

MINUTES OF A PUBLIC HEARING OF THE MAYOR AND COUNCIL
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,
MONDAY, SEPTEMBER 15, 1980 7:30 P.M.

Mayor Nassif called the hearing to order. Present were:

- Marilyn Boulton
- Joe Herzenberg
- Jonathan Howes
- Beverly Kawalec
- R.D. Smith
- Joe Straley
- Bill Thorpe

Also present were Town Manager E. Shipman and Town Attorney E. Denny. Council member Wallace was excused.

Hoover/Hill Rezoning - Public Hearing

All witnesses were sworn. Mr. Jennings pointed out the location of the property being considered. He stated the applicant was requesting the rezoning to add parking to Wendy's. The property was adjacent to an activity center, but not in the activity center. It was designated as low density residential on the land use plan. Mr. Jennings reviewed the three reasons for a rezoning. He noted that although the applicant had requested regional commercial zoning, the Town could zone the property as Limited Business which would allow parking but not commercial development.

Mr. Hakan, the applicant's representative, believed the land use had changed in the area. The property would be used for additional parking and screening. The staff had suggested a rezoning rather than a special use permit.

Council member Smith asked how many spaces Wendy's currently had. They had 32.

In response to Council member Howes, Mr. Hakan said the alley would still be dedicated as an easement.

Ms. Ellen Rustin commented that the area was congested, with children and animals. She did not want more traffic.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER HOWES, THAT THE MATTER BE REFERRED TO THE PLANNING BOARD FOR CONSIDERATION AND RECOMMENDATION. THE MOTION WAS CARRIED UNANIMOUSLY.

Zeta Tau Alpha Rezoning - Public Hearing

Mr. Jennings explained that the difference between the current R-10 zoning and the requested R-10A zoning was that fraternities and sororities were allowed with a special use permit in the R-10A zones. Although they were allowed in the R-10 zone, a minimum of 3 acres was necessary. The land use plan designated the property as low density residential use. In addition to the criteria to be considered for rezoning, a question had been raised as to whether it was proper to zone one property R-10A, giving the property owner benefit denied adjoining property owners. A protest petition had been filed with the Town, which Mr. Jennings believed to be sufficient.

Council member Straley inquired if there were any fraternities or sororities which had met the 3 acre minimum. Mr. Jennings said there were none which had been approved under that criteria.

Mr. O'Brien stated the rezoning was being requested because the tract was not 3 acres in size. He submitted the Statement of Justification and map. Mr. O'Brien believed there was a change in the existing situation. There were 11 fraternity or sorority houses within 1000 feet of the site. There were 15 in the Historic District. Rental property was adjacent to and across from the tract. The two existing houses on the site were used as rental property. The applicants believed the growth in the area would continue to be multi-family. A condominium project in the area had been approved by the Council this year. An apartment project was to the north of the property. Mr. O'Brien stated the type of project proposed was in keeping with the infill policy of the town. It would utilize transportation and utilities. No landscaping in the front of the site would be changed. The structure would receive needed renovation. Mr. O'Brien submitted photographs of the site. To renovate the house for a single family would cost approximately \$250,000 in his opinion. He pointed out that the applicant would have to apply for a special use permit as well as a

certificate of appropriateness for the construction of the sorority house. This would ensure development in character with the neighborhood.

Mr. Page stated the present use did not benefit the neighborhood or the town. He reiterated the belief that the character of the neighborhood was changing from single-family to rental. The property was on the fringe of the single-family neighborhood. Mr. Page asked that the Council consider the highest and best use of the property. He refuted the accusation that the rezoning would constitute spot zoning. Mr. Page did not think the protest petition a valid one on the grounds that it did not contain signatures 20% of the adjoining property owners; it did not contain a metes and bounds description of the subject property; signatures of all co-tenants were not on the petition; and that the purported petition was only a letter to the Council.

Ms. Sharon Mitchell, Assistant Dean for Student Affairs, supported the women's Greek system. She stated the sororities stressed leadership and service to the community. They had strong national regulations, which included a prohibition against alcohol in the sorority house. With the sorority, there would be no undue noise or all-campus parties. Ms. Mitchell reminded the Council the fraternities and sororities provided housing for over 400 students.

Ms. Shirley Wilson, advisor to the sorority, stated she had lived for several years in sorority housing on the fringe of residential neighborhoods, with good relationships. Traffic increased only during rush and when parents came in to visit. The location was desirable because it was accessible to the campus and town. Ms. Wilson believed the police tended to provide more security for the sororities, thereby providing more security for the neighborhood. She read a letter from the Wesley Foundation, the sorority's current neighbor, in support of the sorority.

Ms. Joan Anderson stated the house would be purchased by the national organization. They provided supervision for the budgeting of the local sorority. Decoration for the house would be under the control of the board of local alumni directors. Ms. Anderson stated that the character of the neighborhood was changing. If the rezoning was not approved, the property would probably be used for multi-family housing.

Ms. Fields informed the Council she had gone through this process with another sorority several years before. That sorority had maintained good relations with its neighbors. As a realtor, she also pointed out that sorority houses had caused the value of adjoining property to increase.

Ms. Stevens read a letter from Chancellor Robert House recommending the addition of a sorority to the neighborhood. He had found them to be kind and considerate.

Ms. Susan Tucker, of the Delta Delta Delta Sorority, supported the rezoning for the sorority.

Council member Straley asked if there was a boundary line between 402 and 404 Hillsborough Street as there seemed to be a question as to the legality of signatures of owners of the property. Mr. Page stated he did not know, but had noticed two separate addresses on the street. Council member Straley then inquired what the sorority would do with the existing house. Mr. Page thought it would be torn down.

Council member Howes asked for Mr. Denny's response to Mr. Page's arguments against the protest petition. Mr. Denny answered that the petition would have no bearing on a vote taken at this meeting. It was pertinent only if the Council decided to rezone the property. Prior to that time he would suggest that the petition be investigated by the Clerk's office to determine the validity of the signatures.

Ms. Preston spoke against the rezoning. She did not believe there had been a change in the neighborhood. As the existing zoning made multi-family use possible, property values were at a premium. Adjoining property owners had improved their property in reliance on the zoning. Ms. Preston did not believe the negligence of the property by the owner should have an effect on the zoning. And, the owner should not be allowed to benefit by that negligence. She distinguished between a multi-family use and a fraternity or sorority. She pointed out that zoning law also differentiated between the two. The proposed zoning would neither bring the property into compliance with the comprehensive plan, nor was it in harmony with the comprehensive plan. The Preservation Society opposed the rezoning on the basis that it would work to the detriment of the Historic District. Ms.

Preston noted that the sorority use would be equivalent to 11 units per acre density. The land use plan encouraged low density use in this area. The sorority would not promote traffic or pedestrian safety. The drive on Hillsborough Street would create a hazardous situation with many cars. There was no sidewalk for pedestrians. Ms. Preston believed this would constitute spot zoning as none of the contiguous areas was zoned R-10A.

Mayor Nassif asked if Ms. Preston had referred to the old apartments to the north. She had referred to newly approved units.

Mayor Nassif pointed out these were condominiums, not multi-family units.

Mr. Peter Lee stated that the number of families with children in the area had doubled since 1972. They had formed good relationships with neighbors. Families had moved in and renovated homes in the area in reliance on the zoning. The rezoning would be, in his opinion, an invitation to all owners of large property to try to sell to a sorority or fraternity. The stability of the neighborhood depended on the zoning.

Mr. Tom Nuzum played a tape with general sounds from the neighborhood. Rezoning the property for the sorority would reward the owner for neglect of his property and hurt adjoining owners who had taken care of their property.

Ms. Betty Sanders stated she had rented an apartment for 10 years in the 500 block of East Rosemary Street. She had then built a house in the same area. Although the Historic District had not been a single family area, it was now becoming one. She had relied on the zoning in building. The North and Hillsborough Streets intersection was dangerous. Ms. Sanders said the character of the area was varied but healthy.

Ms. Betty Caldwell, representing the Preservation Society, objected to what she believed constituted spot zoning. The rezoning would only benefit the owner of the property. Instead of rezoning, the Council should encourage the rehabilitation of homes in the Historic District. Such renovation increased the tax base of the town without the cost of extra services. The sororities and fraternities required large parking areas, increased traffic and noise. The Society urged the Council to deny the rezoning request.

Ms. Caroline Donan had lived in the neighborhood for forty years. In counting the cars parked at the nearby sororities, she had found more cars than spaces. The traffic on Hillsborough Street was very heavy.

Ms. Marguerite Schuman commented on the heavy and high speed traffic on Hillsborough Street. The sorority would increase traffic creating a hazard for the residents.

Mr. Douglas Johnston believed the rezoning would increase the law enforcement problems. He expressed the opinion that the property value was inflated on the expectation of rezoning.

Council member Boulton asked if there were any areas already zoned 10A which would be available. Mr. Page did not believe there were any properties available. Council member Boulton then asked if the proposed zoning ordinance would assist sororities and fraternities in locating in more areas. Mr. Jennings responded they would be allowed in high density residential areas which was not now the case. There were no further comments.

COUNCIL MEMBER HERZENBERG MOVED, SECONDED BY COUNCIL MEMBER BOULTON, TO REFER THE MATTER TO THE PLANNING BOARD FOR CONSIDERATION AND RECOMMENDATION. THE MOTION WAS CARRIED UNANIMOUSLY.

Fire Station North Rezoning - Public Hearing

Mr. Jennings explained that the area had been outside the planning area and did not have any zoning now that it had been annexed. A fire station was allowed in any district in town. Mr. Jennings noted that if the property was zoned limited business, a special use permit would not be necessary for the parking lot. He commented that the staff believed the requirement for a special use permit for a parking lot was an error which would not be in the proposed zoning ordinance. Parking lots would only be prevented in residential areas as a primary use of the land. The land use plan did not include the property, but the comprehensive plan did include the fire station.

There were no comments on the rezoning of the property. COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER SMITH, TO REFER THE MATTER TO THE PLANNING BOARD FOR CONSIDERATION AND RECOMMENDATION. THE MOTION WAS CARRIED UNANIMOUSLY.

Oaks Apartments Modification - Public Hearing

All witnesses were sworn. Mr. Jennings explained that the same four findings made for the special use permit must again be made for the modification. These findings would be made based upon the evidence at this public hearing.

Mr. Hyman stated the modification was being requested to permit a change of ownership not of use. There would be no change in the plans or traffic patterns. There would be no change in the services to the buildings. There would be no change in the drainage plans. There would be no change from uses allowed in R-5 zoning. The project would continue to be in conformance with the greenway plan, the thoroughfare plan and the flood plain. There would be an ungrade in the physical appearance of the exterior of the buildings. Mr. Hyman would have much needed maintenance done. He stated he had held a meeting and invited all the tenants to come and view the plans. The units would be made more energy efficient. The condominiums would help to create a full range of housing in the area. There was currently more rental property in the Little Creek subcommunity than the average of the 16 subcommunities in Chapel Hill. Mr. Hyman objected to the wording of the petition against the modification which, in his opinion, did not allow sufficient latitude. He believed that with repairs more than one tenant would purchase his home.

Council member Boulton asked if the state code for condominiums would be different from the regulations for apartments. Mr. Hyman did not believe there was a difference, although he explained that a townhouse would have different regulations. Council member Boulton asked if the town could add regulations to the State's code. Mr. Denny responded that condominium referred to a form of ownership, not to the structure. The town could not impose specific regulations on one building. Regulations had to be by ordinance and had to apply town-wide.

Council member Straley asked if any of the buildings in this project were townhouses. Mr. Hyman said they were not, because townhouses referred to a type of ownership. Mr. Denny explained that confusion resulted from the dual use of the term "townhouse."

Mr. Heffner stated the conversion would have no adverse effect on adjoining property values in his opinion. He thought that condominiums would have a higher standard of maintenance. Homeowners would be more inclined to participate in community affairs. Mr. Heffner believed there would be less crime in owner-occupied units than in rental units. He had looked at other conversions and had found none that had adversely affected surrounding properties.

Council member Straley asked if the owners were automatically members of the Homeowners Association for the condominiums. Mr. Bayliss stated the Articles of Incorporation and the Declaration of Condominiums had been drafted and submitted to the staff. Purchasers would be members of the Association, which would be responsible for maintenance of the common areas.

Mr. Austin Bisbing stated he would not support the project if he thought it would be a hardship on the occupants. He named other units in Chapel Hill which had first been approved as apartments then as condominiums. The conversion did not mean there would be no more rental units. Mr. Bisbing cited statistics as to how many renters usually remained as owners in condominium conversions, and how many remained as renters from other investors. Rental units in other locations would be freed by purchasers of the condominiums.

Mayor Nassif pointed out that some of the conversions mentioned by Mr. Bisbing, such as Village Green, had been approved as condominiums before the start of construction.

Council member Smith asked how many units would still be available as rental units after the conversion. Mr. Bisbing could not guarantee a specific number.

Mr. Reeve asked if the apartments had been approved as a single project or if they had been a part of a master plan. Mr. Bisbing responded the town had approved a preliminary plat and rezoning of 357 acres. The master plan contained apartments, condominiums and single family residences, as well as a golf course.

Mr. Francisco asked if Mr. Bisbing believed there was a shortage of low cost housing in Chapel Hill. As he dealt in commercial property, Mr. Bisbing referred the question to Mr. Heffner. Mr. Heffner said there was a shortage of housing. Mr. Francisco then asked if someone could afford to buy a \$70,000 home, did Mr. Heffner believe that person could afford to rent the same home. Mr. Heffner did. Mr. Francisco asked if the converse was true. Mr. Heffner did not believe it was. Mr. Francisco asked if the conversion would take off the market potential homes. Mr. Heffner said the conversion would add to the owner units, although it might take away from rental units.

Mr. Bayliss stated he did not think a modification of the permit was needed for the conversion. The Board of Adjustment had disagreed, so he had applied for the modification. Mr. Bayliss said there would be no change in the buildings. The relationship with the area would remain the same. He submitted the plat, Articles of Incorporation and By-laws of the Homeowners Association.

Mr. Denny noted that the Council had received a petition from the residents of the area. He informed the Council this could not be received as evidence unless each of the residents swore to its signing at this meeting.

Mr. Ralph Mason, representing the Oaks Homeowners Association, stated the project had met with no opposition from the Association. Maintenance and landscaping was needed.

Mr. Chapin stated that most residents were not interested in buying their units because of problems with drainage, insulation, pipes freezing, and heat. He believed it wrong to allow the sale of poor merchandise.

Mr. Roger Cox said residents at The Oaks would be inconvenienced by the conversion. Many of the renters were young families in Chapel Hill for only a year or two. These young professionals would not continue to come to Chapel Hill if the rental market was tightened more.

Mr. Patrick Grace indicated he had been sworn. He believed the conversions could cause concern for many of Chapel Hill's residents. The Planning Board had not planned for these conversions. The people being displaced from these units would seek housing at other complexes displacing the students. Mr. Grace thought the conversions a quick way for investors to make a profit.

Ms. Ann Jensen stated that although she could rent at the Oaks, she could not afford to buy a unit. Even if she wanted to buy, she did not believe she could get a loan.

Ms. Glenna Chapin said her family had wanted to live in the community but without the responsibility of home ownership. The Oaks had been the only apartments to meet their needs. They did not want to move.

Ms. Jean Williams was concerned over the removal of 124 rental units from a tight market. As part of her employment for the National Humanities Center, she located housing for the Fellows at the Center. She had located 12 of the Fellows at the Oaks, who would have to be moved if the conversion took place. She had written a letter to the Planning Board on August 19 explaining some of the problems involved for the Center in this conversion. She asked that it be entered in the record.

Mayor Nassif commented that in the zoning ordinance, there was no multi-family housing, just single-family detached or joined. Only in the special use permits was a distinction made for apartments. There were no further comments.

COUNCIL MEMBER BOULTON MOVED, SECONDED BY COUNCIL MEMBER HOWES, TO REFER THE MATTER TO THE PLANNING BOARD FOR CONSIDERATION AND RECOMMENDATION. THE MOTION WAS CARRIED UNANIMOUSLY.

Franklin Square - Public Hearing

All witnesses were sworn. Mr. Jennings pointed out the location of the project, 12 office buildings. Parking would be reduced to 253 spaces. Access to the project would be by extension of the access road along 15-501. The access road would also be redesigned to eliminate the hazards of traffic crossing from the access road to 15-501 bypass. The property was designated as low density residential and zoned R-20. It was not within an activity center. The staff was concerned with the damage to the property should the Eastwood Dam fail during a 100 year flood.

Mr. Anderson stated there would be 41 separate buildings with 57 offices. They would be developed as office condominiums. He explained the route to be followed by traffic to reach the office complex with the redesign of the access road. Mr. Anderson stated the surrounding land uses included a shopping center, radio station and apartments. The project would be compatible. The traffic from the project would be minimal compared to that on the adjacent roads, an estimated 793 to 1400 trips per day. The State DOT had made an analysis of the proposed traffic which they did not believe would interfere with the conditions at Mt. Moriah Church Road. Mr. Anderson submitted the analysis for the record. The project would have all town services. The storm water drainage would be accelerated to no greater rate than the 10 year flood. All buildings would be above the flood elevation. The parking area would be constructed within the flood area, but not raised in grade so as not to interfere with the flood way. In response to the questions on the failure of Eastwood Lake Dam, the applicant had reviewed a study on the dam. Mr. Anderson pointed out several inconsistencies in the study. Because of the topography, Mr. Anderson did not believe the failure of the dam would result in a washaway situation. The lake was shallow. Added to this was the strong structure of the dam. He stated there was very little danger from dam failure and Mr. Anderson believed the project was compatible with the Chapel Hill comprehensive plan.

Council member Herzenberg asked what existing buildings were on the property. Mr. Anderson stated there were three buildings, two of which were substandard. The third was a concrete house.

Council member Straley asked if the Transportation Board would agree with Mr. Anderson's treatment of the service road intersection. Mr. Anderson thought they would. He informed the Council that proposed plans from DOT for the service road extension were almost identical to his. Mr. Jennings pointed out there was a stop light just ahead of the intersection of the service road and Franklin St.

Mr. Reeve asked if the buildings within the flood fringe could be moved. They could not. The name of the project could be changed by stipulation on the special use permit.

Council member Smith questioned the drainage in the parking area. Mr. Anderson stated this would be no different from other facilities in town. There would be adequate warning of any large flood for people to move their cars.

COUNCIL MEMBER BOULTON MOVED, SECONDED BY COUNCIL MEMBER KAWALEC, TO REFER THE MATTER TO THE PLANNING BOARD FOR CONSIDERATION AND RECOMMENDATION. THE MOTION WAS CARRIED UNANIMOUSLY.

McKee-Eyre Office Buildings - Public Hearing

All witnesses were sworn. Mr. Jennings pointed out the location of the structure which was to be converted to an office building. The existing circular drive would be retained. Mr. Jennings informed the Council the tract was designated as high density residential on the land use plan. Council member Howes inquired whether another request had been previously considered. Mr. Jennings responded that a request by Mr. Harder had been denied to encourage high density residential use.

Mr. Peloquin submitted the statement of justification. He believed there had been change in the area with condominiums and a nursing home approved. The applicant intended to renovate the building for a use which would have less impact than rental structures.

Council member Smith asked if the two buildings would be required for a unified business permit in the new zoning ordinance. Mr. Jennings responded the new ordinance allowed a zone for offices, office and institutional. A five acre minimum had been required for planned developments, but the Planning Board was considering waiving this requirement in certain instances.

Council member Boulton asked if the building would still look residential. Mr. Peloquin said it would. There were no further comments. COUNCIL MEMBER STRALEY MOVED, SECONDED BY COUNCIL MEMBER THORPE, TO REFER THE MATTER TO THE PLANNING BOARD FOR CONSIDERATION AND RECOMMENDATION. THE MOTION WAS CARRIED UNANIMOUSLY.

Wilco Service Station - Public Hearing

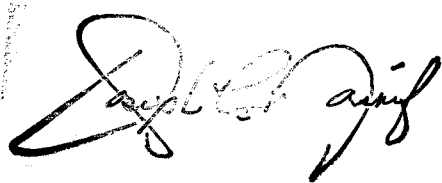
All witnesses were sworn. Mr. Jennings stated the applicant wished to expand the existing convenience center to allow for more convenience goods. The pumps would be relocated but not increased.

Mr. Butcher submitted the statement of justification. Council member Herzenberg asked if this was a drive-in business. Mr. Jennings stated the primary use of the property was for a gas station.

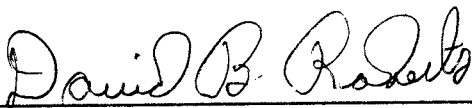
Council member Kawalec inquired about the original special use permit. Mr. Jennings said there had not been a permit. This was part of the property annexed by the town last year.

There were no further comments. COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER HOWES, TO REFER THE MATTER TO THE PLANNING BOARD FOR CONSIDERATION AND RECOMMENDATION. THE MOTION WAS CARRIED UNANIMOUSLY.

There being no further business to come before the Council, the meeting was adjourned.



Mayor Joseph Nassif



Town Clerk David B. Roberts

