

MINUTES OF A PUBLIC HEARING OF THE MAYOR AND COUNCIL
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,
MONDAY, SEPTEMBER 20, 1982, 7:30 P.M.

Mayor Nassif called the meeting to order. Present were:

Marilyn Boulton
Winston Broadfoot
Jonathan Howes
Beverly Kawalec
David Pasquini
R. D. Smith

Councilmembers Straley and Wallace were excused absences. Also present were Town Manager, David R. Taylor; Assistant Town Manager, Sonna Loewenthal; and Deputy Town Attorney, Grainger Barrett.

Mayor Nassif stated that all persons who wished to speak on issues requiring Special Use Permits would have to be sworn by the Town Clerk, David B. Roberts, in order for Council to consider statements in making their final decisions.

Forest Park Apartments at 1707 E. Franklin Street (to modify the Planned Development-Office Institutional Special Use Permit)

Mr. Mike Jennings, Planning Director, outlined the request to modify the approved PD-OI Special Use Permit to construct one office building with a total floor area of 96,500 sq.ft., instead of seven office buildings with 75,000 sq.ft. The property, located at 1707 E. Franklin Street, consisted of 5.83 acres, zoned R-5. The office building would range from three stories (40 ft. in height) to four stories (53 ft. in height).

Access to the property would be modified to maintain or improve traffic safety. Sidewalk construction was proposed. The current bus stop would be moved to a safer location.

Staff felt that the proposed development would maintain or enhance the value of contiguous property and that the request, if modified by the proposed conditions, would comply with all applicable provisions of the Zoning Ordinance. Staff recommended approval of the requested modification.

Mr. Jennings stated that one of the stipulations would be the provision of legal documentation to show permission to improve and use the access across Northwestern Bank property.

Mr. Milton Small, architect, representing the applicant, explained that the building setback would preserve existing trees. The site sloped downward approximately 4% allowing the building to maintain a level roof line between the third and fourth story segments.

Mr. Small submitted the Statement of Justification (please refer to files in the Planning Department). In response to questions from Council, Mr. Small stated that

- Three lanes were proposed on Franklin Street to allow turning into the property from either direction.
- A 6' evergreen hedge was proposed for buffer along the property line. The distance from the property line to the parking area was 10'.
- The roof line would not appear above the tree line.
- The proposed number of parking spaces was less than the previously proposed number of spaces.
- Maximum development under current zoning regulations was proposed.

- Minimal traffic congestion was anticipated at access points as a result of proposed turn lanes, turn lane improvements, and good offset distances from nearby businesses and intersections.
- The visual impact of the building would be lessened by the tree buffer. The building facade would be "stacked" to produce a staggered effect, instead of a solid mass of building. The Community Appearance Commission had reviewed the visual impact of the proposed building under the guidelines of the Zoning Ordinance.

Mr. Roscoe Reeve, Chairman of the Planning Board, stated that the Board had carefully considered traffic impact on all proposed accesses to the development. He felt that landscape planning and setback for a building of this size was a good example of accomplishing the intent of the Zoning Ordinance. The Planning Board recommended approval of the request with the proposed stipulations.

Mr. W. N. Tyler, a citizen, expressed approval of the request. He requested that the formerly proposed location for a dumpster be relocated from the east end of the building to the west end.

No other citizens requested to speak.

Councilmember Smith requested that staff study the possible relocation of the dumpsters and present a recommendation when this issue came back before Council.

In response to Councilmember Howes, Mr. Jennings and Mr. Small stated that, under the Zoning Ordinance, the building could be higher, but the developers preferred to keep the building as low as possible.

Mayor Nassif questioned the effect of the building height on existing trees. Mr. Small stated that most of the trees, with the exception of possibly one, would not need to be cut back.

COUNCILMEMBER BOULTON MOVED, SECONDED BY COUNCILMEMBER HOWES, TO REFER THE MATTER TO THE MANAGER. THE MOTION CARRIED UNANIMOUSLY.

Central Carolina Bank at University Square (request for a Drive-in-Window Special Use Permit)

All persons wishing to speak on this item were sworn by the Clerk.

Mr. Jennings outlined the request for a Drive-in-Window Special Use Permit to allow an additional drive-in window. Central Carolina Bank at University Square Shopping Center was zoned TC-2. Mr. Jennings explained that the currently existing drive-in windows were constructed before a Special Use Permit was required; therefore, the windows existed as a nonconforming use.

Staff felt that a third window would provide more efficient car stacking. Pedestrian and vehicular traffic would be separated by a drive-in window, and directional signs would be installed to aid pedestrian and vehicular traffic. Staff, Planning Board, and the Community Appearance Commission recommended approval of the request.

Mr. J. B. Phillips, property officer for Central Carolina Bank, submitted the Statement of Justification.

Mr. Reeve stated that the Planning Board recommended approval of the request.

No citizens requested to speak.

Councilmember Smith felt that the labeling of the road section through University Square as "Pittsboro Street" would cause confusion, as there was currently no extension of Pittsboro Street through this area, nor did he feel that such an extension would ever exist. Mr. Jennings stated that when University Square was built, this road section was a dedicated right-of-way and the 1968 plats in the Planning Department labeled this road section "Pittsboro Street" when the extension of Pittsboro Street was proposed.

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Councilmember Kawalec asked Mr. Reeve if the Planning Board had considered that the presence of the drive-in window created a hazardous situation. Mr. Reeve stated that this had been considered, but the Board felt that the proposed pedestrian/traffic separation was adequate in minimizing conflict.

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

McFarling Apartments (request for a Planned Development-Housing Special Use Permit for four existing apartments on the north side of Old Oxford Road)

Citizens wishing to speak on this issue were sworn by the Clerk.

Mr. Jennings stated that the apartments were located on the north side of Old Oxford Road (unpaved portion) approximately 640 ft. west of Erwin Road and zoned R-2 and R-4. The request was for a Planned Development-Housing Special Use Permit to bring four existing dwelling units into conformance with the Chapel Hill Zoning Ordinance. The structure had been built in 1974 as a permitted use. Changes had rendered the property nonconforming. The applicant now wished to bring the property into conformance.

Staff recommended (1) improvements to Old Oxford Road to coordinate with improvements to be made by Hickory Hill, and (2) redesign of the parking spaces to improve safety.

Staff recommended exempting the applicant from the following Zoning Ordinance provisions: parking setback; moped, bicycle, motorcycle parking; parking lot entryway landscape buffer; parking lot screening; parking lot shading; refuse area screening; and landscape buffer or alternative buffer from adjacent single-family uses.

Mr. Hugh B. McFarling submitted the Statement of Justification (please refer to Planning files). Mr. McFarling stated his desire to bring the property into conformance for insurance purposes.

Mr. Reeve stated the Planning Board's recommendation to approve the request with the recommended stipulations.

No citizens requested to speak for or against this issue.

Mr. Jennings explained to Councilmember Boulton that Hickory Hill had indicated that they would petition for annexation when the development was completed.

Mr. Jennings explained to Councilmember Broadfoot that requests to bring property into conformance with the Zoning Ordinance were not unusual. There were no particular advantages to such requests. This property owner would have to eventually deal with the Special Use process if fire, etc., occurred.

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER BOULTON, TO REFER THE MATTER TO THE MANAGER. THE MOTION CARRIED UNANIMOUSLY.

Building at Southeast Corner of Sykes and McMasters Street Right-of-Way (request for a Planned Development-Housing Special Use Permit for a 4-unit residential building)

Citizens who wished to speak regarding this issue were sworn.

Mr. Jennings outlined the request for a Planned Development-Housing Special Use Permit to construct a 3,000 sq.ft., two-story quadplex. The property, zoned R-3, was located on the southeast corner of Sykes Street and McMasters Street intersection. About 1/2 of Sykes Street had been paved through a Community Development program. The proposal would allow the structure currently under construction to be used as a 4-dwelling unit apartment building. Originally, the structure was to be a duplex.

Staff considered the area topography and decided that necessary improvements to McMasters Street to provide access would be too great an expense to impose on the property owner.

Staff recommended that improvements to 75 ft. of Sykes Street be made. The applicant opposed this request and the Planning Board did not concur with staff recommendation. The Board felt that this access was not necessary at this time and felt it could be coordinated with the Roberson Street connection. This expense should not fall as a burden on the owner.

Mr. George Tate, Jr., speaking for Reverend J. C. Barnett, informed Council that Rev. Barnett had the option to build three buildings on this property, but due to the steep terrain and subsequent expense, chose to build one building. Mr. Tate had advised Rev. Burnett to build one building and donate the remainder of the property as open space. Mr. Tate submitted the Statement of Justification. Rev. Burnett concurred with Mr. Tate's statements.

Mr. Reeve explained that the Planning Board not only examined the standards that were set by the Zoning Ordinance, but also standards for treating people. The Board felt that staff's recommendation to uphold the technical standards of the Zoning Ordinance for frontage on Sykes Streets was appropriate. The Planning Board felt that the modest investment of this development could not bear the cost of the proposed sidewalk and recommended that this requirement be waived.

Mr. Grainger Barrett, Deputy Town Attorney, explained to Councilmember Smith that the legal staff had not been able to verify the existence of rights-of-way on Sykes, Bynum, and McMasters Streets. Councilmember Smith concurred with Planning Board's recommendation to delay improvements to Sykes Road to a later date.

Mr. Jennings explained to Councilmember Broadfoot that the proposed building would be two-story and would contain four living units. Mr. Tate felt that rent would be approximately \$250-\$270.

Mr. Jennings explained that part of the land was owned by the Town as permanent open space. One-half of this portion of land would be added to the gross land area. One hundred percent of the gross land area could be considered for development regardless of the topography. Zoning of land areas throughout Chapel Hill had been designated with topography in mind; certain zones encouraged people to build on flat lands and not on slopes. Mr. Tate explained that once he realized that a higher density could be constructed on this property, he encouraged Rev. Burnett to develop it as such.

Mr. Reeve explained to Councilmember Pasquini that the Board's recommendation to pave only up the entry road of the property was a site-specific recommendation. Staff's role was to give a technical recommendation; Planning Board's role was to weigh the impact on the community; Council would decide between the two. The procedure was not precedent-setting, nor was it unusual.

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER HOWES, TO REFER THE MATTER TO THE MANAGER. THE MOTION CARRIED UNANIMOUSLY.

Request to Rezone 1.54 Acres at the Southwest Corner of Durham-Chapel Hill Boulevard and Lake View Drive West from R-2 to Neighborhood Commercial (McDonald's Corporation)

Mr. Jennings outlined the request to rezone approximately 1.54 acres of land from R-2 (low density residential district) to Neighborhood Commercial.

Staff submitted the following reasons to deny the request:

- Staff did not feel that there was a manifest error in the classification of this property. Even though future development would not continue to be low density residential, staff did not feel that neighborhood commercial designation was appropriate either.
- Staff did not feel that the amount of commercial changes in the area justified a change in zone for this property.
- Staff felt that even though the property was located in an activity center, it was not part of the commercial part of that activity center.

Staff felt that use of this property for commercial purposes would conflict with the idea of maintaining the greenway buffer.

Mr. Robert Page, representing McDonald's Corporation, stated that this property was "pretty much surrounded by commercial use." He supported the concept of cluster development throughout Chapel Hill in commercial areas, but felt that it would be "nearly impossible" to restrict this property to low density residential use. He felt that the close proximity to other commercial areas did not make it economically feasible to build a single-family residence on this site. He felt that the Zoning Ordinance carried with it the responsibility to not interfere with the use of land by the landowner. The burden was on the landowner to prove that there were significant changes in character and circumstances surrounding this property, or that there was a mistake in the original classification, or both. He stated that the last zoning of this property was R-2 despite the fact that most of the adjacent property was commercial. He took issue with the Planning staff and the Planning Board that approaches to Chapel Hill "must maintain a certain visual quality." He questioned who established "quality" guidelines. He assumed that it meant that the land should remain in its natural state or in some residential form. He enumerated various businesses that existed "within 5 seconds" of the site, by car: Wendy's, NCNB, Hardee's, Brendles', car dealerships, etc., "all in view of the highway." He felt that this appeared inconsistent with the intent and felt, therefore, that a mistake had been made in the current zoning designation.

Mr. Page felt that the change of character of that neighborhood could hardly be classified as residential--feeling that this was spot zoning in reverse. He felt that the preservation of privately owned land in its natural state for the enjoyment of the public or adjoining land owners by preventing the landowner from using it for a reasonable practical purpose was not within the scope or power of the municipality.

He requested approval of the rezoning request and submitted the Statement of Justification.

Mr. Reeve stated that the Planning Board's feelings for the impact of this spot for commercial development on this size property as it related to the idea of change:

- Total commercial development of U.S. 15-501 would be a total disaster to Chapel Hill.
- The lot was difficult to consider for residential development, even though this lot was in an established, well-maintained residential neighborhood.
- Use of this lot for a house was a problem, but it was more of a problem for commercial use abutting a residential use as commercial use did not belong there. Commercial use violated, in the view of the Planning Board, the purposes of the Comprehensive Plan. The Comprehensive Plan established relationships between uses.

The Planning Board recommended, along with staff, denial of this request.

Mr. W. H. Hudson, 101 E. Lakeview Drive, wished to see the currently uncluttered, green buffer entryway into Chapel Hill maintained to protect the safety, welfare, and quality of life of property owners adjoining this property.

Mr. Hudson also expressed concern that future developers might have problems getting water to this area and might opt to drill a well which could affect area residents. He expressed concern that no drainage impact study had been made and that the land did not percolate well. Such problems could degrade adjoining properties.

Ms. Pamela Trent, a citizen, expressed concerns for greenery, safety, and quality of life of the area. Ms. Trent referenced State Department of Transportation traffic accident reports for this area which showed a higher-than-average incidence. She submitted a petition from area residents (please refer to files in the Clerk's Office).

Mr. Taylor stated that the petition filed had been declared valid.

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

Request to Annex 38.2 Acres near Barbee Chapel Road

Mr. Jennings reported that Council had received a petition on August 23, 1982, to annex a 38-acre tract off Barbee Chapel Road. Twenty-nine acres of the tract were in Durham County, 9 acres were within the Chapel Hill planning jurisdiction, but not within the Chapel Hill corporate limits.

Annexation had been advertised. Staff had maintained contact with Durham County officials and area residents regarding the annexation and proposed zoning considerations. The analysis completed by staff was done on the basis of incremental costs and showed that revenues would exceed costs throughout the entire project.

Emergency services response time would be increased by approximately one minute from this area to the Town limits. Housing supply for Chapel Hill would be increased.

State law allowed annexation of intervening university lands and should future annexation be considered, it would be clear that this area was not a satellite annexation, but was contiguous to the corporate limits. The University of North Carolina had no objections.

Staff recommended annexation, as it would not create a burden to tax payers nor adversely affect the quality of services to Town citizens.

Mr. James Cottrell, representing Urban Associates, stated that if the annexation request were approved, plans were to develop the property under current R-4 Orange County zoning. Easement had been acquired from the State across Finley Golfcourse; OWASA had assured Urban Associates that sewer and water could be provided.

Mr. Reeve stated that the Planning Board's recommendation was to approve the request.

Mr. Charlie Stancell questioned the probability of the Town of Chapel Hill requesting annexation of property that was in another county. Mayor Nassif responded that the Town could consider such annexations.

Mr. Pete DuBose, a citizen, questioned the availability of water and sewer service to this property. Mayor Nassif explained that the Town did not own either water or sewer utilities. Mr. Cottrell responded that OWASA had assured Urban Associates that water and sewer could be provided since right-of-way easements had been acquired from the State.

Councilmember Smith questioned the type of units that were being considered for this property. Mayor Nassif stated that this question should not be discussed under either the issue of annexation or zoning, as it could be interpreted as conditional zoning on the property. The issue of density on the property could be permitted.

COUNCILMEMBER BOULTON MOVED, SECONDED BY COUNCILMEMBER HOWES, REFERRAL TO THE MANAGER. THE MOTION CARRIED UNANIMOUSLY.

Request to Zone 29 Acres in Durham County near Barbee Chapel Road as Residential 4

Mr. Jennings stated that R-4 zoning would allow a density of approximately 450 dwelling units, or approximately $14\frac{1}{2}$ dwelling units per acre.

As State law required that annexed properties be zoned within 60 days, the applicant requested that Council consider both zoning and annexation at the same time.

In preparing the Zoning Map, staff had considered where high density residential development should be encouraged and had therefore designated land along major thoroughfares which had excess capacity and flat land suited for high density zoning.

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Given the relation of the location of this property, to U.S. Highway 54 and Durham County adjoining lots, R-4 zoning had been approved.

Mr. Joe Haakan, consulting engineer for the development, stated that Urban Associates did not propose development of the property to the full density allowed under R-4 zoning.

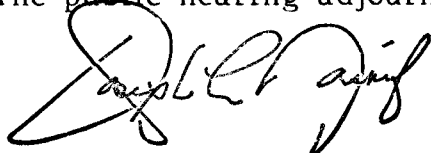
Mr. Reeve stated Planning Board's feeling that R-4 intensity would be a shock to the area, if developed in a rapid manner. However, the Board felt that this zoning was needed in Chapel Hill to achieve this level of density in Town. The request was consistent in that it extended current designation of the area on U.S. Highway 54.

Ms. Donna Sparrow, a resident who lived in front of the tract under consideration, objected to both annexation and R-4 zoning. She expressed concern for the effect of any high density development on the safety of her family and home by (1) increased traffic, (2) reduced security in the area, and (3) destruction of the naturalness of the area.

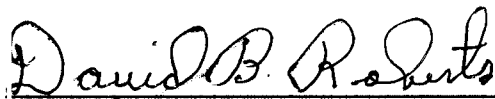
Mr. Taylor responded to Councilmember Pasquini that it would be possible for Council to not approve the R-4 rezone request, but that a decision would have to be made within 60 days.

COUNCILMEMBER BROADFOOT MOVED, SECONDED BY COUNCILMEMBER HOWES, REFERRAL TO THE MANAGER. THE MOTION CARRIED UNANIMOUSLY.

The public hearing adjourned at 9:58 P.M.



Joseph L. Nassif, Mayor



David B. Roberts, Clerk