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CONTINUATION OF THE REGULAR ~~QUARTERLY~~ PUBLIC HEARING
OF THE MAYOR AND COUNCIL OF THE TOWN OF CHAPEL HILL,
MUNICIPAL BUILDING, MONDAY, SEPTEMBER 29, 1981, 7:30 P.M.

Mayor Pro-Tem Howes called the public hearing to order.

Present were:

- Marilyn Boulton (late)
- Joe Herzenberg
- Beverly Kawalec
- R. D. Smith
- Joe Straley
- Bill Thorpe (late)
- Jim Wallace

Mayor Nassif was absent. Also present were Interim Town Manager, Ron Secrist; Assistant Town Manager, Sonna Loewenthal; and Town Attorney, Emery Denny.

This was a continuation of the regular Quarterly Public Hearing of the Town Council. The public hearing had begun on Monday, September 21, 1981

Witnesses for items regarding Special Use Permits were sworn by the Clerk.

Castillian Villa Apartments--Request for Modification for Special Use Permit (Conversion to Condominium Ownership)

Mr. Mike Jennings, Planning Department Director, reviewed the request: to modify the existing Unified Housing Division Special Use Permit to a Planned Development-Housing Special Use Permit to allow the conversion of the property to a condominium form of ownership.

Stipulations were designed to protect the public welfare by providing protection for the tenants of Castillian Villa at such time that the owner might decide to convert the property to a condominium form of ownership. These stipulations had been agreed to by the applicant.

Staff felt that the act of conversion was not believed to conflict with the Comprehensive Plan as the emphasis was on encouraging mix through new development and not on the regulation of existing developments. Staff recommended approval of the conversion.

Mr. Roscoe Reeve, Chairman of the Planning Board, stated that the Planning Board concurred with staff recommendation.

Mr. Robert Page, lawyer for the applicant, stated that the request did not involve a change in the land use or density.

Mr. Tony Lathrop (speaking for Mr. Scott Norberg of the University of North Carolina Student Government) stated that it was a policy of the UNC Student Government to oppose such conversion, as such conversions tended to contribute to the already-present shortage of low-cost housing for students.

In response to an inquiry from Councilmember Smith, Mr. Lathrop stated that 8 students out of 42 were housed in apartments in Chapel Hill.

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER KAWALEC, TO REFER THE MATTER TO THE MANAGER AND ATTORNEY.

THE MOTION CARRIED UNANIMOUSLY.

304 West Franklin Street--Request to Reopen Vacant Building as a Service Station

Mr. Jennings described the request: a Planned Development-Shopping Center (Community) Special Use Permit for construction of a service station on the property at 304 West Franklin Street.

Mr. John Northen, representing Mr. Burnett (the applicant), stated that this property was previously a Texaco service station (between Fowlers Food Store and the old

Chamber of Commerce Building). Originally, the business operated as a non-conforming use under the old Zoning Ordinance, as the old Ordinance did not allow gas stations in the downtown area. At one point, the station ceased to operate for a period of time. Because of this inoperative period, the station lost its non-conforming status.

Presently, the proposed project would not qualify as a gas station under the new Zoning Ordinance. The applicants could apply for a Special Use Permit as a gas station, but it would not meet Zoning Ordinance standards in its present state (too close to an intersection, too close to another gas station, and the lot size was too small).

Because of the inability to meet such standards, the applicant was requesting to apply for a Planned Development-Shopping Center for Commercial Area. The applicant wished to maintain the existing structure.

Mr. Northen stated that the Planning staff recommended that the livability space be increased from 660 sq.ft. to 2,100 sq.ft. He felt this cost for modification would outweigh the benefits of the requirements and, therefore, requested a hardship consideration.

Mr. Northen submitted a Statement of Justification (please refer to permanent files in the Planning Department).

Mr. Jennings stated that the staff recommendation was to deny the request on the basis of failure to make findings #1, #2, and #4.

He stated that the reason the applicant was requesting a Planned Development-Shopping Center Special Use Permit was because Council could waive all requirements and standards of the Zoning Ordinance, except those with respect to the land use intensity ratios.

Staff recommended certain stipulations which would bring the proposal into conformance with the Zoning Ordinance, should Council wish to approve the request.

Mr. Reeve stated that the Planning Board concurred with staff recommendation. A minority of the Planning Board felt that this application should be given more consideration, as there were probably no service stations that complied with the Zoning Ordinance requirements or could even sustain a technical review.

Councilmember Smith asked why Council was allowed to waive all stipulations except the livability space. Mr. Jennings responded that one of the goals of the Ordinance was to keep the land use intensity ratios in balance; therefore, this stipulation could not be waived.

Councilmember Smith felt this restriction would cause an unnecessary expense. He also felt that to increase the livability space would decrease the room for delivery vehicles, causing unnecessary traffic/pedestrian hazard.

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER THORPE, TO REFER THE MATTER TO THE MANAGER AND ATTORNEY FOR RECOMMENDATION.

THE MOTION CARRIED UNANIMOUSLY.

Stallings Oil Company for Special Use Permit for Planned Development-Shopping Center (Community) for Demolition of Service Station and Construction of New Convenience Store Selling Gasoline at 1501 East Franklin Street

Mr. Jennings described the request: a Planned Development-Shopping Center (Community) Special Use Permit to allow the demolition of the existing service station building and construction of a new convenience store selling gasoline with 16 pumps at the northeast corner of Franklin Street and Estes Drive (currently, the property is an Exxon service station).

Mr. Robert Epting, representing the applicant, stated that the proposed project would enhance the area and improve traffic safety by removing vehicles presently parked on the lot. Staff recommended that one of each of the two curb cuts on each street be eliminated (presently, there are two curb cuts on Estes and two curb cuts on Franklin). The applicant, however, wished to retain two curb cuts on one street and eliminate only one curb cut on the other street.

The applicant felt that retaining the first curb cut on Estes would allow safer turns as vehicles would be in a deceleration state after having completed the turn from Franklin onto Estes. The second curb cut would serve as an exit point.

Mr. Jennings stated that the reasons for recommending fewer curb cuts were (1) to reduce vehicle collisions and (2) increase pedestrian safety.

Regarding the number of curb cuts, Councilmember Boulton did not feel that two would allow for a freer flow of traffic. She felt that the first curb cut was too close to the intersection and would be hazardous and should be deleted. Councilmember Straley concurred. The applicant stated that he did not propose the first entranceway to be used as an exit point. He proposed that the first curb cut would be an entranceway and the second curb cut would be an exit. Ms. Boulton felt this might be good in theory, but might be different in fact.

Staff recommended approval of the request with stipulations designed to bring the project into conformance with the Zoning Ordinance.

Mr. Reeve stated that the Planning Board unanimously recommended approval of the Special Use Permit, considering it a good plan and an improvement to this area.

The applicant responded "No," to Councilmember Straley's question if any space was being planned for rental vehicles, etc.

COUNCILMEMBER THORPE MOVED, SECONDED BY COUNCILMEMBER BOULTON, TO REFER THE MATTER TO THE MANAGER AND ATTORNEY.

THE MOTION CARRIED UNANIMOUSLY.

Rezoning of 6 Lots on the West Side of Pittsboro Street between Cameron Avenue and McCauley Street from Office-Institutional 1 (OI-1) to Office-Institutional 3 (OI-3). (Sigma Phi Epsilon, St. Anthony's Hall, Zeta Tau Alpha, Wesley Foundation, and Newman Center Parcels)

The applicant, Ron Merritt, Chapter Counselor and member of the Alumni of the North Carolina Delta Chapter of Sigma Phi Epsilon Fraternity, stated that the request was to allow construction of a new house to replace the existing house. The new house would house 44 men. Under the present zoning, a larger house could not be built. Mr. Merritt explained that in the present economic climate, he did not feel that Sigma Phi Epsilon would be able to build a 29-resident house and have any hope of retiring the debt necessarily incurred for construction. He felt, however, that a 44-resident structure was economically feasible (as would be allowed under a zone change). He asked Council to consider zoning this and the surrounding properties as either OI-2, as staff recommended, or OI-3 as they had requested.

Ms. Grace Wagoner, University Property Officer, stated that the University supported the recommendation of the staff and Planning Board to rezone this area from OI-1 to OI-2.

Staff felt that this area was a transitional area between the intensive uses of the University and the less intensive uses of the residential areas. This change would be appropriate for the transitional type of zoning of OI-2. Staff did not recommend OI-3 because it did not have height or setback limitations and would allow a wider variety of uses.

Mr. Reeve stated that the Planning Board concurred with staff recommendations.

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER SMITH, TO REFER THE MATTER TO THE MANAGER AND ATTORNEY.

THE MOTION CARRIED UNANIMOUSLY.

Community Bank of Chapel Hill--Modification of the Special Use Permit for Kroger Plaza to Allow Construction of a Drive-Up Teller

Mr. Jennings described the request: to modify the existing Unified Business Development Special Use Permit to a Planned Development-Shopping Center (Community) Special Use Permit. The applicant proposed to delete the approved (but as yet unconstructed) Easco Photo Booth and replace it with a drive-up teller window to serve the bank under construction on the property at this time.

Mr. Bob Anderson, representing the Community Bank of Chapel Hill submitted a Statement of Justification (filed in the permanent files of the Planning Department). Staff and Planning Board concurred that the proposed project would meet the requirements of the Zoning Ordinance. In examining the proposal, the applicant, staff, and Planning Board agreed that a drive-up teller window on the side of the building would produce traffic safety problems and traffic/pedestrian conflicts. Therefore, the proposed request was for a free-standing drive-in teller at approximately 25-30 feet from the walk-up window and sidewalk, thus separating pedestrian and vehicular traffic. No physical connection was proposed.

Mr. Jennings presented staff recommendation to approve the request subject to stipulations which would include traffic flow improvements, raising of the traffic islands, and landscaping of the islands to bring that portion of the proposed property modification into conformance with the Zoning Ordinance shading standards.

Mr. Roscoe Reeve stated that the Planning Board recommended approval of the proposed project.

Councilmember Kawalec felt that this shopping center was congested, confusing, and ugly in appearance and felt that this addition might add to the problems that already existed. Councilmember Wallace concurred.

Councilmember Boulton asked Mr. Jennings if staff had considered having four lanes in the entrance lane, as opposed to two lanes, in order to provide a left-turn lane. She felt that a curb cut near the entrance of the entrance lane would seemingly facilitate existing from the lot, instead of having to re-enter the parking area before reaching the entrance lane in order to exit from the shopping area. The applicant felt that this change would cost a whole row of parking to accomplish. Four lanes with a divider would eliminate two rows of parking, which he felt would be intolerable. Presently, construction of a third lane was in progress which would allow right and left-hand turns.

Mr. Jennings stated that this project was in compliance with the Special Use Permit.

Councilmember Smith asked Mr. Jennings to explain the wording in stipulation #5 ("That the remaining portions of the development be brought into compliance with the requirements of Article 6 as future modifications are made to the shopping center . . . ") Mr. Jennings explained that any other development in the parking lot would also require that 35% of that portion of the parking lot be shaded.

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER SMITH, TO REFER THE ITEM TO THE MANAGER AND ATTORNEY.

THE MOTION CARRIED UNANIMOUSLY.

Wendy's Drive-In--Request for a Modification of a Special Use Permit to Allow Addition of a Drive-Up Window

Mr. Jennings described the request: a drive-up window Special Use Permit to the existing Wendy's Drive-In Restaurant at the corner of U.S. 15-501 and Scarlette Drive.

Mr. Doug Hargrave, representing Wendy's Drive-In, stated that the request was to eliminate the present walk-up window and convert it into a drive-up window. He felt that the drive-up window was safer than the present walk-up window. Customers often parked at or near the window, rather than in marked parking spaces, causing traffic/pedestrian hazards. At staff recommendation, some of the parking spaces would be re-angled to allow buffer zones and not cause the deletion of parking spaces.

Mr. Hargrave submitted a Statement of Justification (please refer to files of the Planning Department). Mr. Hargrave stated that surrounding locations presently had drive-in windows and felt that this request would not affect the area in any way.

Mr. Jennings stated that stipulations recommended by staff would allow the proposed project to comply with the Zoning Ordinance. Regarding finding #4 ("that drive-in businesses only be permitted within office parks or shopping centers or areas adjacent to shopping centers"), staff felt that this type of use already existed outside of shopping centers. The staff also felt that this proposal would improve the function of the site. Mr. Jennings stated that this goal and objective could be exempted by the Council.

Staff recommended approval of the request with stipulations as set forth by staff.

Mr. Reeve stated that the Planning Board agreed with staff recommendation.

Ms. Juanita Sturdivant, a citizen, spoke in support of the proposed drive-in window.

Mr. Reeve stated that the aspect that made the request considerable was the fact that the area itself did qualify as a commercial/activity area--not in strict conformance with the policy of a shopping center, but one that allowed the request for consideration.

Councilmember Boulton did not feel that this drive-up window would do much in the way of solving any traffic problem.

Mr. Jennings stated that staff felt that the call box would improve the function and safety of the traffic problem in that people spend a lot of time deciding what they wish to order, causing a backup problem.

Councilmember Straley felt that Council policy was being chiseled away by requests such as this, doubting the effectiveness of such a policy if this were allowed to continue. He referenced the earlier excerpt from the Comprehensive Plan's Goals and Objectives: "Drive-in businesses shall only be permitted within office parks or shopping centers or areas adjacent to shopping centers."

Mr. Jennings pointed out that this was only a recommendation of the Planning Board and staff.

Councilmember Smith felt that stopping traffic at the call box would present a greater traffic hazard than stopping traffic at the drive-up window.

Mr. Hargrave responded that it had been the practice at other Wendy's Restaurants to send out personnel to take orders during peak rush hours and speed-up the process.

Councilmember Smith stated that one of the purposes of the new Ordinance was to separate pedestrians and traffic. He felt that a drive-up window would encourage more cars driving in than parking, yet all of their parking spaces would require persons to walk across this drive-in window traffic. This did not seem to improve pedestrian safety.

Mr. Mike Freeman, Manager of Wendy's Restaurant, felt that the steady interval of cars moving forward in the call box line would allow pedestrians to easily gauge walking to or from the building. This had not been a problem at other area locations.

Mr. Whitfield, a citizen (not sworn), spoke in support of the request.

Mr. Reeve, speaking for himself, felt that Council's current policy was not adequate to stand up under various interpretations and a decision to support the request would only bring further embarrassment and confusion. He felt Council should seek another route in the interpretation of the problems created by approving such an application.

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER THORPE, TO REFER THE MATTER TO THE MANAGER AND ATTORNEY.

THE MOTION CARRIED UNANIMOUSLY.

Zoning Ordinance Text Proposed Amendments

Mr. Jennings stated that the proposed amendments were a partial response to staff's commitment to reevaluate the Zoning Ordinance within nine months of its adoption.

Mr. Jennings proposed the following Zoning Ordinance text amendments:

1. The first set of individual amendments would clarify the intent of the Ordinance and address problems of transition from the old Zoning Ordinance to the new Zoning Ordinance.
2. The second set of amendments pertained to sign regulations. The new Zoning Ordinance made many signs in Chapel Hill non-conforming by new regulations for sign locations, sizes, and content. In addition, non-conforming signs were

required to be removed within one year of notice of non-conformance. Due to monetary and sentimental values attached by owners, staff found administering the Ordinance to be difficult. Therefore, staff recommended an amendment to require that signs conform at the time of change of ownership. Staff felt that any improvements brought about by sign conformance would not outweigh the burden of additional cost to business owners.

- 3. The third set of amendments dealt with requirements for buffers and zones. Proposed changes would improve regulations based upon staff experience of administering the Ordinance.

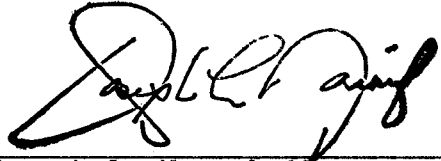
Mr. Roscoe Reeve stated that the Planning Board recommended approval.

Mr. Jennings presented a slide presentation on various conforming and non-conforming signs in Chapel Hill.

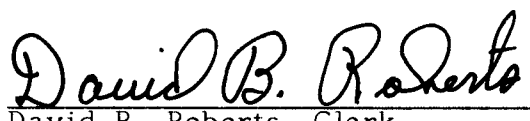
COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER KAWALEC, TO REFER THE MATTER TO THE MANAGER AND THE ATTORNEY.

THE MOTION CARRIED UNANIMOUSLY.

There being no further business to come before the Council, the meeting was adjourned at 10:45 P.M.



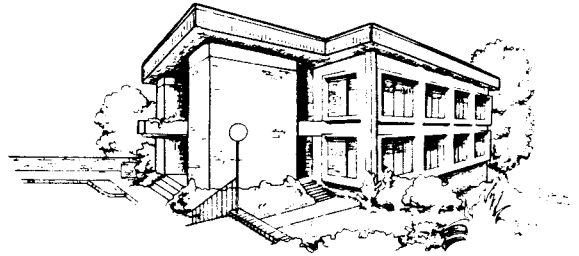
Joseph L. Nassif, Mayor



David B. Roberts, Clerk

TOWN OF CHAPEL HILL

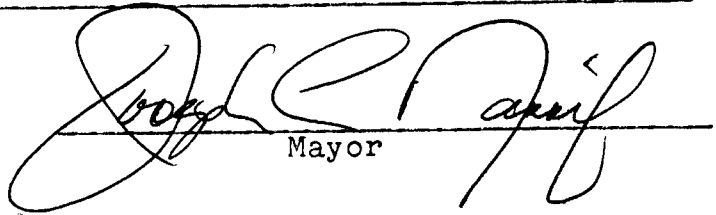
306 NORTH COLUMBIA ST.
CHAPEL HILL, N.C., 27514
(919) 929-1111



NOTICE OF SPECIAL MEETING OF THE CHAPEL HILL TOWN COUNCIL

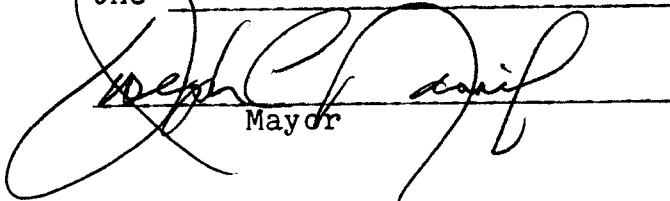
TO: Marilyn Boulton
Joe Hengen
Jonathan Hoover
Beverly Kawalec
R.D. Smith
Joe Sharkey
Bill Thorpe
Jim Wallace

You, and each of you, are hereby notified that the Town Council has called a Special Meeting, to be held in the Conference Room, at 4.00 P.M. on October 5, 1981, to discuss personnel matters


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 _____, Mayor, to be held in the _____.


Mayor

R.D. Smith
Jonathan B. Hoover
Beverly Kawalec
Bill Thorpe
Joseph Hengen
Joseph Sharkey
James C. Wallace
Marilyn M. Boulton

