

MINUTES OF A PUBLIC HEARING OF THE MAYOR AND COUNCIL
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,
MONDAY, MAY 17, 1982, 7:30 P.M.

Mayor Nassif called the meeting to order. Present were:

Marilyn Boulton
Winston Broadfoot
Beverly Kawalec
David Pasquini
R. D. Smith
Joe Straley

Councilmembers Jonathan Howes and Jim Wallace were absent. Also present were Town Manager, David R. Taylor; Assistant Town Manager, Sonna Loewenthal; and Town Attorney, Emery Denny.

Mayor Nassif reviewed the procedure that would be followed for the public hearing. Those wishing to be heard on matters regarding Special Use Permits were sworn.

Request to Rezone 12 Acres near Old Durham Road, Legion Road, and Memorial Cemetery (University Heights)--Public Hearing

Mayor Nassif removed himself from the discussion of this agenda item, due to conflict of interests. Mayor Pro-tem Boulton would chair this item.

Mr. Mike Jennings, Planning Director, outlined the request to rezone 12 acres of property near Old Durham Road, Legion Road, and Memorial Cemetery from R-2 to a combination of Community Commercial, Neighborhood Commercial, and Office-Institutional-2. He described the property as being generally bounded by Old Durham Road on the north, Legion Road on the south, the Chapel Hill Cemetery on the west, and by a line approximately 380 feet east of Cooper Street on the east.

Mr. Harry Palmer, representing the applicant, described the area as one of transition. This area, however, had not experienced such growth. He felt that sewer problems contributed to this. The land had consistently been tested to show predominant clay soil makeup that would not perk. It was also not economically feasible to supply a sewer system under current zone designation. A zone change for the area would encourage development and increase the economic feasibility of supplying sewer. This would promote the health, safety, and welfare of the area.

A second issue was the impact of traffic on the existing neighborhood. He proposed use of the area service road and felt that a zone change would encourage improvements to other unpaved roads in the area. The applicant also proposed an Office-Institutional buffer between the proposed extension of Neighborhood Commercial zone (along the Old Chapel Hill Road) and the existing residential development.

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

Mr. Jennings presented staff recommendation to:

1. Reclassify Map 27A, Block B, Lot 2 to a Community Commercial district (a logical extension of the activity center).
2. Reclassify Lots 6, 7, 8, 9, and 10, Block C, Map 27A to Neighborhood Commercial district (a logical extension of the activity center).
3. Reclassify Lots 4, 5, and 6 of Block B, Map 27A, and part of Lot 19, Block C, Map 27A to OI-2 district. (to provide a reasonable transition between the commercial and residential areas).
4. Amend the designation of Lots 1 and 2, Block D, Map 27A and Lot 1, Block D, Map 27 and part of Lot 2, Block D, Map 27 from R-2 to OI-2 (to provide a logical transition from Commercial to Residential areas).
5. Reclassify the southern part of Lot 2, Block D, Map 27, Lots 3 and 4, Block D, Map 27A, and Lots 11-18, and the southern part of Lot 19, Block C, Map 27A from R-2 to R-4.

Ms. Alice Ingram, a member of and speaking for the Planning Board, stated that the Planning Board concurred with all staff recommendations with the exception that the Board recommended that part of Lot 2, Block D, Map 27; Lots 11-18 and part of Lot 19, Block C, Map 27A; and Lots 3 and 4, Block D, Map 27A be classified R-3 instead of R-4. The Planning Board had been concerned with matters of density.

Ms. Anne Fleming, a citizen, opposed the rezoning of University Heights as proposed by the developers, unless (1) the amendment would "correct a manifest error," (2) changes in conditions of the area warranted an amendment, or (3) an amendment would achieve the purposes of the Comprehensive Plan.

Ms. Fleming asserted that (1) the feasibility of moderate income housing should not be based on the present and current recessionary economy; (2) there was a shortage of land for moderate income housing; (3) development was not worth the loss of moderate income housing that would occur; and (4) current inadequate road conditions would only add to traffic problems. She also felt that the recommendation for a "transition" area between zoning classifications would encourage an eventual change to high-density residential. She stated that she also felt that the applicant's opposition to the R-3 zoning was partially based on the fact that a Special Use Permit was not required for a small business. She felt that University Heights residents deserved the same "protection" (through zoning) as other townspersons. Ms. Fleming submitted a letter from area residents that addressed these concerns (please refer to files in the Clerk's Office).

Ms. Kathleen McBride, a resident homeowner, spoke on behalf of neighbors who opposed the zoning request, feeling that the request was incompatible with the residential neighborhood. The current residential buffer was sufficient. Removing this buffer would further the intrusion of commercial development into the neighborhood. Future rezoning probability would prompt a loss of affordable living units. Rezoning would increase the probability of crime in the currently low-crime neighborhood. She stated that only four of the 14 property owners asking for the zoning change lived in the area. She concluded that if rezoning destroyed this moderate-income neighborhood, it would never be replaced.

Steve Riddle, a Public Safety Officer with the Town of Chapel Hill, referenced (1) the lack of crime in the neighborhood, and (2) current unsatisfactory traffic conditions of the area.

Ms. Margot Wilkinson, 109 Garden Street, addressed concerns for (1) a lack of affordable land for moderate income residents, (2) inability of the land to handle additional septic fields, and (3) the need for residential neighborhoods in Chapel Hill. Rezoning should be done to reflect the needs of the community at large.

Mr. Nowell Credick, owner of a business which wished to relocate in the area, expressed appreciation for the opportunity to operate a "moderate income" business in Chapel Hill; rezoning this area would give him that opportunity. He did not feel that his business would add to traffic problems.

Joseph Moore, speaking for some of the residents, stated that (in his opinion) the "petition" enclosed in Council's packet did not meet requirements of a protest petition as outlined in the Code.

Mr. Denny stated that, if the petition constituted the required amount of signatures of property owners for this area, it would constitute a valid petition under the statutes. The signatures would need to be verified.

Mr. James Chandler, a member of the UNC Student Government Town Relations Committee, represented student interests in moderate income neighborhoods. Students living in the area felt that increased scarcity of moderate income housing through rezoning could affect a student's ability to remain in school. A decision to rezone could set a precedent for rezoning the few remaining communities for moderate income persons.

Rick Lonon, an area resident, did not agree that this was an "arrested" area just because the area was stable. Traffic problems could be handled by not aggravating the already-existing problems by increasing land use density. The current residential buffer of the area was appropriate.

Mr. Jennings responded to a question from Councilmember Smith that future development of the Old Durham Road would probably include fairly low intensity community establishments. The proposed Neighborhood Commercial zoning would allow appropriate use.

Mr. Palmer responded to Councilmember Smith that 5 of the 14 property owners lived within this area. In addition, he informed Councilmember Smith that he had been assured that the area could not adequately accommodate an increase in sewer usage.

Councilmember Smith did not feel that rezoning to Commercial development was necessary to encourage sewer provisions for the area. Mr. Palmer estimated that rezoning would cause a loss of approximately 12 or 13 houses, at the most.

Councilmember Broadfoot expressed concern for the "anonymity" of the applicant to Council. He questioned the necessity of frequent changes in the Zoning Ordinance which seemed to come primarily from developers. It seemed easier to change the zoning than to worry with Special Use Permits. He preferred the Special Use Permit over rezoning.

Mr. Jennings explained that the anonymity of the applicant was due to the general nature of the zoning itself, and the fact that staff dealt with issues, not applicants, per se.

Regarding frequent changes in the Zoning Ordinance, Mr. Jennings noted that the revised Zoning Ordinance classified only land in activity centers and properties with non-residential Special Uses to non-residential districts. Until the Land Use Plan was revised, the Town could undertake a comprehensive re-evaluation of activity centers. The staff felt it was appropriate to evaluate individual zoning change requests.

Previously, the Town discouraged zoning changes for non-residential development, preferring instead the Special Use process. But this was before the Town had an adopted Land Use Plan and adequate design standards in the Zoning Ordinance. Now that the Town had both, Mr. Jennings felt that it was appropriate to consider non-residential zoning requests as a way for the small businessman to find a location for his business without the Special Use Permit process, which was often intimidating.

Councilmember Straley asked if any of the 14 area property owners wished to develop this area. Mr. Palmer stated that "many--not most" of them did, in his general understanding.

Councilmember Kawalec asked if there was any spillover in commercial use onto this property. She stated that the Town had invested public funds to beautify the area near the cemetery. She felt that commercial development, through rezoning, would adversely affect this and would be less desirable than other development. She asked how zoning that area to commercial could be justified?

Mr. Jennings responded that there was no commercial use spillover onto this property. As this property was zoned R-2, rezoning would be a logical extension of commercial use. He stated that oftentimes, lot lines were used to show definition between zoning areas.

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER BROADFOOT, TO REFER THE MATTER TO THE MANAGER. THE MOTION CARRIED 6 TO 0 WITH COUNCILMEMBERS BOULTON, BROADFOOT, KAWALEC, PASQUINI, SMITH, AND STRALEY SUPPORTING, AND MAYOR NASSIF ABSTAINING.

Summerfield Crossing Patio Homes: Request for a Planned Development-Housing Special Use Permit--Public Hearing

Mayor Pro-Tem Boulton turned the meeting over to Mayor Nassif.

Mr. Jennings outlined the request for a Planned Development-Housing Special Use Permit to allow construction of 138 dwelling units on a 41-acre site zoned R-4, located between Old Oxford Road and US 15-501 and adjoining the existing Foxcroft Apartments.

Mr. Dennis Pitts, a landscape architect and planning consultant with McNeely Associates, and representing the applicant, Plaza Associates of Chapel Hill, asserted that the proposed development would meet or exceed all requirements of the Town Zoning Ordinance. Mr. Pitts submitted the Statement of Justification (please refer to files in the Planning Department).

Councilmember Straley asked Mr. Pitts to elaborate on the proposed plans for a graded playfield on the 11 acres located within the flood plain of Booker Creek.

Mr. Pitts explained that the existing flood plain area consisted primarily of trees and unstable soil. The Recreation Commission recommended nature trails, and the construction of a cleared, graded play field. He opposed the recreation site on the basis of soil quality, construction cost, and loss of trees. He requested that this stipulation be deleted. He did not oppose the nature trails, but opposed the removal of trees for construction of a play field.

Mr. Jennings stated that staff felt that the applicant had revised his plans sufficiently to bring the proposal into conformance with the requirements of the Zoning Ordinance. Staff recommended approval, subject to stipulations in the proposed resolution. The Recreation Commission concurred with staff recommendation.

Ms. Alice Ingram stated Planning Board's recommendation to delete stipulation #5 requiring a cleared play area. The Board felt that the location was too far removed to be used by residents, in light of the cost of construction to the developer.

Mr. Bill Graves, a resident of the area, felt that the proposed provision for recreational vehicle parking should be eliminated. As his residence was on an adjacent hillside, this parking area could easily be viewed by himself and other residents during the winter months, when area trees would not provide sufficient buffer. Adequate buffer problems would also exist for the proposed recreational area.

Mr. Graves also expressed concern for the proposed connector road. He felt that he could recall two earlier occasions where area residents had been virtually assured that connector-type roads between the Old Oxford Road and the town of Chapel Hill would not be opened. A connector road would have an adverse effect on neighborhood property values.

Mr. Paul Marion, an area resident, expressed concern for proposed plans for a recreational vehicle parking lot, feeling it would have a negative effect on surrounding property, creating an eye-sore for residents on the nearby hillside. The site should be at a location where users would have to look at it. No growth would screen this parking area from residents on the hill. He opposed development of a play area on a soggy terrain. He opposed the connector road, feeling it would cause disruption of the neighborhood with noise and traffic, affecting property values. In addition, residents asked Council to consider a reduction in the height and density of the development to reduce the visual impact for surrounding neighbors.

Reverend S. Edward Young added that the location of the recreational vehicle parking area was unobjectional to its users, but was objectionable to its neighbors.

Mr. Frank Strong, 211 Markham Drive, concurred with preceding speakers regarding the visual impact of proposed parking provisions and recreational play. He proposed relocation of the parking site. He and other residents supported Planning Board recommendations to delete the stipulation for the recreational play area. He also recalled instances where promises had been made to residents that there would be no crossing from Tadley.

Mr. Allen E. Blaurock, 2110 Markham Drive, stated his opposition to the stipulation placed on the developer to reserve land for a future extension of Old Oxford across Booker Creek. He felt that current roads provided sufficient access routes.

Mr. Will Morris, a resident of Markham Drive, agreed with the need for open spaces in Chapel Hill, but did not agree with the destruction of a buffer between zoning areas as the best way to provide open space.

Councilmember Smith asked if there would be any dedicated green space if the proposed area were deleted. Mr. Jennings stated that the proposed nature trails would satisfy ordinance requirements. Councilmember Smith questioned if there were any safety provisions for the proposed recreational vehicle parking area. He asserted that such an area might never be used by persons who placed any significant value on their vehicle. Mr. Pitts stated that fencing for the area had not been proposed, as the area would probably be used for short-term parking. Councilmember Smith felt that a larger parking area for both private and recreational vehicles at a location nearer the residential buildings would provide a solution to objections from area residents.

Councilmember ^{Smith} expressed his concern for probable hazardous traffic conditions resulting from excessive use of Dobbins Road as an exit rather than use of the Erwin Road exit. Proposed traffic lights at Erwin/US 15-501 might prompt this. Mr. Bill Horn explained that, according to a peak-hour traffic report, traffic distribution among several exits would reduce the number of vehicles using this road. A redesign of Dobbins ("jughandle") might produce a more favorable effect on traffic conditions. He did not feel that the project would cause major traffic problems.

Councilmember Boulton asked Mr. Jennings if Foxcroft Drive might be used as an access for the Lake Forest residents. Mr. Jennings felt that this would simply open up another access road, but other area roads could also be used for access.

Councilmember Broadfoot expressed concern for traffic impact in quiet residential areas by excessive use of collector roads.

Mayor Nassif asked Ms. Ingram if the Planning Board had, in their recommendation, reviewed the previous Middleton Village and Foxcroft Special Use Permit and application. Mr. Jennings stated that the staff had studied Foxcroft, but not Middleton Village since the Middleton Village Special Use Permit was modified for Foxcroft. He informed Mayor Nassif that the Foxcroft roads' plans were interconnected on the site.

Mayor Nassif referenced past developmental changes for this area. The formerly approved Middleton Village had been changed to Foxcroft I with differing plans. Currently, Council was being asked to approve Phase I of Summerfield, formerly Foxcroft II, with differing plans. Prior to these plans, Booker Creek Subdivision had been approved which contained land dedicated to and accepted by the Town. The deed for this land contained plans which showed that a road would not be cut through this area. Such changes in developmental plans put Council in the position of fragmenting property. Therefore, he requested that Council consider referral of this issue to the Planning Board so that the Board might review the stipulations for these previously approved subdivisions. He felt that the Board needed to review previous Council actions for development.

Mayor Nassif stated that it would be helpful for Council to have drawings of an area superimposed onto its surrounding areas.

Mr. Jennings informed Council that Foxcroft II had been denied. The current developer would later request phased development of Summerfield. He stated that staff would recommend when this road must be completed (between Old Oxford Road and the service road). This recommendation would be made to ensure that at some point there would be a means of access. Mayor Nassif stated that the problem was that any subsequent delay or resale would not mean that the Council would have to start the entire process of approval over. He felt that if existing roads could not handle this project, it should not be approved.

COUNCILMEMBER BOULTON MOVED, SECONDED BY COUNCILMEMBER SMITH, TO REFER THE MATTER TO THE MANAGER, THE ATTORNEY, AND THE PLANNING BOARD. THE MOTION CARRIED UNANIMOUSLY.

Zeta Tau Alpha: Request for a Sorority Special Use Permit at 116 North Street--
Public Hearing

Mr. Jennings identified the property as located on the south side of the west portion of North Street. The request was to construct a 7,704 sq.ft. building on an area of land approximately 22,138 sq.ft., zoned R-6. The building would house 31 members.

Mr. Robert Page, representing the Zeta Tau Alpha Sorority, identified the location of the property and its surrounding areas. Regarding traffic, Mr. Page informed Council that one parking space would be provided on the site with an additional space to be rented off the site. In the office building parking lot to the west, an additional 40 parking spaces would be provided for guest parking. He felt that all requirements of the Zoning Ordinance would be met with this proposal. He submitted the Statement of Justification (please refer to files in the Planning Department).

Mr. Bob Anderson, Managing Partner of City Planning and Architectural Associates, stated that the Planning Board and the Community Appearance Commission had approved the plans. Regarding the site development, Mr. Anderson stated that various construction arrangements had been considered to determine the most

appropriate. To do justice for the site, meet sorority needs, and fit into the surrounding neighborhood, a Charleston house was proposed. A chain-link fence and an ivy growth would provide adequate buffer for the development. The location and buffer of the dumpster had been considered.

Mr. Jennings stated that if the applicant were not able to lease an additional parking space, it would have to limit the number of residents to 30, to comply with parking requirements of the Zoning Ordinance. The Manager and Planning Board recommended approval of the request on the ability to make all four findings required by the Zoning Ordinance.

No one requested to speak for or against this request.

Mr. Page responded to a question from Councilmember Straley that there would be room on the North Street side of the site to provide a sidewalk, should Council decide to provide this later. Mr. Page also responded to Councilmember Straley that the minimum distance from the building to the adjacent property was 6 feet and within regulation requirements.

Councilmember Boulton expressed concern for the dumpster location, feeling that it was not desirable to have a dump truck cross the front of the building to gain access to the dumpster. Mr. Page responded that this was the preferred location.

Councilmember Smith expressed his concern for the unsightly appearance of vehicles parking in the front of the building. Mr. Page felt that proposed screening would prove adequate. Councilmember Smith was also concerned for the potential problems for the dump truck driver in opening the proposed gate around the dumpster.

Councilmember Kawalec felt that the town should observe the parking situation at this sorority to decide if the ordinance adequately provided enough parking for both residents and guests.

Mayor Nassif stated again that it would be helpful if staff would provide a visual display showing adjacent properties.

Mr. Page responded to Councilmember Smith that it was not possible to turn the house to provide parking in the back.

COUNCILMEMBER BOULTON MOVED, SECONDED BY COUNCILMEMBER SMITH, TO REFER THE MATTER TO THE MANAGER AND THE ATTORNEY. THE MOTION CARRIED UNANIMOUSLY.

State Employee's Credit Union: Request for a Drive-Up Window Special Use Permit for Facility on Elliott Road--Public Hearing

Mr. Jennings defined the property as being located behind First Citizens Bank, zoned OI-2. The request followed former Council approval to modify the Special Use Permit for First Citizens Bank, permitting the subdivision of the lot. The request for a drive-up window would require the issuance of a Special Use Permit.

Mr. Anderson, of City Planning and Architectural Associates, submitted the Statement of Justification (please refer to files in the Planning Department). He stated that the request met all stipulations of the Zoning Ordinance. This would provide a means for handicapped persons and parents with young children to use the bank without having to come into the bank. This would also reduce the number of back-out movements. The applicant requested to be allowed to use trash cans as opposed to the required dumpster. Extensive landscaping was proposed. Ample vehicle "stacking" was provided for drive-up window patterns. Low signs would be used to direct traffic. He demonstrated the proposed traffic patterns.

Councilmember Kawalec commended Mr. Anderson on the parking lot design.

Ms. Ingram stated that the Planning Board supported staff recommendation. The Community Appearance Commission differed with the staff and Planning Board recommendation, feeling that sidewalks should be deleted to preserve existing trees. Staff did not concur, as they felt that pedestrian access was necessary for this area which had much pedestrian and vehicular traffic. The Community Appearance Commission concurred with the applicant's request to use trash cans; staff, however, felt that bulk collection was more economical.

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

Chapel Hill Zoning Ordinance: Proposed Amendments--Public Hearing

Mr. Jennings stated that the Planning Board and staff had proposed "clean-up" amendments to the Zoning Ordinance for Council's consideration.

Mr. Jennings reviewed the significant policy issues contained in the proposed amendments:

Sec. 4.3--Use Group C: regarding drive-up windows; Sec.5.3.2--Use Groups B and C: regarding Land Use Intensity in Community Commercial and OI-3 districts; Sec. 8.7.15: regarding revising service station standards; Sec. 14.4.3: regarding discontinuance of non-conforming signs; and various Zoning Map Amendments.

The Planning Board concurred unanimously with the Manager's recommendation.

Councilmember Smith expressed concern for provisions to allow "clubs" as Special Use in Residential districts. Councilmember Kawalec concurred, feeling this could encourage inappropriate use of "clubs" in Residential areas.

Mr. Jennings, responding to a question from Mayor Nassif (regarding Sec. 8.7.15: Service station standards), stated that Council's approval of this section would mean that the distance of 750 feet required between service stations would be eliminated.

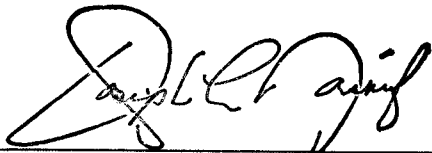
COUNCILMEMBER STRALEY MOVED, SECONDED BY COUNCILMEMBER BOULTON, TO REFER THE MATTER TO THE MANAGER AND ATTORNEY. THE MOTION CARRIED UNANIMOUSLY.

Mr. Scott Radway stated that Council had an extraordinary amount of public trust in the analysis of the Zoning Ordinance by professionals and staff as there was not a significant balance of citizen input. He offered advice on how his community dealt with non-conforming signs. His community used a combination system which allowed the regulation of signs as health, safety, and welfare items--not within the Zoning Code, but within the General Statutes. This allowed staff to prohibit signs indefinitely. Any change in a sign would constitute an automatic change requiring conformance to new standards. This eliminated amortization tables and other related problems.

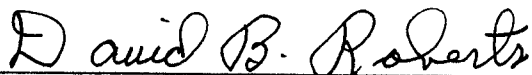
Councilmember Kawalec expressed concerns for Sec. 18.56 of the Zoning Ordinance, regarding home occupations. She was concerned that home occupations would be allowed in accessory buildings. She did not feel that a separate building for an occupation was "incidental and subordinate to its use for residential purposes," as had been outlined in the old Zoning Ordinance. The occupation would not be "incidental to the use of the building," but would then become the purpose of that building. Some businesses might be more acceptable than others. She favored a limit on the number of auxiliary buildings, as outlined in the old Zoning Ordinance.

COUNCILMEMBER STRALEY MOVED, SECONDED BY COUNCILMEMBER BOULTON, TO REFER THE MATTER TO THE MANAGER AND THE ATTORNEY AND THE PLANNING BOARD. THE MOTION CARRIED UNANIMOUSLY.

The public hearing adjourned at 11:17 P.M.



Joseph L. Nassif, Mayor



David B. Roberts, Clerk