



CITY OF BURLINGTON PLANNING AND ZONING COMMISSION

September 26, 2022 - 7:00 p.m.

Meetings are being held in person at the City Municipal Building in the Municipal Conference Room (lower level) located at 425 S. Lexington Ave., Burlington, NC 27215

https://youtu.be/leESD_YKXQ8

CITY MEMBERS:

Richard Parker, Chairman
James Kirkpatrick, Vice-Chairman
Charles Beasley
John Black
Patricia Gamble (Alternate)

EXTRATERRITORIAL MEMBERS:

Joan Zec Nelson

MEMBERS ABSENT:

Lee Roane
Amber Wright (Alternate)
Ethan Raynor (Alternate)

CITY STAFF:

Jamie Lawson, Planning Director
Brianna Smith, Planning Office Manager

AGENDA

ITEM NO. 1:

Mr. Richard Parker, Chair called the meeting to order at 7:08 p.m.

Mr. Parker stated to the public present at the meeting that anyone who would like to speak was allowed and asked for no repeated comments.

Mr. Parker notified the public that the Planning and Zoning Commission was an advisory commission to City Council.

Mr. Parker also notified the public that the commission will be unable to vote on the items presented tonight, due to the Property Sign Postings for each item accidentally not being posted. All items will be continued to a special meeting on October 10, 2022. The commission will hear from the applicants and any members of the public who wish to speak, but they will be continued to the special meeting for any actions taken.

ITEM NO. 2:

Approval of the July 11, 2022 and July 25, 2022 minutes of the Planning & Zoning Commission meetings.

Mr. Kirkpatrick made motion to approve, and Mr. Beasley seconded the motion.

The item was passed unanimously.

ITEM NO. 3:

REZONING-22-015: Mr. Darren Lucas, applicant, to present a request to rezone property from Medium Density Residential (MDR) to General Business – Limited Use (GB-LU). The property is located at the terminus of Whitesell Dr., west of the intersection of Whitesell Dr. and Huffman Mill Rd., addressed as 0 Whitesell Dr. and consisting of Alamance County Tax Identification Number 107165.

Mr. Darren Lucas was present at the meeting, and Mr. Lawson Brown, Vernon Law Firm, was representing the applicant.

Mr. Brown stated that parcels around the area were previously approved for rezoning by the Planning and Zoning Commission and ultimately City Council. Mr. Brown also stated that the rezoning was contiguous with the other parcels that had been rezoned.

Mr. Brown stated that the subject rezoning was consistent with other zoning districts in the area. Mr. Brown also stated that the rezoning was consistent with the Long-Range Land Use Plan for the area. Mr. Brown stated that he would answer any questions. Mr. Brown stated he would be unable to attend October 10th special meeting but would have a partner attend.

Mr. Parker inquired if there had been a neighborhood meeting for the subject rezoning.

Mr. Brown stated that they had not had a neighborhood meeting for this property, but that conversations about past parcels had happened with the neighbors at Planning and Zoning Commission meetings. Mr. Brown stated that the subject property is currently vacant.

Mr. Parker inquired if there were any questions from commissioners. There were no questions from commissioners.

Mr. Parker opened the floor for public comment. There was no public comment.

The item was continued to the Special Meeting on October 10, 2022.

ITEM NO. 4:

REZONING-22-016: Mr. Frank Longest, applicant, to present a request to rezone property from Light Industrial (LI) to Mixed Use – Limited Use (MX-LU). The property is located north of the intersection of Interstate 40 and Maple Ave., addressed as 2444 Maple Ave., and consisting of Alamance County Tax Identification Number 132806.

Mr. Frank Longest, applicant was present at the meeting.

Mr. Longest stated that the policy for a zoning meeting it was only required to post for Public Hearing and not a Public Meeting.

Mr. Longest stated that subject property was 5.2 Acres. The property had started out as a motel and as it changed hands throughout the years it has remained a hotel.

Mr. Longest stated that the company heading up the remodel, Good Homes, was experienced in remodeling properties from hotels to multi-family housing. Mr. Longest also stated that the target market for this property was for millennials looking for affordable housing.

Mr. Longest stated that it was the goal of Good Homes to remodel this hotel into 135-unit apartments.

Mr. Longest stated that motel use would still be allowed in this rezoning. Mr. Longest stated that the reasoning for this rezoning request is to protect the area in case the project doesn't go through. Mr. Longest stated that the property is currently Light Industrial (LI), which allows the Motel but not the Multi-Family Apartments. Mr. Longest stated that mixed-use-district with limited uses gives them the opportunity for the multi-family uses, as well as other uses.

Mr. Longest also stated that one of the reasons for the Limited-Use rezoning was due to the large restaurant/kitchen that could be used for a restaurant or hotel.

Mr. Longest also stated that it was believed the rezoning follows the Future Land-Use Plan for the area and the rezoning matches other zonings in the area.

Commission member Ms. Zec Nelson inquired what the rent for the apartments would be with the current market.

Mr. Longest stated Good Homes doesn't know what the rent would be but stated that income level of the millennial market they are trying to reach is between \$45,000 and \$120,000.

Ms. Zec Nelson inquired why Good Homes thought that the apartments it would be popular for millennials. Mr. Longest responded that there is a large population growth of millennials in the Burlington area. Mr. Longest stated that the location is near to Greensboro and the Research Triangle Park where lots of people are employed.

Ms. Zec Nelson inquired if the rental agreements would be annual agreements or if they would be extended stay agreements. Mr. Longest responded that the target market was not for low income and planned to target millennials. Mr. Longest stated that the apartments would have a pet area, exercise spaces, meeting spaces and a pool. Mr. Longest stated that the property zoning would allow all of those uses and Good Homes would be simply turning the motel rooms into apartments.

Mr. Beasley asked how long the Good Homes had been a company and what the success rates of other communities that had built were. Mr. Longest responded that he didn't know how long that company had been in business nor the success rates because he did not ask them.

Mr. Beasley stated he would like to see hard facts about the company. Mr. Longest responded that he legally couldn't do that because it would make the rezoning a Contractual Rezoning.

Mr. Beasley stated that his concerns were since anyone could make a website to make a company look good and he wanted to see some proof. Mr. Beasley also gave his concerns about the area already being an area law enforcement has to keep an eye on and doesn't want to add to it.

Mr. Longest responded that Good Homes has the experience to go through with this project and has every intention of making this project a good project for the area.

Mr. Kirkpatrick inquired if Good Homes had any other locations in North Carolina. Mr. Longest responded that Good Homes potentially had a location in Fayetteville, NC and that was also their homebase.

Ms. Zec Nelson stated that she had seen the Fayetteville location in the materials.

Mr. Parker inquired staff if there had been any calls about this rezoning. Ms. Lawson responded that there were information calls about the property, but no written comments were submitted about it.

Mr. Parker opened the floor for public comment. There was no public comment.

The item was continued to the Special Meeting on October 10, 2022.

ITEM NO. 5:

REZONING-22-017: Mr. Oliver Kaija, applicant, to present a request to rezone properties from Medium Density Residential (MDR) and Medium Industrial (MI) to Medium Industrial – Limited Use (MI-LU). The properties are located at the terminus of S. Anthony Ct. and on the westerly side of Keck Dr., south of Anthony Rd., addressed as 2347 Keck Rd., 0 Anthony Rd., 0 S. Anthony Ct., and 0 Keck Dr., and consisting of Alamance County Tax Identification Numbers 120225, 120226, 120240, 120241, 120242, 120245, 120259 and 120277.

Mr. Paul Koonts, attorney with Oertel, Koonts, Oertel PLLC, was representing the applicant. Mr. Oliver Kaija was also present at the meeting. Mr. Koonts stated that the parcel is currently split zoned and the applicant wants rezone to be able to cut down the available uses. There was a team present to answer questions and give presentation on the proposed project.

Mr. Ryan Fraiser, Senior Vice-President with Vision Real Estate Partners, based in Mountain Lakes, New Jersey stated that the company has in house operations and development staff. Mr. Fraiser gave a brief explanation of other companies and municipalities they have worked with. Mr. Fraiser also gave a case study of a previous project they had worked on that is similar to the project they want to bring to Burlington.

Mr. Charlie Yowell, Bohler Engineering, based in Raleigh, expanded on the parcels that they want zoned, the current zonings of those properties and the zoning of the surrounding area. Mr. Yowell stated that the goal is to bring the area into conformity with the surrounding developments. Mr. Yowell stated that the Limited- Use rezoning was to cut out some of the possible proposed uses for the property, the remaining uses in the application are to give flexibility with the rezoning and to show that the project sees merit in the area for the proposed uses. Mr. Yowell stated that the 2018 Big Alamance Creek Study did designate this area as a future Economic Development Site and quoted directly from the study.

Mr. Koonts stated that they sent out a notice on Friday notifying the community about the project. Mr. Koonts also stated that they had a Neighborhood Meeting scheduled for Monday, October 17, 2022 at 6 p.m. at Baptist Temple of Alamance County. Mr. Koonts stated that they choose the location because it was central to the rezoning and that they wanted to be able to give as much information to the neighbors as possible.

Mr. Parker inquired on the projects included in the packet and if they were finished projects. Mr. Fraiser responded they were completed case studies to give examples of similar projects.

Mr. Parker inquired Mr. Koonts about the 45 different uses allowed in the Limited-Use zoning and if they could cut the list down further.

Mr. Koonts stated that the goal of the rezoning was to cut down the possible uses while also allowing for flexibility for the project.

Mr. Parker stated that people could be there because of concern at there being so many uses.

Mr. Black Inquired Mr. Parker if it would be best if they rescheduled hearing this item for after the planned Neighborhood Meeting on October 17, 2022. Mr. Kirkpatrick agreed that a lot of people could be concerned about the possible uses.

Mr. Koonts stated that they had planned to meet with the Planning and Zoning Commission first, so they had a smaller list to present at the Neighborhood Meeting.

Mr. Black stated that he believed it was in their best interest if they listened to community first before coming back before the commission.

Mr. Kirkpatrick stated that he believed it would be best for the applicant to meet and work with the neighborhood first. Mr. Black agreed with Mr. Kirkpatrick and stated he wouldn't feel comfortable voting before the applicant had heard from the community.

Ms. Zec Nelson inquired about the rezoning and inquired if they had a stated objective for the project.

Mr. Koonts stated that their goal was to limit the uses of the properties. Mr. Koonts have stated that they have already cut down the list of possible uses and that he believed that the rezoning matched the zoning of the area.

Ms. Zec Nelson inquired about if there would be a corporate headquarters on the properties. Mr. Fraiser responded that there was a potential to have corporate headquarters at the subject property and that it would be discussed further at the neighborhood meeting.

Mr. Parker inquired why they couldn't take uses off the list if they were not planning to have them at the property. Mr. Fraiser responded that taking uses off the list could take away useability but understands why the commission is requesting for them to have a shorter list of potential uses.

Ms. Zec Nelson asked for clarification on the industrial park. Mr. Fraiser responded that there could potential be manufacturing space and warehouse space available at the property.

Mr. Kirkpatrick stated that they should provide a layout of how the proposed property would be configured, instead of just a picture of the massive land could be useful for the public to see and understand how it would affect the residential area.

Mr. Black stated that this wasn't a conditional rezoning. Mr. Black also moved to table the item until the November Planning and Zoning Commission regular meeting. Mr. Beasley seconded the motion.

Mr. Parker inquired the applicant about any time restraints they may have. Mr. Koonts responded yes. Mr. Parker inquired if they would be able to wait until November.

Ms. Lawson stated October 24, 2022 was next Commission Meeting.

Mr. Black amended motion to October 24 date.

Mr. Koonts stated they wanted to hear what the people who came tonight had to say. Mr. Koonts also stated that they wanted to hear from the public in case they could not come back to the meeting on October 24th.

Mr. Parker stated the item was to continue the item to October 24th.

All were in favor and the motion passed unanimously.

The item was continued to the regular Planning and Zoning Commission meeting on October 24, 2022.

PUBLIC COMMENT:

Ms. Diane Stalls, 2633 Keck Dr, stated that her property backs up to the subject property. Ms. Stalls stated that the lower property is currently zoned medium density residential, and that a friend helped her understand the UDO. Ms. Stalls stated there are 53 uses in the UDO, and the applicant took their list down to 45. Ms. Stalls stated that she had studied buffers for industries within the UDO. Ms. Stalls stated that she understood the applicant was within their rights to develop property and understands that it is their job to do so. Ms. Stalls had concerns about the applicant company being out of state and it messing with their home.

Ms. Stalls had inquiries about the size of everything, what would be built, and where they would be and inquired about road access to the industries.

Mr. Parker stated that Ms. Stalls had the same concerns as the commission, and they were there to listen to both sides.

Mr. Larry Norris, 2708 Keck Dr, stated that he has lived in the area for 45 years and want to ensure good neighbors are who move into the area.

Mr. Robert Stalls, 2633 Keck Dr, stated that he lives next to property and stated people who don't live within the 300' notification radius will also be affected and that not notifying them is a slight. Mr. Stalls felt that more people should be receiving the notifications.

Ms. Lawson stated the noticing is for anyone who lives within 300' radius of the subject property.

Mr. Stalls stated east side of Keck Dr. didn't get any noticing.

Ms. Lawson stated that by ordinance the City of Burlington sends out letter noticing within the 300' radius. Ms. Lawson did state that the applicant could send out noticing letters themselves if they wanted to. Ms. Lawson also stated that the applicant is having a neighborhood meeting which is suggested but not required.

Mr. Stalls stated that he believed it was common courtesy to send the notification out to the east side of Keck Dr. Mr. Stalls addressed the applicant stating that a list of properties could be provided.

Mr. David Brown, 2805 Keck Dr, stated that his family had lived in the area for 28 years. Mr. Brown stated that he also runs Brown's Marine Service and Sales across the street. Mr. Brown stated that he doesn't see logic about cutting off the creek from the neighborhood and having a neighborhood with an industrial area beside it. Mr. Brown stated that he understood that progress can be good. Mr. Brown stated that property that is owned by Mr. Tadd Grandstaff isn't zoned in the middle of the big lot. Mr. Brown stated that Mr. Grandstaff's property is around 7 acres, and he is concerned about the project isolating the property.

Mr. Parker encouraged the public to take their concerns to the neighborhood meeting. Mr. Parker stated that he hoped the applicant would have a shorter list after meeting.

Mr. Graham Lutz, 2561 Keck Dr, stated that his family purchased the property due to the quiet nature of the area and wanted to ensure good neighbors came into the area to keep it similar. Mr. Lutz stated that he is worried about development frontage on both sides of Keck Dr.

Mr. Koonts stated the applicant's notification list came from City of Burlington and that they understand the request to take the proposed uses list down while also trying to allow for flexibility for the area.

Mr. Fraiser stated that they want to hear the public's concerns.

Mr. Parker inquired when the public meeting was to be held. Mr. Koonts responded Monday, October 17, 2022 at 6.p.m.

Mr. Parker stated that it is prudent for the applicant to discuss proposed uses at the neighborhood meeting. Mr. Parker also notified the applicant that after coming back to the Planning and Zoning Commission that they would also continue to City Council who would get final say on the rezoning.

This item was continued to the regular Planning and Zoning Commission meeting on October 24, 2022.

ITEM NO. 6:

UDOTA 4-22: On behalf of the City of Burlington, Ms. Jamie Lawson, Planning Director, to present Unified Development Ordinance Text Amendments.

Ms. Lawson gave brief overview about the three text amendments proposed for the UDO. Ms. Lawson also gave the list of the text amendments that were updated and gave explanation as to why the changes were made.

Mr. Parker inquired if the presentation was included in the packet. Ms. Lawson responded the presentation was not included but a description of the text amendments was included.

Mr. Parker asked for clarification on ADU text amendment. Ms. Lawson responded that it was for an accessory residential dwelling structure.

Ms. Zec Nelson inquired if the structure had to be contiguous or if it could be separate from the home.

Ms. Lawson stated it could be detached structure but had to have the same address and that there are use specific standards associated with the accessory dwelling structure. Ms. Lawson stated that this amendment currently exists within the UDO and the update is only to change some of the rules associated and encourage more of the accessory dwelling units.

Mr. Beasley inquired about ADU limit increase and if it would be above any residential requirements in the UDO or county requirements. Ms. Lawson stated that the ADU would still have to follow residential building standards and building code.

Ms. Lawson gave a brief explanation of the updated standards for Outdoor Speakers for Drive-Through restaurant. Ms. Lawson stated that staff is making a recommendation to change provisions regarding distance from residential structures not parcel lines.

Ms. Zec Nelson asked for clarification if this would make the drive-through speaker boxes closer to residential areas. Ms. Lawson stated that it depended on where the house was located. Ms. Lawson stated that staff is recommending you measure from the structure to the property instead of the speaker box to the property. Ms. Lawson also elaborated and gave examples on how the amendment would play out.

Ms. Zec Nelson inquired if the amendment would guarantee 50' distance from neighborhoods. Ms. Lawson responded that this amendment would guarantee that the speaker box couldn't be closer than 50'.

Mr. Parker inquired about how this amendment would apply to a vacant lot. Ms. Lawson responded that the amendment wouldn't apply to a vacant lot.

Mr. Parker inquired that if a home was later built in the vacant lot, would the amendment apply. Ms. Lawson responded that the amendment would apply retroactively to the prior existing Drive-Through.

There was a brief discussion about the distance from the speaker box to the residential areas. Ms. Lawson stated that the businesses would be subject to the buffer requirements and that the structures would be required to have a fence separating the business from the residential area.

Ms. Lawson stated that staff is also recommending that automobile sales and rentals should be included in Medium Industrial District (MI) as they are only currently allowed in the Light Industrial (LI) and General Business (GB).

Mr. Black inquired clarification about this being for automobile sales and referenced a previously rezoning. Mr. Kirkpatrick stated that the previous rezoning had zoned down to Light Industrial (LI) for trailer sales because the Medium Industrial zoning district didn't allow it. Ms. Lawson stated that their reference was correct and if these sales had been in Medium Industrial, they wouldn't have to rezone.

Mr. Black inquired if staff intended for the Planning and Zoning Commission to vote on this item. Ms. Lawson stated that because no public notification was necessary for this item the commission could vote on the item.

MOTION:

Mr. Kirkpatrick made motion to approve 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.

The motion was seconded by Mr. Black.

VOTE (4-2):

Approved by Kirkpatrick, Beasley, Black, and Gamble.

Disapproved by Parker and Zec Nelson.

Motion passed 4-2.

DISCUSSION:

Mr. Black opened discussion about a call he received from Mr. Parker regarding Zoning signs and the article that had been written in the Alamance News regarding the Planning and Zoning Commission not wanting to hear from the public. Mr. Black expressed his opinion that he disagreed with the paper and explained his rationale of his comments the from previous meeting. Mr. Black expressed previous conversations that he had leading up to the meeting about Public Hearing vs. Public Meeting and his

thoughts on Public Comment. There was a brief discussion amongst the commissioners about Public Comment and repeated comments.

NEW BUSINESS

ADJOURNMENT

Mr. Kirkpatrick made motion to adjourn. Mr. Beasley seconded the motion.

The motion passed unanimously.

The meeting ended at 8:27 p.m.