



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

November 25, 2019 – 7:00 pm

Council Chamber, Burlington Municipal Building

CITY MEMBERS:

Richard Parker, Chairman
John Black, Vice-Chairman
James Kirkpatrick
Nicole Enoch (absent)
Ryan Kirk (Absent)
Nancy Rosborough (Alternate)
Peter McClelland (Alternate) (absent)

EXTRATERRITORIAL MEMBERS:

Earl Jagers (absent)
Bill Abplanalp

STAFF PRESENT:

Mike Nunn, Interim Planning Director
Joey Lea, Zoning Administrator

ITEM NO. 1:

Commission Chairman Mr. Richard Parker called the meeting to order at 7:00 p.m.

ITEM NO. 2:

Approval of the minutes of the meeting held June 24, 2019.

Chairman Richard Parker stated, reading through the minutes that they would like to correct, if not then I would like a motion to accept the minutes.

1st motion Nicole Enoch
2nd motion Bill Abplanalp

Approved Unanimously

ITEM NO. 3:

Chairman Mr. Richard Parker stated, Our first order of business is to nominate and elect the new chairman and vice-chairman for this commission do I have any nominations for chairman?

Mr. Bill Abplanalp stated, I nominate Richard Parker.

Mr. Earl Jagers seconded.

Chairman Mr. Richard Parker asked, any other nominations? All in favor say aye.
Approved unanimously

Chairman Richard Parker asked, do I hear any nominations for co-chair?

Mr. Earl Jagers stated, I nominate Mr. John Black.

Mr. Bill Abplanalp seconded.

Approved Unanimously

ITEM NO. 4:

Chairman Richard Parker stated, next item of business is Mr. Chad Huffine to present an application to rezone from O&I Office and Institutional District to CB Conditional Business District for the use of a Unified Business Development. The property is located at 3725 South Church Street, referenced as Alamance County tax identification number 107007.

Mr. Chad Huffine stated, I am the civil engineer for the project before you. This is a 3.89 acre parcel situated in the north west quadrant of Westbrook avenue and south church street it is currently occupied by the Vantage South bank. It has been there since about 2006, prior to that the area was wooded as far as we can see in the late 90s. So since 2008 the property has been sitting pretty much how you see it there in the aerial view. Around November of last year the project was brought to our office and we began working with city staff at that time to create a development that would transition, the retail to the east side of Westbrook and to the south side of church street into the areas to the west with Harvest Baptist church and so on. So over the past year we have worked with staff through traffic concerns and siting concerns. We have been through the old ordinance and have gone through the new Unified Development Ordinance. We have put forth our best effort at combining the best of both development ordinances characteristics and some zoning ordinances that would be applicable to this property. What we present to you this evening is 30,000 sq.ft. of mix retail, restaurant and office uses. If you look in your packet you will see some conditions that we have worked on with staff to add to the project and if you have any questions on those specific items when we get into it I can answer it.

Chairman Mr. Richard Parker stated, well I have one question where are the sidewalks that are supposed to be around the front and the side?

Mr. Chad Huffine stated, along Westbrook on the west side there is a 10 ft. multiuse path proposed to be built by us that runs with the property north and south on the west side of Westbrook avenue, that is the first sidewalk. On the south side of the project there is a 10 foot multiuse path being built by NCDOT with the church street project.

Chairman Mr. Richard Parker asked, when will DOT do it. Is that anytime soon?

Planning Director Mr. Mike Nunn stated, it is funded, it is in the works. It will come along right behind.

Vice Chairman Mr. John Black asked, didn't they say something about March 2020 right around there?

Planning Director Mr. Mike Nunn stated, well DOT's funding as changed a little bit, it did not get impacted that much so the 2021 or 2022 time period is still in play. It's actually from University all the way down to Westbrook that whole section of Church Street,

Commission Member Mr. Bill Abplanalp asked, on the south east corner of the area it says single story, is that a fast food restaurant?

Mr. Chad Huffine stated, south east corner is proposed currently as Hursey's barbeque.

Chairman Mr. Richard Parker asked, so is this multiuse at the back just various franchises?

Mr. Chad Huffine stated, now would be a good time to go into the specifics on the long building. During the past year we have come to the realization that restaurant uses drive traffic. In a considerable effort to accommodate traffic we have limited restaurant use in the long building so it's a mixture of retail office, small shop, some restaurant. The little building that is to the left that is 6000 sq. ft., has no restaurant use proposed and as a matter of fact one of the conditions is that we will not have a restaurant there. So that would just leave the retail business or the small office type.

Commission Member Mr. Bill Abplanalp stated, you seem to have a lot of barriers for traffic flow, am I reading that correctly? "Do not enter"?

Chairman Mr. Richard Parker stated, it is saying "one way".

Mr. Chad Huffine stated, I will politely answer that, the citizens seem to need or like to have some extra directional indicators such as pavement writings and signs . There are cross walks shown, so what you see in signage and crosswalks that appear very bold and vibrant on the page are our attempt to convey to staff and for staff to convey to us and for us to have an understanding of pavement markings and directional markings.

Commission Member Mr. Bill Abplanalp asked, so that is pavement markings not barriers?

Mr. Chad Huffine stated, they are very prominent and aggravating but they are very important to the mixture of vehicle traffic as they intersect with pedestrian traffic. We are trying to keep the communication visually between staff and our office as simple as possible so on your drawing it is very noticeable.

Chairman Mr. Richard Parker asked, do you have any bicycle storage?

Mr. Chad Huffine stated, no sir.

Chairman Mr. Richard Parker asked, how come?

Mr. Chad Huffine stated, we do not use a lot of bicycles.

Chairman Mr. Richard Parker stated, it is because we do not have any bike storage. If you had bike storage people could ride there and park their bikes.

Mr. Chad Huffine stated, I agree.

Chairman Mr. Richard Parker asked, isn't that a part of our multimodal plan Joey?

Zoning Administrator Mr. Joey Lea, it is and it is part of the UDO but again I would like to emphasize this project does not have to meet the requirements of the UDO, it came in under the old regulations.

Chairman Mr. Richard Parker asked, have you considered bike storage?

Mr. Chad Huffine stated, I have.

Chairman Mr. Richard Parker asked, you are just not going to put any in?

Mr. Chad Huffine stated, just because they are not apparent on your plan that does not mean that they might not show up.

Chairman Mr. Richard Parker asked, okay that is what I was hoping to hear.

Mr. Chad Huffines stated, this is a project that has transitioned from the old zoning ordinance to the Unified Development Ordinance (UDO). While being under the zoning ordinance we are trying to incorporate as many things voluntarily and to the aesthetic and usability of the project so we have committed to many things we have not even discovered architecturally or building program. So bicycle activities, parking, scooters, there are many things out there we haven't taken a look at.

Chairman Mr. Richard Parker asked, okay we are trying to be multimodal transportation friendly, so that people can walk there, they can ride their bikes there, we spent years working on this thing here, trying to make these business more accessible and pleasant for people to come to and not just automobile heavy but pedestrian friendly so anything you can do I know you are not under this book but anything you can do with the multimodal transportation it will be appreciated.

Commission Member Mr. Earl Jagers stated, where is the signage on this?

Mr. Chad Huffine stated, we show two monument signs at two locations one at the entrance for Westbrook and one at the entrance for South Church Street. They are buried by some shrubs and adjacent sidewalks, they could be covered with a piece of text calling out the monument sign.

Chairman Mr. Richard Parker asked, so how tall are those monument signs?

Mr. Chad Huffine stated, signage for this site we have agreed to comply with the Unified Development Ordinance so I think we have 100 sq.ft. criteria for our signage and division criteria. Joey may be able to discuss this by memory but I think we have that as a 5 foot sign and 10 feet tall. The entire sign was included in those 100 square feet. So the dimensions vary but the square footage is the constant. Our idea is every good design keeps the signage out of the sight triangles so there is a setback for the distance of the vehicle. One of the sacrifices you have with monument signs opposed to pole signs is that they are difficult to see around so you sacrifice the visibility and some obstruction so we have set the signs further back from the street, in an effort to allow the driver at an intersection to see better.

Vice Chairman Mr. John Black asked, Joey have you heard anything from the church as far as this is concerned?

I only had one phone call and that was for the property owner at this property on the other side of Westbrook. He said he would not be able to attend this meeting. He really didn't have any comments about the property and I sent him a copy of the site plan and I haven't heard anything back from him and that is the only phone call we have had and the only person I talked to.

Mr. Chad Huffine stated, I can say to the board too, we extended an invitation to the same list of property owners that Joey used for an informational meeting this past Monday and we did not have any attendees at that meeting.

Zoning administrator Mr. Joey Lea stated, as staff, we have been working with this project since the first of the year. Staff is recommending the request although it is not consistent with the land use plan but is compatible with its surroundings and we feel like this corner is more susceptible to commercial developments so staff is recommending approval.

Chairman Mr. Richard Parker stated, so the bank was office institutional.

Zoning Administrator Mr. Joey Lea stated, yes which is commercial in of itself but over the last couple of years the inquiries about this property has all been commercial use.

Chairman Mr. Richard Parker stated, If anyone would like to make a motion I will take a motion at this time.

Commission Member Ms. Nicole Enoch stated, I move we recommend approval of this request, with the stated conditions, to rezone from O&I Office & Institutional District to CB Conditional Business District. The property is located at 3725 South Church Street, referenced as Alamance County tax identification number 107007.

The motion is based upon the inconsistency of the proposed rezoning with the Comprehensive Plan, in that:

- The Future Land Use Map in Section 4 “Land Use” of the Comprehensive Plan calls for this area to have Traditional Residential uses.
- The property is contiguous with commercial zoning and the proposed use is properly screened from residential properties.
- The development incorporates requirements identified in both the Greenways & Bikeways Plan (Map 3.4A Comprehensive Network (Northwest Burlington) and the Pedestrian Master Plan (Map 3.4 – Pedestrian Network Recommendation Map, Southwest Grid)

This action is reasonable and in the public interest in that:

- The Comprehensive Plan calls for Traditional Residential uses and the proposed use is compatible with the uses in the area.
- The request is compatible with the existing zoning in the area.
- Developer is providing an area for the installation of a multi-use path to be installed by NCDOT along South Church Street and the applicant is installing a multi-use path along Westbrook Ave.

Commission Member Mr. James Kirkpatrick seconded the motion.

Approved unanimously

ITEM NO. 5:

Chairman Mr. Ricard Parker stated, Mr. Chad Meadows to present proposed amendments to Chapter 2, 3, 4, 5, 8 and 9 of the Unified Development Ordinance.

Mr. Chad Meadows stated, thank you Mr. Chairman, this is our first set of amendments to the UDO they are minor in nature for the most part, the idea that we would put together a document with 600 to 700 pages without a few typos and glitches is pretty unlikely. It is very typical for development regulations like this one to go through a round of amendments as you begin to work with them and this ordinance is common place that it has its share. I have 62 pages to go over with you but the vast majority of those pages are typographic areas or very small changes to the text. Now there are a few substantive changes that have come up based on staff review and staffs working with the document. I will highlight those for you and I will work quickly through things that are editorial in nature or we just made a typo or whatever. Then we will spend a little more on some of the things that are a little more substantive there is probably maybe 7 of them maybe 6 so it is not a huge number. So what I am going to do is scroll through on the screen and show you all the pages with changes.

Chairman Mr. Ricard Parker asked, can we ask questions as you go along?

Mr. Chad Meadows stated, absolutely and I hope you do. The very first page and by the way, these images are crafted in track changes, so the new text is red and deleted text is shown in blue. Hopefully

none of you are color blind if you are then this is probably a very frustrating experience for you. Let's just quickly jump in. the very first page is actually one of the pages of the document that is actually before chapter one it's a table of amendments so this is the summary table that is intended for the front of the document and staff will use this page to track ordinance amendment numbers the name and any comments I'm not sure if this is UDA TA 120 I'm not sure but if it is then you get a real world example of what this would look like so assumedly as the city moves forward with the UDO this table will grow so an addition of this table is one of the substantive amendments. Next in line we go to the appeal process we go to page 2-15 of your UDO in the summary flow chart you see language that says 15 days to appeal to city council and city council doesn't hear appeals, the Board of Adjustments does so we decided we needed to fix that so we did. Moving on the next page is 2-31 this is the final plat procedure. We have listed a list of exemptions things that are not required to undergo the final plat review because these are not subdivisions so there is no need to include them in the regulation. This definition by the way is listed in the definitions of the document. Moving on you see some of the changes to the item number because we removed number 3 that is why you see red item numbers. While we were working on the UDO there was a parallel effort to amend the city code of ordinances and what we came to find that there were some changes in the numbering of the city code of ordinances which is why in several places where we were referencing former section 37.30 of the city code that is now section 40.40 so that is reflected there at the bottom of 2-32. Next substantive change this is part of the flood plain development permit procedure and I am on approximately page 2-35 in the UDO, for some reason during part of the development process or the development of the code we had listed a one year expiration period for a flood plain development permit we came to find out that after further discussion with engineering and a closer inspection of other city rules that the expiration period is actually 6 months not one year so that change was made to reflect current practice.

Mr. Chad Meadows stated, I am now on page 2- 40 this is planned development procedure and we wanted to clarify that if a planned development procedure rose to the level of a cite plan if it included sufficient detail to act as a site plan then we will review and approve it as a site plan and not require the applicant to go back through the site planning process so we have added that clarification to the subsection c.

Commission Member Mr. John Black asked, so who will make that clarification?

Mr. Chad Meadows stated, TRC will make the determination you will note 2 more typos on this page one midway down you guys do not have a Board of Commissioners you have a city Council so that needed to be fixed and you see the 37.30 switching to the 40.40 down at the bottom of the page to that other updated cross reference. This is pretty straight forward 2-43 this is the 3rd substantive change not a big deal at all when we were drafting the UDO we were using terminology for the plans that are prepared for public infrastructure: streets, water , sewer and we call those things construction plans which I believe is what you were using and maybe still using today but will not be using going forward. In discussions with the engineering department the determination was made as a part of the procedures manual that we would no longer make reference to a street utility construction plan but rather an infrastructure permit. One of the reasons that change was made was to minimize confusion. You might recall that a subdivision might have roads, water, and sewer yielding a "construction plan". A site plan may also have roads, water, and sewer and there was concern that we would have a sight plan and a construction plan and what does that mean and how do we simplify this and make that clear. The idea being lets have an infrastructure permit when I have public utilities I apply for an infrastructure permit one of the things I install with my infrastructure permit is streets water and sewer street drainage etc. So we are no longer using the phrasing "construction plan" going with the words "infrastructure permit," you will see this change in a couple different places. Next page 2-47, basically we all felt that the rezoning procedure and the conditional zoning procedure in particular didn't provide adequate clarity about the distinctions between a concept plan that is submitted with a conditional rezoning plan and/or a site plan that is submitted with a conditional rezoning so we wanted to increase the clarity and make a

deeper distinctions about this. Now an applicant that files a conditional rezoning application may file it with either a site plan that is prepared and very detailed in nature that can be submitted with the application or they can file it with a concept plan with a much more generalized, sort of much more general bubble diagram of the site. That concept plan or site plan rolls through the process with the rezoning application and we felt after looking at the language it wasn't clear enough that you could do one or the other, that is why we made the clarification in the flow chart and down at the bottom of the page where we are referencing concept plan, you can see in 5 sub b applications for conditional rezoning shall include a concept or a site plan as a detailed written description of the uses. If you go to the very next page 2-48, we wanted to be clear that the concept plan if someone chose to submit that was illustrative and if the applicant opted to submit a concept plan that is great they are welcome to that but they will have to file a site plan in addition you don't get off of the site review process just filing a concept plan so we just wanted to be sure that everybody understood that. That is why that change is proposed there for page 2-48. 2-52 we talked about these changes already the first is that 37.30 to 40.40 cross reference in the city code, the second is department from the term in favor of the term infrastructure permit. Temporary use permit page 2- 60, you may recall it took us quite a bit of time to review this code, in this particular chapter these development procedures were one of the first things that were written and about year later or so we wrote the signage regulations. After writing the signage regulations we decided that we weren't going to have any temporary signage, we were going to call temporary signage supplemental signage and that decision was made for a variety of reasons not least of which is staff does not have the institutional capacity to track sign provisions that have a temporary provision. When we say temporary sign, we don't mean temporary sign as in temporary for few days, when we say temporary sign we mean it is constructed of temporary materials that will not last forever.

Chairman Mr. Richard Parker stated, plywood?

Mr. Chad Meadows stated, right or fabric or vinyl or paper okay. A temporary sign is something that is not permanent, is not made of permanent materials, and has nothing to do with how long it is on the site that is a very important distinction to understand. I will claim, I will confess I didn't understand the distinction the year before when we wrote this procedure that is why we had to make these changes to the temporary use permit. I was anticipating that we would use the temporary use permit to approve Temporary signage, thinking that temporary signage was something that had duration. That is why that change is there as you see we struck the language for temporary uses complying with the temporary sign provision and added a caveat about signage.

Chairman Mr. Richard Parker asked, so we see around here somebody opening a new business and they put up a vinyl sign with some rope or bungee cords and they just leave it. Now we are saying they can't do that.

Mr. Chad Meadows stated, no not all we are saying that if they do that in fact it is called a supplemental sign and let me give you some background on why we wrote it that way. Staff jump in if I mess it up, at some point in the cities past there was an attempt to police temporary signage, signage that was temporary that had a temporal component for 30 days or 15 days or 20 days or whatever it was. The city quickly came to the conclusion that they would need to hire multiple staff people in order to enforce that regulation and the decision was made that temporary sign meant temporary materials not temporary time period and so where we are after that experience, that these signs that go in, the ones that you spoke about banner, vinyl, rope, or bungee cord, that is considered a supplemental sign and it can be on site in accordance with the supplemental sign provisions which do not have a temporal limitation. The answer is can the sign be there forever, yes it can.

Chairman Mr. Richard Parker asked, so what is a temporary sign? Make that clear.

Mr. Chad Meadows stated, you do not have a temporary sign here in Burlington, there is no such thing as a temporary sign.

Vice Chairman Mr. John Black asked, do we limit the material, because vinyl has a much longer life than let's say paper.

Mr. Chad Meadows stated, can you specify the material for a supplemental sign, the answer is yes. Does this regulation anticipate that, the answer is no. We do have material requirements for banners and we do not have requirements for supplemental signs.

Mr. Chad Meadows stated, next on page 2-65 this is a matter of practice but we failed to codify it, this is the transportation impact analysis procedure, so some developments depending on how much traffic they create or anticipated to create are required to prepare a transportation impact analysis., One of the initial steps in the process is meeting the transportation director and getting some information about background traffic numbers, planned traffic improvements etc.... these sort of things that would need to go into the analysis this is a matter of course that happens today, what is included in page 2-65 is the clarification that the applicant needs to submit a set of meeting minutes from that meeting with the transportation director memorializing their understanding about what that expectation is going to be for so that city staff knows that the applicant got it and understood what needs to be in the analysis so additional time isn't expended reviewing the transportation impact analysis that was based on incorrect information. So the applicant has to submit meeting minutes within 14 days of the transportation impact analysis meeting I think that is current practice but it was not recognized in the procedure so we added it.

Mr. Chad Meadows stated, next we are on page 3-3 we are out of the procedures section, we are now in the districts chapter. The zoning ordinance that the UDO replaced has the language in it that you see in F 1 and 2 and staff thought that it was more important to revert back to the prior language with respect to the number of residential buildings that could be on lots and their relative placement to one another, so we got rid of what was drafted and put in what was in your prior ordinance that felt like that was more clear.

Chairman Mr. Richard Parker asked, so can you build a tiny house behind a house on a single family lot based on this?

Mr. Chad Meadows stated, I think if you built a tiny house and treated as an accessory dwelling unit the answer is, yes you could. If you built a tiny house and decided to make it a second principal dwelling or second principal use the answer is no you could not.

Chairman Mr. Richard Parker asked, so no granny flats?

Mr. Chad Meadows stated, as long as the granny flat is an accessory, I understand that that is kind of a strange distinction but recall that the test of whether or not something is accessory is, is it smaller in size, is it subservient in scale and purpose and is it also owned by the owner of the principal structure so that is the difference. Can I sell my granny flat? The answer is no because then I have 2 principal uses on one lot but I can rent it.

Mr. Chad Meadows stated, fifth substantive change is on page 3- 16 and it deals with the set back in the high density residential district. I say substantive change, I think what happened is the 12 was actually a table number and the 25 that was supposed to be there got deleted and the 12 stayed and we needed it to be enough room to park a vehicle so we wouldn't have a vehicle sticking out into the right of way so the 12 was struck and replaced with a 25. I believe that is in the current regulation. I think that is what happened unfortunately it is a substantive change but I think it was just an error, I think the 25 got

deleted inadvertently. Next page 3- 22 in table notes pocket neighborhoods, bug low courts deleted and several locations, that is because we made a decision that you should not be able to do pocket neighborhoods or bungalow courts in the low density residential district but failed to delete from the table notes when we were doing our review so that was an over sight.

Chairman Mr. Richard Parker asked, it is still allowed in high density residential and medium density residential?

Mr. Chad Meadows stated, absolutely yes, but not in low density which is appropriate.

Chairman Mr. Richard Parker asked, that makes sense.

Mr. Chad Meadows stated, it is correct everywhere else, we just missed it from the table notes. Next is page 3- 25 this has a long and sorted history and I am going to cut right to the point. When we were working on the development ordinance there was a strong desire to encourage mixed use and I think that we all got a little too far down the road on encouraging mixed use and we put N/A down every cell in the mixed use column and that was a mistake it should have been none in terms of maximum residential density or in terms of minimum walk width it should have included some rear setbacks and some perimeter setbacks and some maximum heights but for whatever reason it didn't and so this is substantive change number 6. We are reinstating the dimensional requirements, some dimensional requirements for mixed use in medium density residential and you can see by these standards that these are pretty much in line with what is there and how we have handled mixed use in the other residential districts. Next is the planned development districts and I am on page 3-50 and this substantive change number 7 we did not anticipate that there were any lots inside the PDD eligibility that were bifurcated, in other words part of the lot was inside the eligibility boundary and part of it wasn't, well we found one that was bifurcated which has given rise to the standard you see included which is if any part of your lot is inside the PDD eligibility boundary all of your lot is in the PDD eligibility boundary.

Commission Member Mr. James Kirkpatrick stated, that is the first time I have heard the word bifurcated used in a sentence.

Mr. Chad Meadows stated, you could anticipate, one thing that will likely happen because of this change that if somebody wants to get in the PDD district and isn't in it today and wants to skip a rezoning they could buy a parcel or a portion of a parcel and then do a recombination and claim to be inside the PDD. I'm not saying necessarily that that is a bad thing but you do need to be aware of it, that the PDD boundary we have created some motion that wasn't there before. I don't know that it's been there but you know that it's there. Next page okay about the middle of the page, it is PDD not PPD so very minor typo call your attention to that. Next page is 3- 57 I had inadvertently used the term standards when I actually meant principles, so we got rid of the word standards and put in the proper term principles. That is it for chapter 3 we are now in chapter 4, this is your principle use table, you will note that through the process of working on this substantive change number 8 I know that I told you there was 7 okay there are 8 or 9. For some reason somehow the bungalow court and the pocket neighborhood was inadvertently deleted from the MDR district. Now remember we deleted them from the LDR but somehow or another they disappeared from the MDR which we thought medium density residential was appropriate, so that is why you see those toe little red "P's" for permitted by right for bungalow courts and for pocket neighborhoods in MDR I know the intention was to allow them by right because the intention was not to allow them by right in LDR. Okay, this is a very small change I will call our attention to it we are on page 4-6 in between adoption of the UDO and the effective date of the UDO there was a court case about internet sweepstake uses, games of skill, whatever you want to call. There was a court case that came through it was beneficial for local governments and the attorneys have decided that this week will be calling them electronic gaming operations so we have changed the name of game of skill to electronic gaming operations that is why you see a change in the table and we

renamed the use. Next is a typographical error we crossed referenced the wrong section. We meant Mobile Home Park not manufactured dwelling so it was actually 4.4.8.12 not simply 4.4. Page 4-21 the word unit has a 't' in it in case you didn't know apparently I didn't. Remember we changed the name that is why you see green when you move text in a word file and you are tracking changes it shows up as green, so we moved this text it was called game of skills and we wanted it to be in its correct alpha sequence so it is called electronic gaming operation between corking space and event venue and we have included an additional standard that you may not display electronic sweepstakes in accordance with a court of appeals rule, otherwise the standard remains unchanged.

Commission Member Mr. Peter McClelland asked, is the change in the name just to go along with what the court of appeals was talking about?

Mr. Chad Meadows stated, yes, this industry is one that likes to fool around with names so we are trying our best to try to get ahead of that.

Chairman Mr. Richard Parker stated, they change them, when we outlaw something then they change the name to something else.

Vice- Chairman Mr. John Black stated, I bet it will be a bed and breakfast.

Mr. Chad Meadows stated, yes who knows what it will be next. I think the next one baffles us all this is on page 4-41 there was a provision that said that flea markets have to be open 3 days with in any 90 day period. It doesn't make any sense, everybody looked at it like why is that in there it doesn't make any sense. I'm not sure myself, my guess is it probably said something else we have made some changes and then I don't know. It is a mystery to me I don't know why that is in there we got it. The game of skill is shown as green cross out because we moved it because we renamed it. We are now in the accessory use provisions we have added a new accessory use type called "tire storage, outdoors", so outdoor tire storage is a text amendment that was processed by the city recently but not included by the draft UDO so to rectify that we included it in the use table on page 4-58 you can see that it is permitted in GB, LI, HI and I will come to the standards in a minute. Next in line is page 4- 65, outdoor dining, the city has an outdoor dining ordinance in the city code of ordinances they were supposed to send it to me but they never did. We had a place holder in there so we took the place holder out and referenced 32.1.76 in the city code.

Chairman Mr. Richard Parker asked, is this at restaurants?

Mr. Chad Meadows stated, yes it is at restaurants and it is mostly about dining on sidewalk. Parking of recreational vehicles, you know from our previous discussion that when something is green, it is green because we moved it they did not change the alphabet I failed to put it in the right location, so we removed it and put it where it belongs it is in front of parking of trucks and trailers instead of after.

Mr. Chad Meadows stated, storage of unlicensed or inoperable vehicles also was a move, so that it is in the proper alpha sequence.

Chairman Mr. Richard Parker asked, so explain that can you have two cars on the property now Joey, in the back uncovered?

Zoning administrator Mr. Joey Lea, stated, yes we have always been able to as long as they are operable and do not display a tag you can have two, if they are inoperable and they do not display a tag then it is a different category it is a junk vehicle. You cannot have any junk vehicles.

Chairman Mr. Richard Parker asked, so it has got to be operable to be stored?

Zoning Administrator Mr. Joey Lea stated, correct.

Chairman Mr. Richard Parker asked, how will you know it is operable?

Zoning Administrator Mr. Joey Lea stated, they will make them start it up.

Mr. Chad Meadow stated, at the bottom of 4-67 and the top of 4-68 are the tire storage standards, we also have a little bit of word smiting there which is why you see the couple of blueed out things where there was an initial proposal and Joey came back said “no I want it to say this instead” we went through a couple changes as we went through that process but these are the outdoor tire storage standards from your prior regulation there was little bit of extra special Joey sauce in there. Ok temporary uses. Earlier I was talking to you about the temporary use permit and I said that we don’t have anything called temporary signs which is still true they are called supplemental signs so we have properly identified them on page 4-69 and on page 4-70. That is it for chapter four we are now on chapter five, this is the parking table on page 5-6 every use in the use table has a relevant parking table it use to be called game of skill now it is called electronic gaming operation there it is. Substantive change number 9 minimum depth of a perpendicular parking space this is your typical 90 degree parking space in driving and I pull into a parking lot like you have out here that serve this building those are supposed to be 20ft deep not 18ft deep, I can’t explain why that is not 20ft but it is 20ft now , so that is a substantive change consistent with your prior regulation. Page 5-14 it turns out we are in the state of North Carolina not the state of North, I was surprised to find that out but there it is. Discussion with staff, there is inconsistency between 5.3C2 and the language in 9.6 nonconforming sites, to reconcile that we removed the caveats about open air uses that exceed 30,000 sq. ft. or remodeling projects so that this standard is consistent with that is in 9.6 nonconforming sites that is what led to that dropped text. On page 5-28 Joey’s inner English teacher came out and sub h on page 5-33 it is not “with required a site distance triangle” it is “with a required site distance triangle”. Substantive change number 10, back story for you, I have been writing codes for 18 years this has never come up before not in 18 years of experience this question has never come up before. The questions are “ what happen when there is a piece of property that borders land that is outside of the city jurisdiction what kind of buffer do you put on a lot line that borders a different jurisdiction?” We talked about it and decided it should be a type ‘A’, so this is a substantive change you will see the note in there. Note number 6 at the top it says anytime you are bordering the cities jurisdiction you will provide a type a buffer along that lot line. Street trees, yes you do have to do street trees in a planned development not just the PDD the planned development downtown but any PD district, so that is why that is there. Next Is page 5- 55 and page 5- 56 this is actually not a change I had merged some rows so that impounded vehicles and equipment, vehicles and equipment being repaired and inoperable vehicles all have the standards for higher 5 or higher 3 or higher 1 or higher but I only mentioned it once and I merged the cells. The pages, there is a page break and I on several occasions heard from staff saying ‘what are the standards for inoperable vehicles?’ and I said ‘they are 5 or higher 3 or higher 1 or higher’ and they said ‘but it is blank’ and I said ‘no it is not’ and they said ‘yes it is’. So I said okay lets fix that so I basically just created cells there and put the same standard in. this is not a substantive change it is just a clarification about the standards because we had a page break sneak in on us. We found a discrepancy on page 5-67 between the draft language which was contemplating large format retail buildings as these things that were 50,000 sq. ft. for single tenant and more than 150,000 sq. ft. for multiple tenant and what the definition said large format retail was basically anything that was 70,000sqft in area or 70% or more is occupied by retail sale, so we have corrected the standard to be consistent with definition of what large format retail is, that is substantive change number 10. I was seeing double when I wrote this you can see comply with them and then comply with them so we only needed to say it once. You have Mr. Lea to thank for this next one I have taken to calling him old Eagle eye, 5-95 the rule says no banner sign above the first floor the graphic that we had prepared had the banner at the top of the building that was incorrect we have moved the banner thank you Joey. Next 5-96 there were questions about the math that was used in making sure that this was properly explained and

set out so I went back and made a couple of adjustments to the proportion of the sign that could be occupied by the electronic message board and made it consistent with the sign as it was originally prepared.

Chairman Mr. Richard Parker stated, Joey when somebody is building a new building and they want to have an electronic sign like this out front do they come and ask you what the standards are or do they just have a sign company make something for them and they stick out there without a permit, what happens mostly?

Zoning Administrator Mr. Joey Lea stated, well it comes in two different ways, it depends we deal with your major signs we deal mostly with sign companies so they know what to ask, sometimes they have already researched the ordinance sometimes they haven't, or sometimes we have the property owner that wants to do signs and they ask what they can do.

Chairman Mr. Richard Parker asked, so people do come and ask about the signs before they come to put it up?

Zoning Administrator Mr. Joey Lea stated, most people, even when it is the property owners.

Chairman Mr. Richard Parker asked, so that little ice cream cone out there?

Zoning Administrator Mr. Joey Lea stated, it is perfectly legal but no longer allowed.

Mr. Chad Meadows stated, we added a note for clarity regarding supplemental signs that might be associated with a temporary use or a temporary event, that supplemental signage needs to be removed when that event ends. Next page 6-13 there is that infrastructure permit language again. Page 6-16 connection to city water supply system, think this language is either in the regulation or we felt like it was necessary to clarify that if it is a subdivision that is larger than 2 acres that contains 3 or fewer lots then it is not required to connect to potable water so I think that we have inadvertently forgot to add 2 acres so there is some clarification there. The word four is incorrect here around midway on the page and it needed a comma. Next I call the Darth Vader error this is page 8-8 in the graphic for lot measurement sub d lot width it says farther from right of way and street setback it used to say father now it says farther it was supposed to be farther, eagle eye. Next page 8-9 we don't have front lot lines in Burlington we have street lot lines we made that change. And we made an adjustment to this graphic, you will note that there are 2 "a's" two street lot lines associated with a corner parcel the initial graphic had at first this "a" in the middle shown as a side lot line incorrectly so that has been repaired. Next page 8-10 midway down the page we don't have front setbacks we have street setbacks. 8-11 substantive change number 11 for the purpose of simplicity decks uncovered we were making distinctions based on whether the deck was above 6 inches of grade or not we have removed that distinction as not necessary and we are using the within 6 inches of grade standard so we have conjoined deck uncovered within 6 inches of grade and decks uncovered more than 6 inches of grade and we have allowed them to extend up to 4 feet into the required side yard. I think this might be our last substantive change. Staff didn't like all this language they said it was too complicated and could we simplify so that is the current lot coverage provision I do believe, we removed all of the torturous Chad speak in favor of short and sweet Joey speak, that is prior. On page 8-17 we wreck this graphic change we reconciled the graphic and the dimensional standards table for parking spaces in chapter 5, we also got rid of the 30 degree parking space because we don't have those here so we have reconciled this graphic with the standards in chapter 5. That is it for chapter 8 we are now in chapter 9. Concept plan you may recall in the conditional zoning element, we wanted to clarify people could do a site plan or a concept plan and made the determination that we needed to provide a robust definition of what a concept plan was, which is why that concept plan shows up there in the definition. Almost done guys, use to say games of skill now says electronic gaming operation its green because we had to move it, there it was back in the day. Seemingly

innocuous change I think we fought about this for about an hour maybe more maybe 2 hours, and the consulting team relenting to staff and we adjusted the definitions for multifamily development and multifamily dwelling if you have more than 3 units in your structure then you are multifamily we back and made sure this was consistent throughout the ordinance. Finally last page clarification in nonconformities on cessation, this carries forward your prior language if a nonconforming structure is damaged or destroyed by any means to an extent of 51% or more it must be reconstructed in accordance with the requirements of the ordinance, in other words, if your nonconforming structure is damaged by 51% or more, if the replacement cost 51% or more of the tax value you can only put it back in a conforming manner.

Vice chairman Mr. John Black stated, complicated.

Mr. Chad Meadows stated, yes.

Chairman Mr. Richard Parker asked, so if it is an older house that doesn't have the right setbacks or something and it was destroyed and then you would have to rebuild it to the new setbacks?

Mr. Chad Meadows stated, that's right that is correct, it might be taller than is allowed. I don't think this would ever happen but it might be more lot coverage that is allowed something like that. Those are the changes.

Commission Member Mr. Earl Jagers asked, what if it is a historic site do you have any references for that.

Chairman Mr. Richard Parker stated, in the historic district.

Commission Member Mr. Earl Jagers asked, they are not going to just allow you to do something am I right?

Zoning Administrator Mr. Joey Lea stated, they have to comply with the exact same regulations.

Chairman Mr. Richard Parker asked, so you could build a house that looked historic and put it back in the historic district?

Zoning Administrator Mr. Joey Lea stated, if it is a nonconforming structure in a historic area burned down then they could replace it but they could also say that it could be 3 feet from the property line and it was supposed to be 10 feet, they could also seek a variance but technically they would have to abide by the rule.

Commission Member Mr. Earl Jagers stated, having dealt with this situation here, it seems like they come in and seems like everything we have written down didn't work for them so I don't know.

Zoning Administrator Mr. Joey Lea stated, they are a little different based on their regulations but as far as nonconforming all districts have to conform to zoning regulations.

Chairman Mr. Richard Parker stated, okay.

Mr. Chad Meadows stated, we offer them a little liability, anyway that constitutes text amendment TA 01.20 from here assuming you find these to be acceptable and you recommend approval we would then summarize these with city council and city council would adopt them at their pleasure we are hoping that will be the 3rd of December, staff will then basically accept these changes repost the document and send you update pages for your paper version.

Chairman Mr. Richard Parker asked, are there any other questions from the commission for Mr. Meadows?

Mr. Chad Meadows stated, I suspect that there will probably be another round of amendments, another omnibus of amendment bill probably in a couple of months.

Chairman Mr. Richard Parker stated, okay. Joey what does staff recommend?

Zoning Administrator Mr. Joey Lea stated, we recommend approval.

Chairman Mr. Richard Parker stated, okay, so if we were to recommend approval someone could make a motion for number one. Do I hear someone make a motion based on number one, you have to read all this?

Vice Chairman Mr. John Black stated, Mr. Chairman I move we recommend approval of this request to amend Chapters 2, 3, 4, 5, 6, 8, and 9 of the Unified Development Ordinance.

The motion is based upon the consistency of the proposed amendments with the Comprehensive Plan, in that:

- Section 4, Land Use, Goal 1, Recommendation 5, of the Comprehensive Plan, calls for an update of the Unified Development Ordinance.
- Section 4, Land Use, Goal 1, Recommendation 5, of the Comprehensive Plan, calls for ensuring sound land planning decisions that are consistent with the vision of the Plan.
- Section 4, Land Use, Goal 1, Recommendation 5, of the Comprehensive Plan, promotes maximizing economic and social benefits, minimizes public costs, and increases the city's tax levy.

This action is reasonable and in the public interest in that:

- Section 4, Land Use, Goal 2, Recommendation 4, of the Comprehensive Plan, addresses confusion, conflicts, and obsolescence of the Zoning Code through a new Unified Development Ordinance.
- Section 4, Land Use, Goal 2, Recommendation 4, of the Comprehensive Plan, a new UDO will be modern, graphically intensive, and user-friendly from both a public/petitioner and administrative perspective.
- Section 4, Land Use, Goal 2, Recommendation 4, of the Comprehensive Plan, that the comprehensive planning process, the community's goals and objectives, supplemented by additional public input, will ultimately help shape the new UDO.

Commission Member James Kirkpatrick stated, second.

Chairman Mr. Richard Parker stated, okay, we were quick to second that. All in favor say aye.

Approved unanimously

Chairman Mr. Richard Parker stated, Thank you Mr. Meadows.

Commission Member James Kirkpatrick stated, thank you Mr. Black for reading that.

Chairman Mr. Richard Parker stated, alright we have one other thing. The last thing we have to do is agree on a December meeting because the other one would be too close to Christmas. I make a

suggestion that we meet on December 16th I believe is what I suggested, if there is any business is December the 16th a good time?

Vice Chairman Mr. John Black stated, I move that we have the next meeting on December 16th if so needed.

Chairman Mr. Richard Parker stated, second.

Approved unanimously.

Chairman Mr. Richard Parker stated, any other staff comments, Mr. Black we need for you to sign the minutes in this book. Any other business to come before this commission?

Commission Member Earl Jagers asked, I have one question can we leave these books and they put the new papers in them or is that too much work?

Zoning Administrator Mr. Joey Lea stated, we will send you the pages that you can just put in there for the entire chapter, so we just take out chapter 4 and put a new chapter in there.

There being no further business to discuss, the meeting was adjourned at 9:27 p.m.

Richard Parker, Chairman

John Black, Vice Chairman