



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

January 22, 2018

Council Chamber, Burlington Municipal Building

CITY MEMBERS:

Richard Parker, Present
John Black, Present
Early Kenan, Jr., Present
Ryan Kirk, Absent
James Kirkpatrick, Present
Nicole Enoch (Alternate), Absent
Matthew Dobson (Alternate), Absent

EXTRATERRITORIAL MEMBERS:

Earl Jagers, Present
Bill Abplanalp, Present

STAFF PRESENT:

Amy Nelson, Planning Director
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 December 18, 2017, were unanimously approved.

ITEM NO. 3: Mr. Steve Morrow to present an application to rezone from R-9 Residential District to R-M Residential Mobile Home District. The properties are located on the west side of Riverview Dr. and between Gordon Street and Saint Regis Drive referenced as Alamance County tax identification numbers 127107 & 127108.

Mr. Steve Morrow stated, when I bought those 2 lots there was a single wide on them. The lots are so narrow and small there isn't really anything you can do there unless you combine the lots together. I'm not sure if I'm going to put another trailer or build something out there. There are 2 trailers right beside the lot already and there is also a trailer park in the neighborhood. I Don't know exactly what I want to do but I do know the lots need to be put together so there is more land there because it is so small.

Chairman Mr. Richard Parker asked, was there a mobile home on the lot before?

Mr. Steve Morrow stated, yes sir. It has been there probably over 15 years.

Chairman Mr. Richard Parker asked, Joey, there is a sign out there that says "Burlington Zoning Limits" and it is before this lot we are discussing; is this outside of our zoning jurisdiction?

Zoning Administrator Mr. Joey Lea stated, it is in the ETJ. I noticed that sign when I was looking at it on Google Earth and I think that is probably an old sign. I will have to go out there and look at it because the limits at one time probably stopped right there. I've got a note to look into that.

Commission Member Mr. Bill Abplanalp stated, I move we recommend approval of this request based on the consistency with the Comprehensive Plan. This action is reasonable, in the public interest and the amendment is compatible with existing land uses in the area. Commission Member James Kirkpatrick seconded the motion. The Commission unanimously voted to approve the rezoning.

ITEM NO. 4: Staff to present proposed amendments to the City of Burlington Zoning Ordinance Section 32.9, Table of Permitted Uses and Section 32.10, Supplementary Use Regulations, by adding “Outdoor storage, display or sales of new or used tires” as a use classification.

Planning Director Mrs. Amy Nelson stated, this is something that staff has been working on for a while. I’m sure you all have seen issues around with the city and tire storage that is less than attractive, concerns with mosquito attraction and things of that nature. We set to work quite a few months ago working on this and what you see before you is the result. Joey was the author of this text amendment so I will let him answer your questions.

Zoning Administrator Mr. Joey Lea stated, we went through several iterations of different types of screening and different types of requirements but we think that this ordinance is the best of what we could come up with that would allow us to meet our objective but wouldn’t be too much of an impact on everybody that has tire sales.

Planning Director Mrs. Amy Nelson stated, it’s allowing them to still have their business but it is taking into consideration the rest of the community as well.

Commission Member Mr. Earl Jagers asked, this covers ETJ area?

Zoning Administrator Mr. Joey Lea stated, it does.

Commission Member Mr. Earl Jagers asked, in case someone decides to have a stack of tires out there?

Zoning Administrator Mr. Joey Lea stated, yes. If it is a commercial area out there they will have to abide by the rules.

Commission Member Mr. Earl Jagers asked, that’s commercial but what about residential?

Zoning Administrator Mr. Joey Lea stated, we would have to handle that differently.

Planning Director Mrs. Amy Nelson stated, that would be a different situation. That is more of a Code Enforcement area.

Chairman Mr. Richard Parker asked, can you explain number 2 to us?

Zoning Administrator Mr. Joey Lea stated, for outdoor display we wanted to limit the number of tires to 24.

Planning Director Mrs. Amy Nelson stated, we just wanted to make sure that someone doesn’t put 100 tires out there and say these are display. We are limiting the number of tires that you could have for a display.

Commission Member Mr. James Kirkpatrick asked, and they have to be on racks?

Planning Director Mrs. Amy Nelson stated, yes.

Chairman Mr. Richard Parker asked, do they have to have a fence around them?

Zoning Administrator Mr. Joey Lea stated, not for display.

Chairman Mr. Richard Parker asked, on Church Street and Graham-Hopedale Road where they have 100's of tires, he would be allowed to put up a display of 24 tires on a rack and that would be displayed to the public outside of the fence?

Commission Member Mr. Early Kenan, Jr. stated, within 10 feet of the building.

Zoning Administrator Mr. Joey Lea stated, it can be outside of the fenced in area; it's for the display.

Chairman Mr. Richard Parker asked, does any of the tire salesmen know about this?

Zoning Administrator Mr. Joey Lea stated, we've talked with a couple but we have not talked with everybody yet. If this ordinance is passed then there will be an educational period where we will talk to each and every one of them before it goes into effect because there is a 6 month amortization clause in here.

Chairman Mr. Richard Parker stated, I'm sure our former mayor will be glad of this. He was a big proponent on this. He wanted to conceal the tires.

Zoning Administrator Mr. Joey Lea stated, this has been discussed for quite a while.

Commission Member Mr. Earl Jagers stated, I'm still not comfortable with what I'm reading here. I'm sure you did a wonderful job Joey but I'm sort of a libertarian and on something like this when someone owns property and have been doing it for a long time I just hate to see us come in and go "sorry boys, we're going to change the rules on you"; I'm more of a grandfather things in type of person.

Zoning Administrator Mr. Joey Lea stated, we looked at just about all of the properties. There is only a few in my opinion that this is really going to impact. The rest of them not so much and some of them not at all. I understand what you are saying but I think at the same time over the years with all the complaints that we have had we have grappled with this for I can't tell you how long and just for that reason we don't want to make this hard on anyone and that is why it was drafted the way it was. I think we've come up with a happy medium that will address the issues that we have.

Commission Member Mr. James Kirkpatrick stated, I think this is very fair, very fair.

Chairman Mr. Richard Parker stated, but you also allowing tire dealers to setup all these displays that normally wouldn't have them.

Commission Member Mr. James Kirkpatrick stated, they do it now and they do it anyway.

Chairman Mr. Richard Parker stated, I'm talking about like Southern Tire or places like that, do they have outdoor displays?

Planning Director Mrs. Amy Nelson stated, they are not required to have an outdoor display. This is just saying they can if they wanted one.

Zoning Administrator Mr. Joey Lea stated, they don't have to do it, it is just an option. I don't think Southern Tire has a display.

Vice Chairman Mr. John Black asked, if we are going to make a change and if we are actually looking at this and we are going to cause a little controversy can we amend this? I would like to make sure those tires when they are outside when inclement weather is on the way that they are covered. If they stay outside they don't trap water, being a breeding ground for mosquitos, west Nile virus and things like that, that are common to mosquito breeding and so if we are going to go ahead and vote why not go ahead and do something that is thoughtful to the environment and force them to spend an extra \$35 or \$40 for a trap to put over the tires in case it's going to rain or something; as a safety concern. To me mosquitos are a public nuisance so why don't we go ahead and address that while we are making this change.

Zoning Administrator Mr. Joey Lea stated, that is certainly something that can be looked at. I will tell you this; we've had a couple locations that had complaints about mosquitos and the Health Department went out there and checked it and there were not enough mosquito larva in there that was cause for concern. I guess what I'm really trying to tell you is that is not really an issue.

Planning Director Mrs. Amy Nelson stated, it's a perceived issue but the Health Department hasn't found anything to really substantiate that level of concern. Plus they've got all those tires allowed for storage behind a fence outside in the back.

Chairman Mr. Richard Parker asked, procedurally if we adopt this text amendment tonight is this going to be an actual Public Hearing on this?

Planning Director Mrs. Amy Nelson stated, yes.

Zoning Administrator Mr. Joey Lea stated, Council has to approve this.

Chairman Mr. Richard Parker asked, this will be advertised so any dealer that has an issue with this can come to the public hearing and address Council?

Planning Director Mrs. Amy Nelson stated, yes.

Zoning Administrator Mr. Joey Lea stated, this is just like any other rezoning change or text amendment change we have ever done.

Commission Member Mr. Earl Jagers asked, what are the penalties going to be?

Zoning Administrator Mr. Joey Lea stated, zoning violations carry a civil penalty of \$50 a day. We generally give 15 days for people to comply.

Chairman Mr. Richard Parker stated, this will go into effect 6 months after City Council adopts it. That gives people a chance to learn the amend text and to change things as needed to comply with this amend text. If they don't they will cite them and then give them 15 days to fix it. What do other cities do about their tires?

Zoning Administrator Mr. Joey Lea stated, we did look at some other ordinances and they are in-line with what we are doing, some were a lot more extreme and some not so much. We took the middle road and thought of what is best for this area and the situations that we are facing.

Commission Member Mr. James Kirkpatrick stated, I would like to make a motion that we approve the proposed text amendment based on the consistency with the City of Burlington Comprehensive Plan. This request is consistent with other zoning measures that have been passed and with other amendments that have been passed and that is why this action is reasonable and in the public interest. Commission Member Mr. Early Kenan, Jr. seconded the motion. The Commission voted 5 to 1 recommending approval of the proposed text amendment change. Voting to approve the proposed text amendment change were Commission Members Kirkpatrick, Abplanalp, Parker, Early, Jr., and Black. Voting against the motion was Commission Member Jagers.

Chairman Mr. Richard Parker asked, the last time I drove by the big walls down there on South Church Street with the Keystone subdivision, are they going to take those down?

Zoning Administrator Mr. Joey Lea stated, no they are working on the modification to the walls.

Chairman Mr. Richard Parker asked, they are modifying the wall?

Zoning Administrator Mr. Joey Lea stated, all they have to do is the outer edges need to be pulled back. They will not come down. Just need to be modified some to be in compliance. They could have done everything they did as a matter of right had they done it per the requirements of our ordinance but they didn't. The fences and the walls were too tall where they were located so they reduced the size of those; some of them were in compliance. The one wall at Cappelquin Way and Church it was in compliance, it's just the big wall that at the entrance that needs to have some modification done to it. They have already gotten the permits for the job as they are still working on the big wall. It will be in compliance when finished.

Chairman Mr. Richard Parker asked, we have done a lot of rezoning's over the last 2 or 3 years and all the things the developers came and told us what they were going to do haven't been done and instead there are for sale signs still on the property. Do people come here to just rezone so they can resell it for a better zone?

Zoning Administrator Mr. Joey Lea stated, some rezoning request are speculative but they have to go through a process especially if it is conditional zoning. Let's take for example the townhomes over on Mebane Street that have not been built. I do know the owner has tried to sell it but I do not know where it sits at this time, but anyone that buys it and develops it has to develop it in accordance with what was approved or they have to come back and get it rezoned. Some of these things take a little time and some of them start right afterwards, it just depends.

Chairman Mr. Richard Parker asked, what about that one over near the old bowling alley on the corner off of Vaughn Road; that little triangle little lot.

Zoning Administrator Mr. Joey Lea stated, that was a straight rezoning. We rezoned that to B-1. The whole intent of the rezoning was to be able to sell it. It had been sitting there for years and years but if it is a straight rezoning it could sit there from now until doomsday but they have been trying to market it and that rezoning gave more options to be able to sell it. There was someone looking at it because I talked to someone and we discussed setbacks and parking and all that and how it would all fit in there.

Chairman Mr. Richard Parker stated, it just seems like some of these developers come here and give us all their design, pictures and everything like the Lidl out on University we haven't seen anything out of that lately.

Zoning Administrator Mr. Joey Lea stated, you know sometimes things change after rezoning. I can tell you this that with Lidl they have taken another look at their marketing strategy in the United States. Right now that particular Lidl is going to be reduced in size from my understanding so they have made some modifications to the plan which we just looked at not long ago so I do expect that one to start. It may not start right away with the Lidl, it may start with the little shops out front then the Lidl but at any rate I think that it is coming along here in the next few months. But like I said, things change.

Planning Director Mrs. Amy Nelson stated, I would like to remind everybody that tomorrow at 11:30am in the Municipal Conference room there is an Advisory Committee meeting on the UDO. It will be presented to Council in February.

There being no further business to discuss, the meeting was adjourned at 7:27 p.m.

Richard Parker, Chairman

John Black, Vice Chairman

Kelly Peele, Secretary