

BURLINGTON PLANNING AND ZONING COMMISSION

August 28, 2006 - 7:00 p.m.

Council Chamber, Burlington Municipal Building

CITY MEMBERS:

George Byrd, Chairman, Present
Paul Cobb, Secretary, Present
John Black, Present
Lynn Cowan, Present
Elder Greg Hargrave, Present
Gordon Millspaugh, Absent

EXTRATERRITORIAL MEMBERS:

Bud Apple, Present
Richard Franks, Present
Earl Jagers, Present
Jim Johnson, Present
Ellis Piper, Absent
Bob Ware, Present

STAFF PRESENT:

Robert R. Harkrader, Planning Director
David Beal, Assistant Director of Planning Services
Haywood Cloud, Zoning/Subdivision Administrator
Dianne Fogleman, Office Assistant

ITEM NO. 1: Chairman Byrd called the meeting to order at 7:00 p.m.

ITEM NO. 2: Minutes of the meeting held July 24, 2006, and continued until August 21, 2006, were unanimously approved. This was a City and extraterritorial item.

ITEM NO. 3: Consent agenda: (City)

- (A) Mr. Brent Cochran with Fleming Engineering, Inc., representing Pierce Homes of Carolina, Inc., presented an application for final plat approval for Phase 1 of the Eric Lane Business Park Subdivision. The property is located south of Interstate 85/40 at the westernmost end of Eric Lane as shown on plans by Fleming Engineering, Inc., dated August 8, 2006, and containing five lots.
- (B) Mr. Heath Williams with Alley, Williams, Carmen and King, Inc., representing Wakefield Development Company, presented an application for final plat approval of Phase 2, Section 1, of Avalon, Mackintosh on the Lake Subdivision (Section K). The property is located north of Bonnar Bridge Parkway, south of Interstate 85/40 and west of University Drive as shown on plans by Alley, Williams, Carmen and King, Inc., dated July 14, 2006, and containing 29 lots.
- (C) Withdrawn by applicant.

Staff recommended approval of (A) and recommended approval of (B) contingent upon completion of street construction or the applicant posting proper surety with the City Engineering Department prior to recording the plat.

Commission Member Cobb made a motion to recommend approval of (A) and to recommend approval of (B) with the contingency outlined by staff. Elder Hargrave seconded the motion. The Commission voted unanimously to recommend of (A) and to recommend approval of (B) contingent upon completion of street construction or the applicant posting proper surety with the City Engineering Department prior to recording the plat.

Consent agenda: (Extraterritorial)

- (D) Mr. Gary Parrish with Alley, Williams, Carmen and King, Inc., representing Mr. Wade Williamson, presented an application for final plat approval of Phase Three, MacArthur Landing Townhomes. The property is located on the west side of MacArthur Lane approximately 1,230 feet southwest of Durham Street Extension as shown on plans by Alley, Williams, Carmen and King, Inc., dated August 10, 2006, and containing four lots.

Staff recommended approval of (D).

Commission Member Franks made a motion to recommend approval of (D). Bud Apple seconded the motion. The Commission voted unanimously to recommend approval of (D).

ITEM NO. 4: Mr. Ryan Hughes with Collins/Goodman Development Company presented an application to amend a Conditional Business rezoning for Burlington Station approved by City Council November 1, 2005. The request was to approve a signage package that was not included in the initial rezoning request. The property is located on the southwest corner of Rural Retreat Road and University Drive as shown on Alamance County Tax Map 3-26-88. The Commission at its July meeting tabled this item because the applicant was not present.

This was an extraterritorial item.

Commission Member Jagers questioned five signs being on six acres of property and asked if the signs would be illuminated.

Mr. Hughes stated that they would be illuminated; however, the signs would be internally lit and tenants' names would be illuminated and not the entire signs.

Planning Director Harkrader pointed out that the five signs would be monument and not pole signs.

Commission Secretary Cobb questioned why so many.

Mr. Hughes stated that each tenant wanted its own sign.

Commission Member Jagers questioned the purpose of a 9 feet by 11 feet sign on Rural Retreat Road across from Williams Mill Road when Williams Mill Road is a dead-end road.

Mr. Hughes stated that the proposed sign would be in place in case Williams Mill Road is opened and extended in the future.

Commission Member Ware asked if each tenant would have a sign on its building plus a monument sign and was told that every tenant would have both. Mr. Ware asked if the monument signs would ever be turned off. Mr. Hughes stated that would be up to the tenant.

Commission Secretary Cobb questioned why three signs along University Drive were needed.

Mr. Hughes explained that one sign was 16 feet tall and the other two were 10 feet by 10 feet monument signs indicating the presence of the tenants and that all signs would conform to the City's sign regulations.

Commission Member Ware stated that there is acreage on Rural Retreat Road for a possible future housing development and to have over 500 square feet of signage on six acres of development seemed tacky. He asked if it would be possible to have the lighted sign on Rural Retreat Road near the residential area be turned off at a certain time.

Mr. Hughes answered that it was possible that a timer be placed on the sign.

Commission Member Johnson commented that a timer makes sense due to the fact that Williams Mill Road dead-ends.

Commission Member Franks asked if one were leaving the Target Store, how would one get to Burlington Station. Mr. Hughes responded that they would travel up Rural Retreat Road and use that entrance.

Planning Director Harkrader asked if Mr. Hughes was in agreement to specify that the sign on Rural Retreat Road be turned off at a certain time in the evenings and asked Commission Member Ware if he considered 10:00 p.m. to be an appropriate time. Mr. Hughes stated that each sign would be individually permitted and that 10:00 p.m. would be agreeable for turning the lights off on the sign on Rural Retreat Road.

Planning Director Harkrader stated that it would be a condition when the sign is permitted.

Commission Secretary Cobb asked if the shopping center were to be sold in the future, would the conditions remain in effect and was told that they would.

Commission Member Cowan questioned the size of the monument signs – two on University Drive being 10 feet by 10 feet and the third being 16 feet by 9.

Mr. Hughes pointed out that the size of each monument sign is composed mostly of the base and that the actual size of the sign that is lit up is about three to four feet in height.

Planning Director Harkrader confirmed that the amended condition provided for a 9 feet by 11 feet sign at the entrance on Rural Retreat Road that would not be illuminated after 10:00 p.m. Mr. Ryan agreed to the condition.

Staff recommended approval of amending the Conditional Business rezoning to allow the signage package with the following Development Conditions:

Development Conditions

1. All signage except that indicated on a submitted site plan shall adhere to the provisions of Section 32.12, General Sign Requirements, and Section 32.12:BB, Sign Requirements for B-2 General Business Districts, in the City of Burlington Zoning Ordinance.
2. The 9 feet by 11 feet monument sign at the entrance on Rural Retreat Road shall not be illuminated after 10:00 p.m.

3. All other Development Conditions set forth in the Conditional Business rezoning for Burlington Station approved by the Burlington City Council on Nov. 1, 2005, shall remain in effect.

Commission Member Franks made a motion to recommend approval of amending the Development Conditions with the addition of Number 2 above. Paul Cobb seconded the motion. The Commission voted eight to two to recommend approval of amending the Development Conditions to allow the signage package. Voting to recommend approval were Franks, Cobb, Byrd, Black, Hargrave, Apple, Johnson and Ware. Voting against the motion to approve the sign package were Cowan and Jagers.

ITEM NO. 5: Mr. Bill Moser with Moser Mayer Phoenix Associates, P.A., representing Ms. Beth Powell, presented an application to rezone from R-15, Residential District, to C-OI, Conditional Office-Institutional District, to allow for a conference center. The property is located on the northeast corner of York Road and Warren Place as shown on Alamance County Tax Map 3-11, Lots 5 and 5B.

This was a City item.

Commission Secretary Cobb asked that he be allowed to abstain from voting. Commission Member Hargrave made a motion to allow Mr. Cobb to abstain from voting. Lynn Cowan seconded the motion. The Commission voted unanimously to allow Mr. Cobb to abstain from voting.

Planning Director Harkrader explained that originally Warren Place was to be abandoned, but now it would remain open and parking would be re-configured.

Staff recommended approval of the request for rezoning with the following Use and Development Conditions and site plan submitted by the petitioner:

Use Conditions

The following uses associated with a conference center including but not limited to group meetings, outdoor activities, weddings, corporate events, social and special events and banquets.

Development Conditions

1. A ten-foot high fence shall be constructed along York Road and Warren Place. The fence shall be black iron picket with brick columns.
2. Initially, landscaping shall consist of existing plus landscaping shown on the submitted sketch plan. Owner may add additional landscaping in the future.
3. Overflow parking shall be available on adjoining property and as shown on the submitted sketch plan. A letter from the adjoining property owner stating the availability of the adjoining property for overflow parking has been submitted to staff and included in the rezoning application folder in the Burlington Planning Department.
4. Warren Place shall be improved (paved) up to the entrance to the new parking lot as shown on the submitted site plan.

Commission Member Black made a motion to recommend approval of the request for rezoning with the Use and Development Conditions and site plan submitted by the petitioner. Elder Hargrave seconded the motion. The Commission voted unanimously to recommend approval of the request for rezoning. Paul Cobb abstained from voting.

In addition, the Commission voted unanimously to recommend that the official zoning map and the Comprehensive Land Use Plan be amended to reflect the change. The Commission found that the zoning change as requested would not adversely affect the adjoining property and would be in keeping with land use planning in the area.

ITEM NO. 6: Mr. Nelson Lora, representing Dr. Margarita Goldar, presented an application to rezone from R-9, Residential District, to O-I, Office-Institutional District, the property located at 113 Trail One on the northeast corner of Trail One and Trail 7 as shown on Alamance County Tax Map 182, Block 732, Lot 3.

This was a City item.

Mr. Lora stated that the property was being requested for rezoning for a doctor's office.

Planning Director Harkrader stated that the property is surrounded by commercial and office uses and that Office-Institutional zoning had always been considered a buffer between residential and commercial development. He stated that staff recommended approval of the request for rezoning.

Commission Chairman Byrd pointed out that even though Mr. Lora indicated that the property would be rezoned for a doctor's office, the Commission must consider that any type office that would be permitted in O-I zoning.

Commission Member Cobb made a motion to recommend approval of the request for rezoning. Elder Hargrave seconded the motion. The Commission voted unanimously to recommend approval of the request for rezoning.

The Commission found that the zoning change as requested would not adversely affect the adjoining property and would be in keeping with land use planning in the area. The Commission recommended that the official zoning map and the Comprehensive Land Use Plan be amended to reflect the change.

ITEM NO. 7: Mr. Matthew Edwards with Kimley-Horn and Associates, Inc., presented an application to amend a Conditional Business rezoning for Panda Express approved by City Council February 21, 2006. The request was to approve a signage package that was not included in the initial rezoning request. The property is located on an outparcel at Wal-Mart on Garden Road as shown on Alamance County Tax Map 3-19-66.

This was a City item.

Commission Member Cowan asked for verification that the height of the existing sign would be increased from 18 feet to 25 feet and was told that was correct.

Commission Member Johnson pointed out that not only the height would be increased but also the size of the sign – from 8 feet in width to 11 feet 2 ¾ inches.

Commission Member Black asked why.

Mr. Edwards stated that the larger sign would offer more visibility from Huffman Mill Road.

Planning Director Harkrader pointed out that there was also a grade differential prompting the request for a taller sign.

Commission Member Johnson commented that the taller sign would also offer more visibility for truck drivers.

Commission Member Ware asked if the sign was taller than the building and was told that they were the same height.

Commission Member Cowan confirmed that an existing pole sign would remain at its present location and a taller pole sign would also be erected.

Staff recommended approval of amending the Conditional Business rezoning with the following additional Development Conditions:

Development Conditions:

- 1) An additional pole sign as shown on a submitted plan shall be erected on the site. The proposed sign shall adhere to provisions of Section 32.12, General Sign Requirements, and Section 32.12, Sign Requirements for B-2 General Business District, City of Burlington Zoning Ordinance.
- 2) An existing pole sign complying with all City regulations shall remain at its current location.
- 3) All previously submitted Use and Development Conditions approved by the Burlington City Council on February 21, 2006, shall remain in effect.

Commission Member Cobb made a motion to recommend approval of amending the Conditional Business District rezoning to include the sign package. Elder Hargrave seconded the motion. The Commission voted three to two to recommend approval of amending the Conditional Business District rezoning to include the sign package. Voting to recommend approval were Cobb, Hargrave and Byrd. Voting against the motion to recommend approval were Cowan and Black.

ITEM NO. 8: Mr. Lawson Brown, representing CBL and Associates, presented an application to rezone from R-15, Residential District, to CB, Conditional Business District, to allow for uses consistent with those in the Alamance Crossing Conditional rezoning approved by City Council April 20, 2004. The property is located on the south side of Garden Road approximately 560 feet northwest of Boone Station Drive and being as shown on Alamance County Tax Map 3-24-2B.

This was an extraterritorial item.

Mr. Brown stated that CBL was adding a lot to the previously approved Conditional Business rezoning and any building on the property would require prior approval by the Planning and Zoning Commission and City Council.

He stated that prior to the meeting, he had a conversation with Mr. Richard Jones, a realtor, and Mr. Jerry Barbee, 3352 Garden Road. Mr. Barbee and his family own property on the other side of the former Whitesell Farm Lane (ACTM 3-24-2A) and are concerned about the encroachment of commercial property. Mr. Brown stated that he would include in the submitted development conditions that CBL construct an eight-foot tall fence along the Barbee property as well as offer a buffer between the properties.

Mr. Brown stated that when he showed Mr. Barbee and Mr. Jones the proposed site plan, they questioned the location of Whitesell Farm Lane. Mr. Brown explained that when the Whitesell property (ACTM 3-24-2B) was purchased by CBL, Whitesell Farm Lane was terminated and normally, the 60-foot road right-of-way would be divided and 30 feet would be included in the Whitesell property purchased by CBL and the other 30 feet would go to the Barbees. Mr. Brown stated that the survey in the Alamance County Plat Book does not show Whitesell Farm Lane because it had been abandoned.

Mr. Brown proposed that in order for CBL to maintain its timeframe for development, he requested that the Commission consider the rezoning and before the rezoning goes to City Council, that he, representing CBL, and Mr. Barbee have in place an agreeable buffer, which Mr. Brown offered as a caveat. Mr. Brown pointed out that the only way the question of the lot line location could be resolved was by survey, which CBL would provide.

Mr. Barbee distributed copies of drawings of his and surrounding property. He told Commission members that Whitesell Farm Lane was supposedly a state-maintained road; however, the state had never bulldozed or provided rocks for the road.

He stated that he, along with a friend, measured his property and that it measured 90 feet along the road to the center of Whitesell Farm Lane, which is what his deed says. The L. W. (Larry) Whitesell property being considered for rezoning also measured to the center of the lane; however the lane itself is only 30 feet wide not 60 feet, he stated.

Mr. Barbee told Commission members that he had owned the property since 1959 and that he proposes a 25-foot buffer around his property, including 25 feet from the edge of the former Whitesell Farm Lane, as well as the construction of a fence, preferably a nice, decorative brick wall.

Mr. Barbee admitted that the road (Whitesell Farm Lane) had him stymied and that the properties would have to be surveyed.

Mr. Brown stated that he would work out a buffer with Mr. Barbee and would have the property surveyed.

Commission Member Cowan stated that she was surprised that Mr. Brown and Mr. Barbee had not already had a conversation about the issues.

Mr. Brown stated that it was difficult in that he had just learned of these issues earlier in the evening.

Ms. Cowan suggested that CBL consolidate its changes and present them to the Commission at one time.

Mr. Brown pointed out that Alamance Crossing is such a large development and that it would be necessary to tweak it from time to time.

Commission Member Johnson asked if this rezoning was part of Phase 2 and was told that it was. Mr. Brown stated that planning for the northeastern section had not been completed.

Commission Member Ware stated that this item was a little too conceptual and he thought the petitioner should return next month with a survey defining the property lines.

Commission Member Cowan agreed, and stated the petitioner should be able to offer a definite buffer.

Commission Member Black asked what would the property be used for, and Mr. Brown stated that at the present time the lot would remain vacant and that the petitioner would return to the Planning and Zoning Commission and City Council if it decided to develop the property.

Commission Member Franks asked if CBL would be able to park construction equipment on the property, and Mr. Brown stated that CBL could park equipment on the lot; however, CBL wants to be a good neighbor.

Commission Member Cobb made a motion to table the item next month's meeting so the property could be surveyed and a buffer could be worked out between Mr. Barbee and CBL. Elder Hargrave seconded the motion. The Commission voted unanimously to table the item until the September 25, 2006, Planning and Zoning Commission meeting.

ITEM NO. 9: Mr. Lawson Brown, representing CBL and Associates, presented an application to amend a Conditional Business rezoning for Alamance Crossing approved by City Council on April 20, 2004. The amendment would allow for a reduction in the minimum front yard setbacks for outparcels at the western end of the Alamance Crossing project, Phase II. The property is located south of Garden Road, west of Whitesell Farm Lane, east of University Drive and north of Interstate 85/40 as shown on Alamance County Tax Map 3-24-3 and 3-26, Lots 56, 57, 60 and 61.

On the final subdivision plat for Alamance Crossing, LLC, these parcels are shown as Outparcel 1A, Lot 19; Outparcel 1B, Lot 20; Outparcel 1C, Lot 21; Outparcel 2, Lot 22; Outparcel 3, Lot 16; Outparcel 4, Lot 18; Outparcel 5, Lot 17; Outparcel 6, Lot 15; Outparcel 7, Lot 14; Outparcel 8; Lot 13; Outparcel 9, Lot 12; and Outparcel 10, Lot 10, on Sheets 6 and 7.

This was a City item.

Mr. Brown stated that these outparcels were located in the western portion of the Alamance Crossing development, and that CBL had originally requested 20-foot setbacks rather than 50 feet as regulated in the Zoning Ordinance. However, staff recommended that there be a compromise and that setbacks be 30 feet.

Planning Director Harkrader stated that there was a letter in the application file amending the setback request to 30 feet.

Staff recommended approval of amending the Conditional Business rezoning to allow for a reduction in the minimum front yard setbacks for outparcels at the western end of the Alamance Crossing project, Phase II, with the following Use and Development Conditions submitted by the petitioner:

Use Condition

Minimum front yard setbacks shall be reduced to 30 feet for the 12 outparcels located at the western end of the Alamance Crossing Project, Phase II. These properties are shown on Alamance County Map 3-24, Lot 3, and on Alamance County Tax Map 3-26, as Lots 56, 57, 60 and 61.

Development Condition

All other conditions set forth in the Conditional Business rezoning for CBL and Associates Properties, Inc., and Alamance Crossing, LLC, approved by the Burlington City Council on April 20, 2004, and amended June 7, 2005, July 19, 2005, April 18, 2006 and June 20, 2006, shall remain in effect.

Commission Member Cobb made a motion to recommend approval of amending the Conditional Business rezoning request. Elder Hargrave seconded the motion. The Commission voted unanimously to recommend approval of amending the Conditional Business rezoning request to allow 30-foot setbacks on outparcels located at the western end of the Alamance Crossing project.

There being no further business to discuss, the meeting was adjourned at 8:10 p.m.

George A. Byrd, Jr., Chairman

Paul E. Cobb, Jr., Secretary