



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

February 28, 2022 – 7:00 pm

*Due to the COVID-19 pandemic this meeting was
held online via the Zoom virtual meeting platform and recorded.*

Video Meeting Link: <https://youtu.be/Fo5kw2MoCVc>

CITY MEMBERS:

Richard Parker, Chair
John Black, Vice-Chair
James Kirkpatrick
Lee Roane
Ryan Kirk
Ethan Raynor, (Alternate)
Patricia Gamble (Alternate)

EXTRATERRITORIAL MEMBERS:

Joan Zec Nelson

MEMBERS ABSENT:

Bill Abplanalp (Extraterritorial Member)
Amber Wright (Alternate)

STAFF PRESENT:

Assistant City Manager, Development Services, Nolan Kirkman
Mike Nunn, Director of Planning and Transportation
Conrad Olmedo, Planning Manager
Jamie Lawson, Principal Planner
Todd Lambert, City Engineer
Beverly Smith, Senior Administrative Assistant

MEDIA PRESENT:

Tomas Murawski, Alamance News

AGENDA

ITEM NO. 1:

Mr. Parker, Chair, called the meeting to order 7:02pm. He stated due to the Coronavirus Pandemic, this meeting was held virtually via Zoom platform and was recorded.

ITEM NO. 2:

Approval of the minutes of the meeting held on January 24, 2022.

Mr. Roane made a motion, seconded by Mr. Kirkpatrick to approve the foregoing minutes.
Approved Unanimously.

ITEM NO. 3:

Mr. Parker, Chair, announced the UDOTA 2-22: On behalf of the City of Burlington, Mr. Todd Lambert, City Engineer, to present a Unified Development Ordinance Text Amendment to Section 4.5.11 (Fence or Wall), subsection d.ii., Easements.

City Engineer, Todd Lambert presented a staff report on this item and provided an overview of the proposed amendment to the UDO.

Mr. Parker, Chair, called for any questions from the Commission.

Mr. Kirk, Member, inquired on the process of the language developed for consideration.

Mr. Lambert responded the amendment has been reviewed by the City Attorney's office who has concurred with the language presented to the Commission and appropriately put in place, so the city was not trying to enforce something where they are not a member of that contract.

Public Comments:

Mr. Parker, Chair, called for public comments and none were received.

Mr. Olmedo reported there were no written comments received.

Staff Recommendation:

Mr. Olmedo stated City staff recommends approval based on the Land Use Plan and recommended Consistency Statement.

Motion:

Mr. Kirkpatrick made a motion to recommend approval of the request to amend the City of Burlington Unified Development Ordinance with the proposed text amendment.

The motion is based upon the consistency of the proposed text amendment 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.

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.

Mr. Roane seconded the motion.

Approved unanimously. (Parker, Black, Kirk, Kirkpatrick, Roane, Zec Nelson, Raynor)

ITEM NO. 4:

Mr. Parker, Chair, announced the following application for REZONING-22-0002: Mr. Matt Wall, applicant, to present an application to rezone property zoned Medium Density Residential (MDR) to be Light Industrial (LI). The property is located at the south side of the intersection of Danbrook Rd. and Bonnar Bridge Pkwy., addressed as 0 Danbrook Rd., and consists of Alamance County Tax Identification Numbers 106952.

Applicant, Mr. Matt Wall, 3453 Forestdale Drive, Burlington, was in attendance and presented the application to the Commission.

Ms. Zec Nelson inquired about a written comment received regarding noise and traffic safety concerns.

Engineer, Mr. Chad Huffine, 505 E. Davis Street, Burlington, NC, was in attendance and addressed the written comment and responded to the transportation and lighting reviews involved once a project is submitted along with the Unified Development Ordinance guidance to meet the necessary requirements. He provided a letter to the City Planning Manager that responded to the noise

Mr. Kirk inquired about the traffic design plans relative to the MacIntosh community.

Mr. Huffine responded the any project brought to the Technical Review Committee at that time, the Department of Transportation will look at any proposed driveway locations, the use, and if a traffic impact analysis is warranted based on the use, they will require one, and development will comply with whatever is required.

Mr. Parker, Chair, inquired about landscape buffers and plans for proposed property.

Mr. Huffine responded they will work directly with the city in accordance with the Unified Development Ordinance, provide for stormwater and erosion control if required, which will be extensively reviewed once a project has been submitted. He responded to sound level comparisons with similar conditions.

Mr. Kirkpatrick inquired if this was a Shell station.

Mr. Huffine responded the comparable site looked at in McLeansville was in the sound study provided to the Commission to mimic the similar use.

Mr. Roane commented on the letter received in the agenda packet from Mr. Amar Patel of January 6, 2022, regarding the neighborhood meeting, that indicated the proposed project is going to be a Shell station.

Mr. Huffine responded that is correct and was provided to the Commission for this consideration.

Public Comments:

Mr. Parker, Chair, called for public comments and none were received.

Mr. Olmedo responded the city received one letter that was provided to Commission Members and to the applicants.

Staff Recommendation:

Mr. Olmedo stated city staff recommends approval.

Mr. Parker, Chair, called for questions from the Commissioners.

Ms. Zec Nelson inquired about the neighborhoods awareness of the proposed project being a gas station.

Mr. Wall responded and clarified the letter sent for the neighborhood information meeting mentioned the anticipated or initial plan for the site provided before the meeting on January 18, 2022.

Motion:

Mr. Roane made a motion to recommend approval of the request to rezone a property zoned Medium Density Residential (MDR) to be Light Industrial (LI). The property is located at the south side of the intersection of Danbrook Rd. and Bonnar Bridge Pkwy., addressed as 0 Danbrook Rd., and consists of Alamance County Tax Identification Number 106952.

The motion is based upon the consistency 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 commercial and industrial uses.
- The request is compatible with the adjacent residential, commercial, and industrial uses.

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

- The Comprehensive Plan calls for commercial and industrial uses in the area.
- The request is compatible with the existing zoning and land uses in the area.

Public Comments:

Mr. Curtis Bral, Hansel Trace, no house number provided, spoke in opposition on the timing of the announcement of the proposed project plans and notification process.

Mr. Ronald Hammond, 3550 Bonnar Bridge Parkway, Burlington, spoke on the neighborhood meeting and proposed project plans announced in January of a potential convenient store/fuel station and expressed no issues with the proposed plans.

Mr. Kirkpatrick seconded the motion.

Approved unanimously. (Parker, Black, Kirk, Kirkpatrick, Roane, Zec Nelson, Raynor)

ITEM NO. 5:

Mr. Parker, Chair, announced the request for LOCAL HISTORIC DISTRICT AMENDMENT: Mrs. Emily Robinson, Mr. Patrick Robinson, and Mr. Allen Gant, applicants, to present a request to amend the Local Historic District Overlay (LHO) boundaries, and removal of the following four properties: 1004, 1010, 1016 and 1022 West Davis Street, also identified as Alamance County Tax Identification Numbers 125084, 125089, 125539 and 125546 (respectively). The properties are currently zoned Medium Density Residential (MDR) and Local Historic Overlay (LHO).

Mr. Parker, Chair, briefed the Commissioners on the process for the foregoing item. He reported staff will review the UDO process for this type of request and reiterate the Planning and Zoning's Commission role as advisory. He stated each applicant will have an opportunity to present their request, City staff and consultant will review the Historic Preservation Commission's recommendation, and members of the public will be given an opportunity to speak on this item. He concluded there will be an opportunity for Planning and Zoning Commissioners to follow up with any questions for staff, the consultant, applicants, and public comments.

Principal Planner, Jamie Lawson, presented a staff report of the request to the Commissioners. She explained this is a legislative matter to which the Planning and Zoning Commission will provide a recommendation that will move forward ultimately to City Council. She stated the role of the Planning and Zoning Commission in this decision is strictly advisory and comes in the form of a recommendation.

Ms. Lawson reported as background, in accordance with Unified Development Ordinance, Section 3.19.E, an investigation and report was prepared by Richard Grubb & Associates, to which recommends that the properties remain in the Local Historic Overlay (LHO) District. The report was forwarded from the Historic Preservation Commission to the North Carolina Department of Cultural Resources for their review and 30-day recommendation in accordance the Unified Development Ordinance, Section 3.19.E.2.c. Ms. Turnco of Grubb and Associates is present, should you or members of the public have any questions for her.

The Historic Preservation Commission, at their February 8, 2022, meeting, unanimously recommended denial of the request based upon the following 5 factors outlined in their memo on page 4 of Attachment 3.

1. The Property Removal Study commissioned by the City of Burlington and prepared by Richard Grubb and Associates recommended rejection of the proposals.
2. The State Response to the report agrees with the deleterious effect that the property removal would have on the local historic district.
3. Withdrawal of these very important contributing structures would threaten the Integrity of the West Davis Street/Fountain Place Historic District, establish precedent for others to withdraw, affect property values in the vicinity of Burlington's historic downtown and the economic value to the city of Burlington that this district represents.
4. The grounds cited in the applications for seeking withdrawal from the district do not accurately reflect HPC practice, the nature of the design standards, or some applicants' interactions with the HPC.
5. The HPC has received an overwhelming public response as it prepared to consider these applications for removal; to date this overwhelming volume of correspondence is unanimous in urging rejection of these applications, the preservation of the integrity of the West Davis/Fountain Place Historic District, and the protection of property values in the City of Burlington. We note that this correspondence indicates a very broad range of reasons—personal, legal, economic, ethical, and financial—that cannot be readily summarized in this report, and we urge the Planning and Zoning Commission and the City Council to review carefully this record of public opinion on this matter.

Ms. Lawson reported in addition, also included in your packet, are statements from both the applicants (Mr. Gant and the Robinsons), the consultant's report, the state's letter, and 138 letters/public comment. (of which 59 came after in after the HPC meeting). She stated both staff and the consultant who prepared the investigation report are available to answer any questions and Mr. Gant and the Robinsons are on the call and they have prepared statements to address the Planning and Zoning Commission.

Staff Recommendation:

Planning staff has a recommendation for Option 3, denial based on inconsistency with the Land Use Plan, the and the HPC's recommendation. This is standard protocol for going forward to PZ and then onto CC.

Mr. Parker, Chair, called for comments from the applicants.

Applicants Comments:

Applicants, Mrs. Emily Robinson, and Mr. Patrick Robinson, 1004 W. Davis Street, were in attendance and addressed the Commissioners. They addressed their experiences as applicants, provided an overview of the timeline for roof repairs, requirements to seek approvals from the Historic Preservation Commission. They presented a PowerPoint on key points, project timeline for recent roof repair, applicants experience, precedent of the removal of 508 W. Davis Street, unanimously removed in 1998, economic impact, reports on benefits, home values based on GIS data, design standards and COA process. Mr. Robinson provided an overview of the history of the purchase of their home, 715 W. Front Street, 815 W. Davis Street and shared sold and purchased values. Ms. Robinson addressed goals stated in the Destination Burlington comprehensive plan and issues with the City's tactics used to employ these goals. Mr. Robinson commented on the City's policies, ordinance language related to adopting updated architectural and historic standards, and addressed the need to adopt new standards.

Applicant, Mr. Allen Gant, and wife Denise Gant, 1022 W. Davis Street, Burlington, were in attendance. Mr. Gant addressed the Commissioners and expressed appreciation to city staff. He commented on outdated design standards, insufficient resources into the historical preservation process, and challenges for property owners required to use antiquated standards. He addressed the boundaries map of the federal and state Historic District Overlay, the proximity of 1022 W. Davis Street dissected by property that is not part of the local district, and history of the removal of the Presbyterian Church. He commented on the access to the Historic Preservation Commission (HPC) without an application, appointments to the HPC of experienced members to give technical advice, addressed the time, value, and money imposed of property owners before they can get through the City's process. He expressed concerns with the appointments and qualifications of HPC members, the rights of property owners, the need for continued investments by the city, and awareness of the costs related to being a member of the historic district.

Mr. Parker, Chair, called for questions from the Commissioners to the applicants.

Commissioner's Comments:

Mr. Kirk commented on the public response to the applications and asked the applicants if their view of the local historic overlay has changed in response to this public response.

Mr. Gant responded, none, whatsoever.

Ms. Robinson responded they are more committed to getting their amendment passed than they were ten months ago when submitted.

Mr. Kirk inquired about written materials received from Mr. Gant referring to this being unconstitutional and relates to property rights issues and asked for clarification on claims of constitutionality and asked the Planning Department to respond to give them better information about the legality and context of a historic district overlay on top of a zoning.

Mr. Gant responded and addressed joint ownership, requirements of the local and federal district, prior meeting decisions relevant to these properties, and changes made to the area since 1987.

Ms. Robinson commented on the public response, form letters submitted related to these applications, and property transaction history, and lack of evidence that proves harm with these applications being approved.

Mr. Parker, Chair, asked the applicants if any applications or requests submitted have been denied by the Historic Commission or the City of Burlington.

The Robinsons responded, no, they have been approved.

Mr. Gant responded, yes, they tried to stop work where a permit was not needed, and at 1016 Davis Street, it was agreed to allow use of other material on the top portion of an eave before windows could be replaced.

Mr. Roane concurred the guidelines need to be updated and urged the city to speed up that process to update those standards. He commented on the consultant's study and timeline for approvals. He inquired about how the city has either helped or hindered the process.

Mr. Gant responded to delays relevant to the Covid pandemic, commented on the City's visit to his property during a project, element of costs, timeline involved in processes, and the amount of time it takes to get certificates of approvals to do the work in repairs. He stated the costs in today's world to make are keeping them from doing things that need to be done.

Mr. Parker, Chair, called for comments from the Planning Department.

Mr. Olmedo responded City staff has been consulting with the City Attorney throughout this process and noted staff relies on City of Burlington Unified Development Ordinances, Chapter 3.20.e, which has the local historic district overlay district guidelines which also points to Chapter 160-D of the North Carolina General Statutes as well as working hand in hand with the State Historic Preservation office. He addressed the timeline documented and included in the agenda packet of both applicants' processes.

Public Comments:

Mr. Parker, Chair, called for public comments and the following persons spoke in opposition of the requests:

- Michele Koebrich, 715 W. Front Street, Burlington
- Tom Cowan, 2451 Glencoe Street, Burlington
- Christina Benson, 622 W. Davis Street, Burlington
- Yvonne Whitley, 607 W. Davis Street, Burlington
- Molly Whitlatch, 912 W. Davis Street, Burlington

Written comments were submitted, provided in the agenda packet materials, and retained for the record.

Staff Recommendation:

Mr. Olmedo reported staff recommends denial of the requests as inconsistent with the Land Use Plan. He reported the Historic Preservation Commission heard this at its February 8, 2022, meeting and does not recommend approval of these requests.

Motion:

Mr. Kirk made a motion for denial of the request to amend the Local Historic District Overlay boundaries for the removal of the following four properties: 1004, 1010, 1016, and 1022 West Davis Street.

Mr. Black seconded the motion.

Mr. Kirk, Mr. Black, Ms. Zec Nelson, and Mr. Raynor voted in favor of the motion for denial.

Mr. Parker, Mr. Kirkpatrick, and Mr. Roane voted in opposition of the motion for denial.

The motion passed by vote of (4 to 3) for denial of the request.

ITEM NO. 5:

Mr. Kirkpatrick made a motion, seconded by Mr. Black to adjourn the meeting at 9:15 PM. All were in favor.

Draft of Minutes 2/28/22 Planning & Zoning Commission – not yet approved by the Planning & Zoning Commission