly managed and I understand it may be an issue with the zoning but the signage would show the community that we really do believe in wellness. We keep talking about wellness all the time and exercising is one thing but our intake is a whole other thing, I think this is a small way in starting to do that.

Chairman Mr. Richard Parker asked, you say the traffic flow in the area; let's say someone on Edgewood wanted to do this, Edgewood is 4 lanes and there is no stopping on Edgewood, could someone pull off into a yard, is Edgewood acceptable?

Mr. Harold Owen stated, it depends on the situation. If the yard is big enough to where multiple cars could pull off and get back on is one thing. But if it's not and it's a regular driveway then it probably would not be approved.

Chairman Mr. Richard Parker asked, so someone in the City would have to determine each applicant?

Mr. Harold Owen stated, that's correct, depending on each situation.

Commission Member Mr. James Kirkpatrick asked, they would have to come in with a signed lease and say I want to do this wherever, then the City will look at it and decide if this area meets the criteria?

Mr. Harold Owen stated, that's correct.

Chairman Mr. Richard Parker asked, so if someone wanted to go out on Edgewood at Marty's Art Shop or something that is business zoned and not residential would they be able to put their stand there in a commercial zone?

Mr. Harold Owen stated, they have already done that. If you remember several summers ago right in front of his art studio, as someone who lived close to that I noticed the business was moderate and I never saw any issues what's so ever there especially since you had access on two different roads.

Chairman Mr. Richard Parker asked, this ordinance applies to Marty's?

Mr. Harold Owen stated, no this ordinance applies to residential.

Chairman Mr. Richard Parker asked, what will the stands look like? Will it be a temporary tent with tables or will it be a permitted structure or a back of a truck bed? Are there any regulations on this?

Mr. Harold Owen stated, I can tell you that years ago in Parks and Recreation we would have people come and sell to the City Park on numerous occasions with cantaloupes in the back of trucks. I can't ever remember anybody freaking out too much about that. I think in a situation we had last year this gentleman had a tent and a couple tables with a shade of trees and there was no noise. No one was out at the road trying to pull people in. You would be shocked at the amount of traffic he did have and primarily that location was really important with so many people coming from the hospital.

Chairman Mr. Richard Parker asked, all vegetables have to come from North Carolina?

Mr. Harold Owen stated, yes. From what I have gathered talking with these people they have gathered a base of people that have become their friends. Rural North Carolina used to be all about this. You did business with your friends and you honored that friendship and you did not do something like selling them a bad product.

Chairman Mr. Richard Parker asked, how many farmers would you anticipate would get on board with this, five to ten?

Mr. Harold Owen stated, I don't think we would have that many to starting off. I don't know how many we would get this year because it's late. I think you would be lucky to get two or three starting and hopefully there will be success where we could get them in different parts of the community where people could take advantage of this. This is not designed to just go in one area of town. It's designed to go into different places if we can.

Commission Member Mr. Ryan Kirk stated, I think this is a wonderful idea for this community and it needs this kind of stuff. My question is about the process. Is all this going to fall onto Joey as a decider? Has that been worked out? What if the neighbor decides it doesn't want the stand beside their house. Do we have a process dealing with complaints? Do you need neighbor approval?

Zoning Administrator Mr. Joey Lea stated, we only work on complaint bases. This is something they will be able to do as a matter of right. If there is a complaint then we can check it out. No impending traffic and as far as getting a neighbor approval they will not have to have that.

Mr. Harold Owen stated, there may be some complaints at times. They wouldn't have lights there and it's not going to be a situation where it's a permit factor.

Chairman Mr. Richard Parker asked, since it ends in August we won't have yards full of pumpkins and things like that?

Mr. Harold Owen stated, it's a 120 days and not designed for yards of pumpkins. Pumpkins have their place and hopefully it will be where they are now.

Commission Member Mr. James Kirkpatrick asked, is that 120 consecutive days?

Mr. Harold Owen stated, yes.

Commission Member Mr. James Kirkpatrick asked, I open up for four months and sell corn, tomatoes, etc. I can wait 15-30 days and come back and do it again for 120 more days?

Mr. Harold Owen stated, no it's only 120 calendar days in a year. Majority of the products will be here from May 1 – September 1.

Chairman Mr. Richard Parker asked, do you think the guy on Alamance Road would like to move back?

Mr. Harold Owen stated, I can assure you he would like to move back. Now the question is whether he would do it this year or next. There is a limited time frame here that you can sell these products fresh. Some people freeze or can them to make them last. If you go to your local grocery store and look at the fresh vegetables they are not cheap.

Commission Member Mr. Ryan Kirk asked, it says here exemptions plants, fruit and vegetables but you have been mostly talking about perishable fruits and vegetables. Its plants everything up to Christmas Trees?

Zoning Administrator Mr. Joey Lea stated, it wouldn't include Christmas Trees.

Commission Member Mr. Ryan Kirk asked, what about herbs to grow or flowers?

Zoning Administrator Mr. Joey Lea stated, it can include plants but not Christmas Trees.

Mr. Harold Owen stated, Christmas Trees are a big item that we try and stay away from. They site them through design now in commercial zoning only.

Commission Member Mr. Ryan Kirk asked, will there be other documentation that will make that kind of stuff specific for whoever applies on an application form?

Zoning Administrator Mr. Joey Lea stated, there is no application form. There wasn't one to begin with. The only difference between the way it was and the way it is now is that you can actually lease someone's property; you don't have to be the property owner. A property owner could already be doing this same thing. So there's not a whole lot of difference.

Mr. Harold Owen stated, it opens it up to a farmer that has land outside of the City and so they may lease a property to sell their produce in the city.

Chairman Mr. Richard Parker asked, they would have to have a signed lease of some sort saying I'm leasing this land.

Zoning Administrator Mr. Joey Lea stated, if one of the neighbors complains and we go out and check them out, they will have to show us their lease.

Vice-Chairman Mr. John Black stated, I like in theory the presentation doubling the time from 60 days to 120 days. Who is going to determine who meets the guidelines and who doesn't? I'm a little concerned about that and there again if a property owner has a problem how is that going to be as you said, we will go out there and investigate? Let's say that my neighbor who has a vacant lot beside me and grows tomatoes and wants to sell them there on his property. According to this he can do that. He is in my residential section across the street from me selling tomatoes for a couple of months, people driving in and out, parking there on the street, you're hoping they are there to buy tomatoes but they could be just looking around the neighborhood. To say well we are going to do this on a case to case bases yeah probably but I'm thinking this is going to happen and people are just going to normally complain, that is just human nature. Nobody is going to skip through here and say yeah that's great I love having my next door neighbor having cars pulling in all the time. I like the idea but I'm concerned about the enforcement and who goes out and says yes or no. Christmas I'm worried about, hosta's things like this where somebody can go out and grow hosta's and break them up and sell those plants and anything like that, I'm concerned about somebody doing resell; actually going out and buying from NC and then coming back here to resell cause they are making money and it's good. I'm all for this I just hope that you have looked ahead and understand that human nature is people are going to complain, people are going to try and twist this and people are going to try and take advantage of this situation. All that I'm asking is to make sure that you have covered all the loopholes and you have thought and discussed this out.

Mr. Harold Owen stated, most people don't realize that when you have curb-and-gutter in front of their house that is not their parking space. Most people don't realize that probably 6-8 ft. of their yard is public right-a-way for roads. But when there is a party next door and someone parks in front of their house they complain. We went through this process concerning how many cars can park in a yard it sounds great but in reality how do you in force it. The concept here is we would like to be able to have off set parking if we could and we need to look at the street and see in terms of visibility, curves, hills and so forth with people parking on the street. This is like the Saturday morning yard sales.

Chairman Mr. Richard Parker asked, it seems like with the way the ordinance is written you would have to make an application and Joey would have to approve it or permit it because if one pops up on Edgewood then Joey will have to shut it down.

Mr. Harold Owen stated, that is right; the applicant would have to have a lease of the property.

Chairman Mr. Richard Parker asked, but Joey said that if he had a complaint then he would go check it out to see if they had a lease.

Zoning Administrator Mr. Joey Lea stated, this wasn't intended to be an application process.

Vice-Chairman Mr. John Black stated, I'm suggesting that in order to do all of this that has been suggested that it would come into an application so that the City could determine the compatibility of the neighborhood standards and evaluate the criteria, the hours of operation, and the traffic flow not after the problem but before the problem.

Commission Member Mr. Bill Abplanalp stated, this is meant to encourage people to do this. I think that the permitting process would discourage people.

Zoning Administrator Mr. Joey Lea stated, we do not do applications for yard sales. The traffic that the yard sales make would not be what a fruit stand would make. Yard sales generate a lot of traffic. The thing is it will be a judgement call on traffic because anywhere on any street you are allowed to park. If the neighbors can get out of their driveway then we don't have a problem but if they cannot get out of their driveway then we have a problem. We can only see all this once it is started. Most people won't know that there is an application process. Just like people won't know about the lease of the property until they ask.

Mr. Harold Owen stated, I actually think that is a Commission's decision to make. What your recommendation with whatever it is we can take that to Council. Certainly up to the Commission to talk about that.

Zoning Administrator Mr. Joey Lea stated, staff is recommending this. As Mr. Owen stated this is something that was touted in the land use plan that was adopted. These things are not intended to be commercial uses. We have 2 commercial agricultural sales, one is on St. Marks Church Road and the other is on Chapel Hill Road.

Chairman Mr. Richard Parker asked, what about the one on North Church Street? There is one on North Church it is 2763 North Church Street the old plaza.

Zoning Administrator Mr. Joey Lea stated, those are commercial and on commercial property. They are commercial operations; this is not intended for that. It's supposed to be a small place where you could pick up vegetables on the way home. 120 days makes it seasonal. With that and everything Mr. Owen said we recommend approval.

Chairman Mr. Richard Parker asked, have you considered a stand that someone builds and it not be safe, that would not meet the building code?

Zoning Administrator Mr. Joey Lea stated, there won't be any permanent structures.

Chairman Mr. Richard Parker asked, so somebody couldn't go out there and actually get 2 X 4's and build a stand?

Zoning Administrator Mr. Joey Lea stated, they can't build permanent stands. If they did we can tell them to take it down. If you see anything it might be a tent, a small tent.

Commission Member Mr. James Kirkpatrick made a motion to approve the amendments to the Zoning Ordinance Section 32.10.Y. Commission Member Mrs. Early Kenan, Jr seconded the motion. The Commission voted 6 to 1 to recommend approval of the rezoning. Voting for the motion was: Kirk, Kirkpatrick, Enoch, Parker, Kenan and Jagers. Voting against the motion was: Black. The motion passed due to the majority vote.

**ITEM NO. 4:** Staff to discuss the Code Assessment for the UDO.

Director of Planning and Zoning Mrs. Amy Nelson stated, I'm hoping that everyone has taken a look at the Code Assessment. I want to know if anything is needed to be clarified or if you have any questions. If it is something we can't answer we will get it to the consultant.

Chairman Mr. Richard Parker stated, I think they have done a good job. I like some of these ideas about having the charts, photos and things so you can get a real clear look at what it means.

Director of Planning and Zoning Mrs. Amy Nelson stated, that was one of my top priorities trying to make it easier for people to be able to read and understand what's going on.

Commission Member Mr. Bill Abplanalp stated, I've got a couple questions. When this is implemented would all existing codes revert to the new codes?

Director of Planning and Zoning Mrs. Amy Nelson stated, we are going to have a time frame where by the time it is adopted we may give 3 months before it goes into effect, so there will be a time frame for people to get used to the new codes. Whenever someone comes in for anything we will be making them aware of the new code that's coming. There will be lots of advertising and it will be in the paper and will have public hearings.

Commission Member Mr. Bill Abplanalp asked, what would be the implementations schedule?

Director of Planning and Zoning Mrs. Amy Nelson stated, we don't have an exact schedule for that yet; we are hoping in a year.

Commission Member Mr. Bill Abplanalp asked, I know a lot of work was done on the Western Loop, in somewhere here I think I read that the intention is to take the lighting, signage and some of the other criteria that we have established for the Western Loop and make that citywide, am I reading that correctly?

Director of Planning and Zoning Mrs. Amy Nelson stated, we will be looking at all those issues and it goes through a process of staff looking at it, the Board looking at it, Council looking at it as well as public input to see what is actually going to be done and we have an advisory committee as well. There will be a lot of people looking at it and making suggestions and recommendations and all those things will be looked at.

Zoning Administrator Mr. Joey Lea stated, what you have in front of you are suggestions. We haven't modified anything yet. We are just getting started. That's why if you had any suggestions we can put them into this for it to be looked at.

Director of Planning and Zoning Mrs. Amy Nelson stated, as we go along the process you need to let us know. This is going to be looked at by City Council and if it's going in the direction that they want us to go in it will get approved. These are just ideas and then when this is approved they will start writing the actual ordinances so then that will come back in sections to us for review. I will put it front of all you and I want all of you to take a look at it and give me feedback. So then I can take it to the consultants.

Commission Member Mr. Bill Abplanalp asked, so we will have a chance to approve each section?

Director of Planning and Zoning Mrs. Amy Nelson stated, you won't approve, you will recommend.

Chairman Mr. Richard Parker stated, it seems like to me that these guys have found something wrong with everything we've got. Are we that far behind?

Director of Planning and Zoning Mrs. Amy Nelson stated, yes.

Chairman Mr. Richard Parker asked, when was the last time we did this?

Director of Planning and Zoning Mrs. Amy Nelson stated, 1971 I think.

Chairman Mr. Richard Parker stated, I like the way they are going with this. For me it's a good start and I'm anxious to see the new codes and ordinances.

Alamance News Reporter Thomas asked, how did the UDO process get started?

Chairman Mr. Richard Parker stated, we recognized that we had a problem.

Director of Planning and Zoning Mrs. Amy Nelson stated, if you are asking how it got started here they hired me and I looked at what we had and realized how old they were and how much they needed to be updated and modernized. There were so many uses that are not in there that exist today and then there are somethings in there that shouldn't be in there because they are not done anymore. It really needed to be looked at very seriously.

There being no further business to discuss, the meeting was adjourned at 7:47 p.m.



---

**Richard Parker, Chairman**

---

**John Black, Vice Chairman**

---

**Kelly Peele, Secretary**