

MINUTES OF A PUBLIC HEARING HELD BY THE MAYOR AND COUNCIL  
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,  
WEDNESDAY, NOVEMBER 18, 1987, 7:30 P.M.

Mayor Pro-tem Bill Thorpe called the meeting to order. Council Members present were:

- Julie Andresen
- David Godschalk
- David Pasquini
- Nancy Preston
- R. D. Smith

Council Member Werner arrived late. Council Member Howes and Mayor Wallace were absent, excused. Also present were Town Manager David R. Taylor, Assistant Town Managers Sonna Loewenthal and Ron Secrist, and Town Attorney Ralph Karpinos.

Public Hearing on Townwide Rezoning Proposals

Manager Taylor said the Council had called this hearing on September 28 to discuss proposed townwide rezonings in order to make the Zoning Atlas better conform with the adopted Land Use Plan. He said the proposals also included several citizen requests for other rezonings.

Lake Forest

Roger Waldon, Planning Director, said the land proposed for rezoning was at the request of the Lake Forest Homeowners Association. He stated that the Homeowners Association wanted to rezone the property from R-1 to R-1a. Mr. Waldon said the Land Use Plan designated the area as low density residential. He stated that if the proposed rezoning took place, about one-fourth of the lots would be non-conforming. He said, therefore, the staff and Planning Board recommended against the rezoning.

Bert Spilker, speaking on behalf of numerous residents in Lake Forest whose lots would become non-conforming if the property were rezoned, spoke against the proposal. He said the rezoning could lead to significant problems, especially with regard to lending institutions who were less inclined to make loans on properties that were non-conforming.

Harold Shapiro, speaking as a resident of Lake Forest, spoke against the R-1a zoning. He said he felt the R-1a zoning designation was more appropriate for newly developing areas not older well-developed areas like Lake Forest. He said the rezoning was not valid because it did not correct a manifest error in the zoning atlas, was not due to changed or changing conditions, nor did it achieve the purposes of the Town's Comprehensive Plan.

Tom Bogue, representing the Lake Forest Homeowners Association, spoke in support of the proposal. He stated that the restrictive

covenants on many of the properties was due to expire in December and that the residents wanted some means of preserving the lots in the area to prevent further subdividing. He suggested that there might be a way to "eliminate" the non-conformity by granting those properties a variance or grandfathering them in. He urged the Council to consider this option and to rezone the property.

Council Member Andresen asked the Planning Board Chair what was the risk of having one-fourth of the lots non-conforming. Mr. Rimer, Planning Board Chair, replied that the Planning Board discussion of the rezoning had centered around the potential non-conformities and the problems this could create for the property owners, especially with regard to financing of the property. He said the Board had felt that any rezoning should not create non-conformities, especially of this magnitude.

Council Member Andresen commented that she did not see a solution to the problem but that she was concerned that approximately 100 lots in Lake Forest would be able to be further subdivided. She said she wished there were a way to solve this problem.

Harold Shapiro, speaking as a resident of Lake Forest, commented that the statement that 100 lots could be subdivided was not exactly true because the location of the houses on those lots would affect whether or not further subdivision could occur. He said information on the exact number of lots capable of being subdivided, based on the location of the homes, would be relevant to this discussion and that the Planning Staff had not been able to provide that information. Mr. Shapiro also stated that there was another legal way to protect those lots from further subdivision and that was that the covenants could be renewed by the affected property owners if they all agreed to it. He said the request to rezone was a way of avoiding the risks of trying to renew the covenants.

Council Member Werner asked if there were any geographic pattern to the potential non-conforming lots if the property were rezoned. Mr. Waldon replied no.

Council Member Godschalk stated that Mr. Shapiro's comments were valid and that this information would be helpful in the Council's deliberations.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

### North Forest Hills

Roger Waldon said this area was an older neighborhood that was currently zoned R-2. He said the proposal was to rezone to R-1 and that no non-conforming lots would be created as a result of

the rezoning. He stated that the staff and Planning Board recommended rezoning to R-1.

There were no citizen comments.

Council Member Smith asked for clarification of what constituted the area known as North Forest Hills.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER SMITH TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

Estes Hills, Single Lot

Roger Waldon stated that this proposal was at the request of one citizen to rezone one lot from R-1 to R-1a. He stated that the Land Use Plan designated the area as low density and that the current zoning was R-1. He said the staff and Planning Board recommended against the rezoning feeling it would constitute spot zoning.

There were no citizen comments.

There were no comments from the Council.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

Roosevelt Drive

Roger Waldon said this proposal was to rezone the property from R-2 to R-1a and was at the request of a neighborhood resident. He said the area was an older, almost fully developed area off Franklin Street. He stated that if the rezoning were approved approximately two-thirds of the lots in the area would be non-conforming.

Council Member Andresen asked if there would be non-conforming lots if the property were rezoned to R-1. Mr. Waldon said there would be a few.

Council Member Andresen said she had heard concern about this area and the potential for further subdivision, but that R-1a was probably not appropriate.

Bill McDonald, speaking as a resident of Roosevelt Drive, asked the Council to consider rezoning the property to R-1 and not R-1a. He asked for this consideration in an effort to help preserve the neighborhood. He stated that most of the existing lots were greater than 17,000 square feet and would therefore be conforming to an R-1 zone.

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Council Member Smith asked whether or not the Council should use zoning to keep individuals from subdividing their property. Town Attorney Karpinos responded that the Town's Development Ordinance provided the basis by which rezoning was appropriate including a provision which stated it may be used to achieve the purposes of the Comprehensive Plan. He said the issue of density of residences was something which was discussed in the Comprehensive Plan. He said to the extent that zoning was use to achieve the purpose of controlling the density, he felt it would be a legitimate purpose.

Council Member Pasquini asked if there were duplexes in this area and if they would be allowed in R-1. Mr. Waldon responded that duplexes were not allowed in R-1 zones.

Mayor Pro-tem Thorpe asked how the staff would present this item to the Council since the staff had recommended against R-1a and some of the residents were now saying they would prefer R-1. Manager Taylor responded that the staff would review the issues raised and evaluate R-1 zoning for the property. He said the staff could present the Council with the options of no change, R-1a or R-1.

Council Member Werner stated that the property was currently zoned R-2 and that the notice for the hearing had been to rezone the property to R-1a. He said he understood that the Council could rezone to R-1 without another notice and hearing but that he was concerned that if the staff proposed R-1 when it comes before the Council for action, citizens would not have had an opportunity to comment on the new recommendation. Town Attorney Karpinos stated that the Council could announce that evening that the Council was considering R-1 as an alternative and invite the public to comment. He said the Council could also vote to reopen the hearing, and the hearing would be scheduled and readvertised with the recommendation of that time.

Council Member Pasquini asked when the Council would consider action on the proposed rezonings. Manager Taylor replied that the majority of the rezonings would be before the Council at its first regular meeting in January.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER SMITH TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

Culbreth Road/Smith Level Road Intersection

Roger Waldon stated that the proposal was to rezone the property from R-4 to R-2. He said the Land Use Plan designated the area as low density residential, and that the staff recommended rezoning to R-2. He stated that there was an application pending on a townhouse development for the site.

Council Member Werner asked what would be the impact of the rezoning on the pending application. Mr. Waldon said the application would be returned and would have to be modified to conform to the R-2 zoning.

Council Member Godschalk asked if there had been an application in process when the staff had reviewed the area for rezoning. Mr. Waldon responded that when the memorandum had been written the application was inactive, and had been so for since 1985, but that since the creation of the staff memorandum, some action had occurred with the application.

Council Member Preston asked why this site was zoned R-4 when almost all of the property surrounding it was zoned R-2. Mr. Waldon responded that he was not sure.

Council Member Smith asked when the staff had last been in contact with the property owner regarding the pending application. Mr. Waldon said that the staff had had discussions with the applicant last week but that prior to that, the last time the application was reviewed was in 1985.

Council Member Smith said he was concerned about the changing the zoning of a property while it was in the midst of being developed.

Alan Rimer, Planning Board Chair, said that the Planning Board had also had some problems with the proposed rezoning due to the application for development of the property, but had noted that it was the only area of R-4 zoning in an area of R-2 zoning. He said the vote had been 5-4 in favor of the rezoning.

Council Member Smith commented that the staff needed to further research the history of the zoning of the area and find out how much of the R-2 zoning had been done in response to development requests.

Mike Levine, an attorney representing the property owners, said the property was within the Chapel Hill and Carrboro planning jurisdictions and as such this was part of the reason why the application had not been active in Chapel Hill over the last two years. He also said with the Carrboro restrictions and the RCD restrictions the amount of usable land was limited. He stated that across the road was the Villages Apartments and therefore the current R-4 zoning was not spot zoning. He said he did not see any compelling reason for the change in zoning designation.

Council Member Werner asked how many units could be built on the tract with either R-4 or R-2 zone. Mr. Waldon responded that the tract was 8.5 acres, 2 of which were in Carrboro. He said the maximum density for R-4 was 10 units per acre and for R-2 was 4 units per acre.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

Dogwood Acres Drive at 15-501

Roger Waldon said the proposal was to rezone a 10-acre parcel on US 15-501 from R-1 to R-2 at the request of the property owner. He stated that currently the zoning in the area was a combination of R-1 south of Dogwood Acres Drive and R-2 north of the Drive. He said there was an 85-lot subdivision proposal for about 30 acres of the R-2 land north of Dogwood Acres Drive at the intersection. Mr. Waldon said that Dogwood Acres was poorly aligned with 15-501 and that the property owner was agreeable to shifting the road slightly to improve the intersection. He stated that the shifting of the road would create the 10-acre tract of R-1 north of Dogwood Acres Drive. Mr. Waldon stated that the staff recommended in order to encourage the desirable road alignment and to accommodate the subdivision to rezone the 10-acre tract to R-2. He said that with the road realignment, this would mean Dogwood Acres Drive would still divide the R-1 zone from the R-2 zone. He stated that the Land Use Plan designated this area as low density residential.

Julian Raney, speaking as a resident, spoke against the proposal. He said the majority of property in Dogwood Acres was zoned R-1 and that the proposed rezoning would adversely affect the area.

Council Member Smith asked what was the basis for the rezoning and if the lots in the subdivision would conform to the R-1 zoning. Mr. Waldon responded that the basis for the rezoning was that it was consistent with the Land Use Plan. He said that the property had not been subdivided and therefore there were no lots as yet.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

Mason Farm Road - UNC Property

Roger Waldon said the proposal was to rezone a small parcel (1+ acres) of University-owned land from R-1 to OI-3 as designated in the Land Use Plan. He stated there was a 200' deep buffer fronting on Mason Farm Road and that this property created an odd 1-acre bump in an otherwise smooth line that defined the buffer. He said the property backed up to the developed parking area for the Dean Smith Activities Center. Mr. Waldon said a question had arisen at the Planning Board meeting as to whether or not the rezoning would have an affect on the prohibition of access to Mason Farm Road from the University property. He said the staff did not feel the rezoning would have any affect on that restriction and therefore recommended rezoning the property to OI-3.

Council Member Andresen asked if the property owners had been notified. Mr. Waldon responded that the affected property owners were the University and that they had been notified.

Alan Rimer, Planning Board Chair, said the Board had not felt the request was unreasonable but that they had wanted an assurance the access to Mason Farm Road would not be derived via this property and that rezoning to OI-3 would not allow access.

Council Member Werner asked what bearing rezoning the property had on whether or not a road could be placed on the property. Mr. Rimer said the Planning Board had felt it had some bearing in that an R-1 zone would make it harder to do so.

Manager Taylor said the current Special Use Permit for the Smith Center prohibited access to Mason Farm Road from the site, and therefore had nothing to do with the zoning of the property.

There were no comments from citizens.

Council Member Werner asked what use would be allowed on the property if it were rezoned to OI-3 that would not be allowed in R-1. Mr. Waldon replied that parking was one use that would be allowed.

Council Member Pasquini asked who had requested the rezoning. Mr. Waldon responded that the University had requested the rezoning and that the Council had included it in those under consideration.

Council Member Smith encouraged no change in the zoning designation at this time and that the University's Land Use Plan be taken into consideration when discussing this issue.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

Mt. Carmel Church Road

Roger Waldon said that the proposal was to rezone an R-1 area outside of the designated Urban Services Area as Rural Transition. He said the rezoning would create many non-conforming lots. Mr. Waldon stated that at the Planning Board meeting citizens in this area had not expressed concern with the potential non-conformity and that was why the staff had recommended the change in zoning, but that since that time the residents had stated that they would prefer to be rezoned to R-1a rather than RT.

Elizabeth Gervais, speaking as a resident in the proposed rezoning area, said that many of the residents were now concerned about the potential non-conformity of their property and would prefer any rezoning be to a R-1a zone.

Ernest Walker, speaking as a resident, asked for an explanation of the difference between RT, R-1 and R-1a. Mr. Waldon responded that the minimum lot size in a R-1 zone was 17,000 square feet; a R-1a zone was 25,000 square feet; and a RT zone was 100,000 square feet.

Grainger Barrett, speaking as an attorney representing some of the property owners in Crestwood, said there was also concern that since this area was outside the Urban Services Area, septic tanks would have to be used in developing lots and the Town and County's proposal for a minimum lot size for septic tank use. He said all of these things needed to be taken into consideration when discussing potential rezoning.

David Ziff, speaking as a resident of Mt. Carmel Church Road, said he would prefer that the area maintain its rural nature and that it appeared rezoning to R-1a would be acceptable.

Council Member Smith asked if the area were rezoned to R-1a how many lots would be non-conforming. Mr. Waldon replied that he did not think any would.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

#### Parker Road/Morgan Creek

Roger Waldon said the proposal was to rezone approximately 109 acres located in an area designated in the Land Use Plan as rural residential. He said the staff and Planning Board recommend rezoning the property from R-1 to RT.

There were no citizen comments.

There were no comments from the Council.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER PASQUINI TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

#### The Oaks I

Mr. Waldon said the proposal was from area residents to rezone the property from R-1 to R-1a. He said the rezoning would be consistent with the Land Use Plan and would create only two non-conforming lots. He said the staff recommended the rezoning.

Alan Rimer, Planning Board Chair, said the Planning Board had voted in favor of the rezoning but that the dissenting votes had felt that any rezoning should not create any non-conformities.

Don Hineman, representing The Oaks I Homeowners Association, spoke in support of the proposed rezoning.

Council Member Smith asked how many lots would become non-conforming if the area were rezoned. Mr. Waldon replied two lots would become non-conforming. Council Member Smith said he did not think the area should be rezoned just for the sake of rezoning and especially not if any non-conforming lots were created.

Council Member Pasquini asked if the staff or Planning Board had received any comments from the property owners whose lots would become non-conforming. Mr. Waldon replied no.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

The Oaks II

Roger Waldon said the proposal was to rezone the area from a combination of R-1, R-2, R-4 and R-5 to R-1a. He said the rezoning would be consistent with the Land Use Plan which designated the area as low density residential. He stated that the rezoning would create five non-conforming lots. Mr. Waldon said the staff and Planning Board recommended the rezoning with the Planning Board also expressing concern that the rezoning would create non-conforming lots.

There were no citizen comments.

Council Member Smith stated that he did not think the area should be rezoned if non-conformities were created.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

Legion Road - Europa Center

Mr. Waldon said the proposal was to rezone a 7.4 acre site currently zoned Community Commercial to Office/Institutional as designated on the Land Use Plan. He stated that there was a development currently on the site and that if the area were to be rezoned the development would be made non-conforming. He also stated that the project already had a non-conformity in that Town-wide floor area ratios were lowered after the project had been approved. He said the staff and Planning Board did not recommend the rezoning as it would greatly increase the degree of non-conformity.

There were no citizen comments.

Council Member Andresen asked if the second phase of the Europa Center had been approved. Mr. Waldon stated that the entire project had been approved.

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COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER SMITH TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

Legion Road - Undeveloped

Mr. Waldon stated that the proposal was to rezone six acres from CC to OI-2 in conformity with the Land Use Plan. He said the staff and Planning Board recommend no change in zoning. He said at the Planning Board meeting there had been considerable discussion about the history of zoning in the area and the fact that this parcel was surrounded by commercial uses and had been zoned for commercial use for quite a few years.

Roy Carroll, representing the Meadows Homeowners Association, spoke in support of the rezoning. He said the residents were concerned with the traffic congestion in the area and felt rezoning the property to OI-2 would help prevent further congestion.

Lloyd Gardner, speaking as one of the owners of property being considered for rezoning, spoke against the rezoning. He said the property had been zoned as CC for over sixteen years and that it was surrounded by property developed as CC. He pointed out that there were very few areas left in Chapel Hill zoned for commercial use. (For copy of text, see Clerk's files.)

Maurice Koury, speaking as the owner of Ram's Plaza, spoke against the rezoning.

Joe Nassif, speaking as the architect for the Ram's Plaza development, spoke against the rezoning. He pointed out that Ram's Plaza had been and was being developed in phases and that phase three included the lots under consideration for rezoning. He stated that the area under consideration had been zoned as regional commercial in the 1960's and that it had been developed as the Town planners had originally intended. He pointed out that the Town needed commercial centers.

Council Member Andresen asked if the areas under consideration for rezoning had access to Legion Road. Mr. Nassif replied yes.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER WERNER TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

Blue Cross/Blue Shield

Mr. Waldon said the proposal was to rezone the 43-acre parcel of Blue Cross/Blue Shield from OI-2 to Mixed Use OI-1 as designated in the Land Use Plan. He said the staff and Planning Board recommended the rezoning.

There were no citizen comments.

Council Member Werner asked if the Blue Cross/Blue Shield developed area fit into an OI-1 zone. Mr. Waldon replied yes.

Council Member Godschalk asked if the site was fully developed. Mr. Waldon responded no but that there was a Special Use Permit that covered the entire site.

Council Member Andresen asked for clarification of why the staff recommended the rezoning. Mr. Waldon said that in part it was due to the designation in the Land Use Plan and also because it was felt that Mixed Use development was advisable for any subsequent development of the site.

Council Member Smith questioned the likelihood of Blue Cross/Blue Shield venturing into a commercial activity and as such he did not think the zoning should be changed.

Council Member Werner commented that he was surprised there were no representatives of Blue Cross at the hearing, especially since rezoning the property may mean an increase in the property tax.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER WERNER TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

#### Lakeview

Mr. Waldon said the proposal was to rezone an 11-acre area parcel currently zoned R-2 as Mixed Use R-1. He said the property was adjacent to property in Durham County annexed by the Town and zoned MU-R-1. He said the staff and Planning Board recommended the rezoning to conform with the Land Use Plan.

Council Member Preston asked if MU-R-1 meant that to develop using the mixed use designation 60% of the site had to be residential? Mr. Waldon replied that the mixed use concept meant 60% office use. He said the MU-R-1 zoning designation meant the underlying zone would be R-1 and that unless the mixed use threshold could be met then the property could only be developed under R-1 conditions.

Council Member Werner asked since the current zoning was R-2 why the proposal was for MU-R-1. Mr. Waldon stated that this was in an attempt to be consistent with the adjoining property which was currently zoned MU-R-1.

Grainger Barrett, an attorney representing one of the property owners, spoke in support of the mixed use zoning and suggested that the Council consider rezoning the portion of the property on the west side of West Lakeview, which adjoins the Blue Cross/Blue Shield site, as MU-OI-1. He said there were no existing homes on the west side of W. Lakeview and that the property owner felt it would be more consistent to have the road as a divider between MU-OI-1 and MU-R-1.

Council Member Pasquini asked if the Council could consider this proposal. Town Attorney Karpinos responded that the Council would have to set another public hearing to consider this proposal since it represented a more dense zoning classification.

Council Member Werner commented that mixed use development required at least twenty acres and that the property under consideration for rezoning was only 11 acres. Mr. Waldon stated that it adjoined approximately 30 to 40 acres already zoned MU-R-1.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

Eastowne - at the County Line

Roger Waldon said the proposal was to rezone a vacant 20-acre tract currently zoned R-5 to MU-OI-1 as designated in the Land Use Plan. He said the staff recommended the rezoning.

Council Member Werner commented that the area was more than just part of the Eastowne development. Mr. Waldon replied yes.

Alan Rimer, representing the Planning Board, said the Board had voted in favor of the rezoning but that the dissenting votes felt there needed to be more study of the I-40 interchange area and that it might be that the property would be better zoned for commercial use and not mixed use.

Council Member Godschalk asked how the Planning Board had felt about rezoning property that was already developed. Mr. Rimer replied that there was some concern on that point.

Council Member Werner asked if commercial uses in the R-5 zone were non-conforming. Mr. Rimer replied yes.

Council Member Godschalk stated that he was uncomfortable rezoning developed land as mixed use. He said he felt the mixed use designation was more appropriate on undeveloped land.

Council Member Pasquini asked if Blue Cross/Blue Shield could purchase the land in Lakeview and have their current office facility be the 60% office use necessary for mixed use development. Mr. Waldon said that the staff would research this issue and report back to the Council.

Joe Nassif, speaking as a citizen, commented that when Eastowne had been originally developed it had been a mixed use of commercial, residential and office. He said if the zoning were changed he did not think there would be incentives for the mixed use to include residential uses. Council Member Godschalk stated that mixed use zoning permitted residential uses for up to 40% of the

site but he agreed the incentives might not be as great for a developer to include residential uses.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER WERNER TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

Eastowne - Existing

Roger Waldon stated that the proposal was to rezone the property from Neighborhood Commercial and Office/Institutional-2 to Mixed Use Office/Institutional-1 as designated in the Land Use Plan. He said that much of the area was already developed and as such the staff and Planning Board recommended retaining the OI-2 zoning on those portions currently zoned as such and rezoning the NC to OI-2.

Manager Taylor introduced into the record a letter from Phil Post in which he urges the Council to maintain the OI-2 zoning.

Council Member Smith commented that since the Town needed commercial zones why was the staff recommending that the NC area be rezoned to OI-2. Mr. Waldon responded that the area zoned NC had not as yet been developed and that it appeared that the site was not suitable for neighborhood commercial uses.

Council Member Werner agreed that the Town needed areas of commercial development but also that the entire I-40 interchange areas needed to be looked at as a whole to decide where and what type of development should occur.

Council Member Pasquini asked why the proposal was for MU-OI-1 and not OI-1. Mr. Waldon replied that the existing development of the property was done according to OI-2 zoning.

Council Member Pasquini asked if any of the properties and development would be non-conforming if zoned OI-1. Mr. Waldon said the staff would research this.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER WERNER TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

Eastowne - Adjustment

Roger Waldon stated that the proposal was to rezone a small vacant section of R-5 property adjacent to the Eastowne tract as MU-OI-1. He said the natural topography of the site suggests development of the site as part of the Eastowne project. Mr. Waldon stated that the staff and Planning Board recommended rezoning the property to OI-2.

There were no citizen comments.

There were no comments from the Council.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER WERNER TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

### Erwin Road

Mr. Waldon said that the proposal was to rezone approximately 409 acres outside of the Town's corporate limits but within the extraterritorial jurisdiction from R-1 to RT. He said the Land Use Plan designated this area as rural buffer. Mr. Waldon stated that the staff and Planning Board recommended rezoning to RT although some lots would become non-conforming.

Council Member Andresen said the area was presumably not to be served by water and sewer and that a limitation of one unit per two acres was proposed for this area. Mr. Waldon agreed but said that the Council had to zone the property so that the one unit per two acres would apply.

Charles Harrison, speaking as a property owner, stated that approximately 20% of the parcels would be non-conforming if the rezoning took place. He said this would have a major impact on any of the property owners in trying to refinance their homes. He also stated that the land was not suitable for septic tanks and that under Orange County's zoning ordinance there was a two-acre minimum for septic tanks.

Mayor Pro-tem Thorpe asked why the Council was considering this rezoning. Mr. Waldon responded that the Land Use Plan designated this area as rural buffer and that this translated into the RT zoning. He said the balance of the rural buffer in the area had been rezoned by the County to a rural buffer zone.

Council Member Werner asked what was the size of the lots that would be non-conforming if the area were rezoned to RT. He said that what was proposed was essentially to conform with what Orange County had just done. He asked if the staff knew how the County had looked at the non-conformities in the adjacent areas. Mr. Waldon stated that a number of non-conformities were created with Orange County's rezoning.

Council Member Pasquini asked if rezoning to R-1a would create non-conformities. Mr. Waldon replied that he did not think so.

Council Member Werner asked if R-1a would be consistent with the Town's agreement with the County. Council Member Andresen responded no.

Council Member Pasquini asked if the areas which would be non-conforming could be separated from the other portion and zoned separately. Mr. Waldon said the staff would look into this.

Council Member Smith said the objective should be to minimize the amount of non-conformities. He said the Council should keep this in mind.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

Sage Road

Roger Waldon said the proposal was to rezone a ten acre vacant tract on the east side of Sage Road north of Brendle's from R-4 to R-3. He said the Land Use Plan designated the area as medium density residential. He said the staff and Planning Board felt the area needed further study and therefore recommend no change in the zoning at this time.

There were no citizen comments.

There were no comments from the Council.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER WERNER TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

Dobbins Drive - East of Erwin

Roger Waldon stated that the proposal was to rezone approximately 20 acres from R-4 to MU-R-1 as designated by the Land Use Plan. He said the staff and Planning Board recommended the rezoning.

Council Member Werner commented that the decision on rezoning this property needed to be consistent with the Council's decision on the other properties proposed for mixed use.

Council Member Smith spoke against the rezoning saying the area was an older neighborhood of modest homes that needed to remain as such.

Council Member Pasquini agreed with Council Member Smith and asked if rezoning to R-1 would create any non-conformities.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER WERNER TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

Dobbins Drive - West of Erwin

Roger Waldon said the proposal was to rezone 27 acres from R-4 to R-2. He said the Land Use Plan designated this area as low density residential and that the staff and Planning Board recommended rezoning to R-2.

There were no citizen comments.

Council Member Werner spoke in support of the rezoning.

Council Member Pasquini asked if rezoning to R-1 would create any non-conformities.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

#### Old Durham Road

Roger Waldon said the proposal was to rezone a 2-acre, 3 parcel tract currently zoned NC to R-3. He said commercial uses neighbor the area to the west and multi-family structures to the south and east. He said the Planning Board had felt the area had been extensively studied and rezoned three years ago to NC and that rezoning to R-3 was not appropriate. He stated that the staff and Planning Board recommended no change in the zoning at this time.

Anne Occur, speaking as an area resident, spoke in favor of rezoning the property to R-3. She said the rezoning would help prevent increased traffic congestion and serve as a buffer between the commercial development and the residential area.

Grainger Barrett, speaking as an attorney for two of the affected property owners, spoke against the rezoning and in favor of no change. He pointed out that the area had been intensely scrutinized three years ago and rezoned to NC at that time.

Margot Wilkinson, speaking as a resident of University Heights, spoke in favor of the rezoning saying she felt it would help protect the neighborhood.

Council Member Andresen commented that she would prefer to have the area zoned R-3 because of its access to Cooper Street. She wondered if there were a way to consider having office use in the area.

Council Member Pasquini asked the staff to research if any non-conformities would occur if the property were rezoned to R-3.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER SMITH TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

#### Airport Road/Critz Drive

Roger Waldon said the proposal was to rezone a four acre tract of vacant land zoned R-4 north of Glen Heights to R-3. He said the Land Use Plan called for medium density residential use at this location. He said the staff and Planning Board recommended rezoning to R-3.

There were no citizen comments.

There were no comments from the Council.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER WERNER TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

Pritchard Avenue

Roger Waldon said this proposal was at the request of a citizen to rezone two lots facing Pritchard Avenue from TC-2 to R-3. He said the Land Use Plan designated this area as Town Center and therefore the staff and Planning Board recommended no change at this time.

Milton Van Hoy, speaking as a resident, spoke in favor of the rezoning. He pointed out that the two lots were currently used for residential purposes. He said the line delineating the Town Center district had included these two lots as part of the necessary 200' setback requirement for the initial Town Center zoning.

Council Member Preston spoke in support of the rezoning. She said on one of the lots was one of the oldest homes in Chapel Hill.

Joseph Bocarro, speaking as a resident, said he did not see any reason to change the zoning designation. He said the two lots were being used as residential and therefore suggested letting the future of the area decide how the lots should be zoned.

Council Member Godschalk stated that he would not vote on this item since he was a partial owner of property adjacent to the lots. He said as a citizen he was in favor of the rezoning since the property was being used as residential and because there did not seem to be any compelling reason for the two lots to be zoned as Town Center.

Council Member Smith spoke in support of the rezoning saying it was a good indication of manifest error in the zoning atlas. He said when the 200' buffer for Town Center had been created the line had been drawn using lot lines and therefore more than 200' had been included in the buffer.

Alan Rimer, Planning Board Chair, said the Board had felt all of the areas studied this evening and in which there had been dissension needed further study before any rezoning took place.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER WERNER TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0).

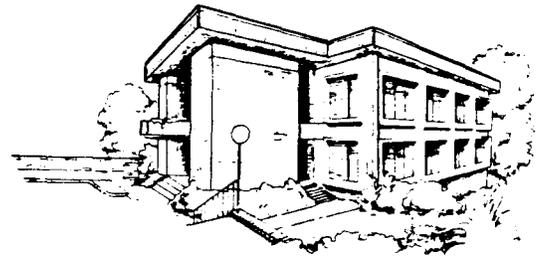
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Mayor Pro-tem Thorpe stated that the Council would begin its regular meeting of November 23 at 6:00 p.m. in order to hold an executive session to discuss personnel matters.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER SMITH TO ADJOURN THE MEETING. THE MOTION PASSED UNANIMOUSLY, (7-0).

The meeting adjourned at 11:15 p.m.

# TOWN OF CHAPEL HILL

306 NORTH COLUMBIA ST.  
CHAPEL HILL, N.C., 27514  
(919) 929-1111



## NOTICE OF SPECIAL MEETING OF THE CHAPEL HILL TOWN COUNCIL

- TO: Council Member Julie Andresen  
 Council Member David Godschalk  
 Council Member Jonathan Howes  
 Council Member David Pasquini  
 Council Member Nancy Preston  
 Council Member R. D. Smith  
 Council Member Bill Thorpe  
 Council Member Arthur Werner

You, and each of you, are hereby notified that the Town Council has called a Special Meeting, to be held in the Municipal Bldg Meeting Room at 6:00 p.m. on Monday, November 23, 1987, to hold an executive session to discuss personnel matters.

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James C. Wallace  
 Mayor

### ACCEPTANCE OF NOTICE

We, the undersigned, members of the Chapel Hill Town Council, hereby accept notice of a Special Meeting of the Council, called by Honorable James C. Wallace, Mayor, to be held in the Municipal Building Meeting Room, 306 N. Columbia St.

James C. Wallace  
 Mayor

Bill Thorpe  
David Pasquini  
Jonathan R. Howes  
David Godschalk  
Nancy Preston  
R.D. Smith

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