

MINUTES OF A CONTINUED PUBLIC HEARING OF THE MAYOR AND COUNCIL
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,
MONDAY, OCTOBER 3, 1983, 7:30 P.M.

Mayor Joseph L. Nassif called the meeting to order. Councilmembers present were:

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

Councilmember James Wallace was absent, excused. Also present were: Town Manager, David R. Taylor; Assistant Town Manager, Sonna Loewenthal; and Town Attorney, Grainger Barrett.

→ Booker Creek Village--Request for a Planned Development-Housing Special Use Permit

Mayor Nassif stated that this ^{meeting} was a continuation of the September 19, 1983, public hearing.

Mr. David Roberts, Town Clerk, swore citizens wishing to speak on this item.

Mr. Taylor requested that the Manager's memorandum, dated September 19, 1983, ("Booker Creek Village--Request for a Planned Development-Housing Special Use Permit") be entered into the records of this hearing (please refer to the Clerk's files).

Mr. Mike Jennings, Planning Director, stated that the request was for a Planned Development-Housing Special Use Permit for construction of 10 additional dwelling units (a total of 31 dwelling units) on 109,367 sq.ft. gross land area (for a density of 12.3 dwelling units per acre) zoned R-4 (high density). The property was located on the southeast side of Old Oxford Road between Booker Creek Road and Daley Road (Chapel Hill Tax Map 27, Block A, Lot 7A).

The applicant proposed improvements to Old Oxford Road. The proposal would meet regulations and standards of the Town's ordinances. The 2-story structures would be arranged to minimize the mass of the project. The architectural elevations had been approved by the Community Appearance Commission.

The area was currently 72% low density and 28% high density. This proposal would alter the ratio to 70.6% low density and 29.4% high density. If other proposed projects (Oxford Hills, Summerfield Crossing, The Shire, Hickory Hill, and The Highlands) were developed as proposed, the ratio would change to 59.5% low density and 40.5% high density.

Mayor Nassif requested that citizens limit their remarks to the four findings which the Council was required to make to approve the request.

Mr. Bob Anderson, representing the applicant (Mr. John Crumpton), stated that the proposal was designed in accordance with the Land Use Plan. The proposed units would be attached two-family units. He requested that the Statement of Justification, Impact Report, and accompanying maps and charts be entered into the records (please refer to Planning files).

He asserted that the proposal could contain 39 units of 1,000 sq.ft. each; the applicant, however, proposed 31 units. The development exceeded distance requirements from the street and would complement the site. Ample parking would be provided. Mr. Anderson felt this number of units would be necessary in order to support expenditures for road improvements required on Old Oxford Road that would not only benefit this development, but would also benefit area developments and help complete the street system in that area.

Mr. Anderson projected an average of 12 vehicular movements per dwelling unit per day. He felt the road improvements would provide a greatly needed public improvement.

Mr. Anderson stated that the Public Works Department felt that the location of a second dumpster on the northeast corner of the property would be unsafe for necessary vehicular movements and recommended that a single dumpster be located at the center of the site. Mr. Anderson felt that this single dumpster would provide ample capacity for the entire project.

Ms. Gina Cunningham, Chair of the Planning Board, stated that the Board's concerns re access, adequate buffers, and dumpster sites had been addressed by the applicant. The Board had voted 5 to 3 to recommend approval of the request. At the request of Councilmember Pasquini, Mr. Jennings stated that Board members Evans, Ingram, and Rohe opposed the motion (all 10 Board members had not been present at that meeting).

Ms. Jane Norton, Chair of the Community Appearance Commission, stated that the Commission voted to recommend approval of the request with the additional request "that the applicant give special consideration to the landscaping along Old Oxford Road in their landscape plan."

Mr. Taylor stated that the Manager's preliminary recommendation was to approve the request, subject to the stipulations outlined in the resolution.

Ms. Rachel McFarling, a Chapel Hill resident, requested that the Council deny the proposal in view of the high density and poor access.

Ms. Margaret Rundell, a lawyer in Chapel Hill and a resident of the area, requested that the Council deny the request as she felt it would endanger the public safety, and would decrease property values due to the density of the proposal, inadequate access and parking, insufficient buffers, and poor road conditions of the area. Ms. Brundell did not feel that the site plan considered at this meeting was the same that the Planning Board reviewed.

Mr. Jennings stated that the site plan considered previously by the Planning Board and the one being considered by the Council at this meeting, were essentially the same.

No other citizens addressed this issue.

Mr. Jennings responded to Councilmember Boulton that completion of improvements to Old Oxford Road by the McFarling developers and the Hickory Hill developers were contingent upon the implementation of their respective Special Use Permits. The Hickory Hill developers were actively pursuing development; however, there was no certainty that either proposal would be developed. Continuous paved access to the proposed Booker Creek Village would be by Booker Creek Road to Old Oxford Road.

Mr. Anderson responded to Councilmember Smith that the existing trees were in the public right-of-way and would have to be removed regardless of the number of units constructed.

Mr. Jennings responded to Councilmember Smith that the Public Works Director, Mr. Harold Harris, felt the proposed (one) dumpster was adequate for up to 28 dwelling units. (This request was for 31 units.) Staff had discussed possible locations for a second dumpster.

Mr. Anderson responded to Mayor Nassif that the smallest private spaces for the units would be an area of approximately 12' x 16'. Units would be buffered from the proposed recreation site. He did not feel that the number of curb cuts could be reduced.

Councilmember Broadfoot stated that he felt the Project Fact Sheet, the Statement of Justification, and the Traffic Impact Report should state that these were applicant documents. He also felt the spokesperson for the applicant should state for the record that he/she had been authorized to speak and was acting in that capacity.

Mr. Jennings informed Councilmember Broadfoot that the proposed improvements to Old Oxford Road would enable the road to handle traffic from the proposed development. The recreation facilities would be for the residents only and would be maintained by the property owner(s).

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

Wendy's Restaurant--Request for a Modification of the Planned Development-Shopping Center (Community) Special Use Permit

Mr. Roberts swore citizens speaking on this issue.

Mr. Taylor requested that the Manager's memorandum (#7, dated September 20, 1983, Wendy's Drive-in Restaurant--Request for a Modification to a Planned Development (Community)-Shopping Center Special Use Permit) be entered into the record along with the applicant's Project Fact Sheet and Statement of Justification (please refer to Clerk's files).

Mr. Jennings stated that the applicant proposed to construct 14 additional parking spaces on land zoned residential-3 for employees and overflow customer parking. This construction would necessitate a third curb cut on Scarlett Drive. The Planning Board did not feel that the number of curb cuts could be reduced as the applicant had an obligation to provide an easement to Wilson's Seed and Garden Center; nor did the Board or staff feel the curb cuts would create a traffic hazard. The applicant would be required to widen Scarlett Drive. An 18-foot bufferyard between the proposed parking area and property to the south would be maintained.

Mr. Douglas Hargrave, representing Wendy's Restaurant, requested that the Traffic Impact Report which was prepared by himself, and the Statement of Justification be entered into the records (please refer to the Clerk's Office).

Ms. Sandy White, supervisor of Wendy's Restaurant on Scarlett Drive, stated that the present parking area was "insufficient for the demands of our...customers." She felt the proposal would not create hazards and would improve traffic flow. She also felt that proposed road improvements would improve property values.

Ms. Gina Cunningham, Chair of the Planning board, stated that the Board voted 5 to 2 to recommend approval of the request. Concerns were for excessive curb cuts and the need for a sidewalk on the west side of Scarlett Drive.

Mr. Taylor stated that the Manager's preliminary recommendation was for the Council to grant the request, subject to the proposed stipulations.

Ms. Anne Fleming, a resident of the University Heights community, opposed the request. She felt:

- Three curb cuts were excessive;
- The intersection of U.S. 15-501 and Scarlett Drive was already dangerous; more traffic here was not needed.
- This process was a misuse of Planned Development-Shopping Center Community and encouraged commercial development in residential areas.
- Citizens could not be guaranteed that there would not be continued spread of commercial development into moderate income neighborhoods.

Ms. Margot Wilkinson, a resident of University Heights, stated that Wendy's previous request for a drive-in window was an alternate way of addressing parking problems.

No other citizens requested to speak.

Mr. Jennings responded to Councilmember Pasquini that both McDonald's and Wendy's restaurants exceeded parking requirements (one space per four seats).

Mr. Jennings explained to Councilmember Broadfoot that the Development Ordinance allowed a request for a Planned Development-Shopping Center (Community) if the property were adjacent to property zoned for that use or had a Planned Development-Shopping Center Special Use Permit on it (regardless of size). The entire Wendy's property was "a little over an acre of gross land area."

Councilmember Boulton requested that the Council minutes of November 10, 1980, be entered into the record (please refer to Minute Book #33, pages 7-8). She stated that a previous request to rezone to allow 8 parking spaces with a 32-foot buffer between adjacent properties had been denied by the Planning Board. The Board opposed the partial zoning and further intrusion of an activity center into a residential neighborhood. Ms. Cunningham responded that the Planning Board had not addressed these same concerns during consideration of this request.

Mayor Nassif felt that three curb cuts were excessive on one development. Mr. Bill Morris, Town Engineer, stated that a third curb cut would provide a safer exit than through the proposed one-way entrance into this area. The proposed one-way entrance would prevent traffic conflict with the existing drive-in window. Mr. Hargrave did not object to the deletion of a curb cut, but expressed the desire to make the facilities as safe as possible and at the same time accommodate their customers.

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

McDonald's Restaurant--Request for a Drive-in Window Special Use Permit

Citizens were sworn by the Town Clerk.

Mr. Taylor requested that the memorandum entitled "McDonald's request for a Drive-in Window Special Use Permit," the applicant's Project Fact Sheet, and the Statement of Justification be entered into the record (please refer to the Clerk's files).

Mr. Jennings stated that the request was for a Drive-in Window Special Use Permit. The property was located on the south side of U.S. 15-501, adjacent to the proposed Europa Hill Offices. The property consisted of 1.44 acres of gross land area and was zoned Community Commercial.

The applicant proposed to widen the service road, provide sidewalk, and dedicate additional right-of-way. The proposed parking area would not conflict with pedestrian traffic.

The Community Appearance Commission had not yet approved the architectural elevations of the proposed development and discussions were continuing.

Mr. Robert Page, representing G.D.J. Coggin (property owner), and The McDonald's Corporation (who had a contract to purchase the property), stated that the proposed development expected to connect to the water and sewer system of the Town of Chapel Hill. A soil sedimentation plan needed to be approved.

Mr. Page did not feel that the proposed development and use "would injure the value of...abutting property...or...existing commercial area." The building would be located in the center of the lot which was located between the Hotel Europa and a Sunoco Station and the design of the structure would be "unobtrusive."

Mr. W. R. Hooks, Jr., representing The McDonald's Corporation, stated that several ways had been considered to situate the building on the site, but concluded that existing trees on the property could not be saved. A shading plan had been approved. The applicant was willing to provide landscaping that would meet site easement triangle requirements and would work with the staff on these plans. The applicant was also working with one adjacent property owner to secure easements for landscaping, and another adjacent property owner to maintain a natural buffer. The Community Appearance Commission was working with the applicant re the exterior of the building. The sign permits had not been applied for, but would meet all Town requirements. He stated that the applicant would not ask for any sign variances.

Councilmember Howes asked if the exterior of the building would reflect the local character of the Town. Mr. Hook stated that The McDonald's Corporation in Chicago would regulate the design, and the final plan had not been decided. He stated that the Corporation would require a double mansard roof, a McDonald's trademark. The remainder of the design would, however, be more flexible and would fit in with its surrounding developments.

Ms. Gina Cunningham, Chair of the Planning Board, stated that the Board voted 5 to 2 to recommend approval of the request. Traffic was a concern for members who opposed the motion.

Ms. Jane Norton, Chair of the Community Appearance Commission, stated that the Commission originally reviewed the request and asked the applicant (who was not present at that meeting) to redesign the elevations. The applicant had responded that these elevations were not what were intended. The elevations present at the next meeting were denied by the Commission because it was felt that the proposal was incongruous with the scale and character of the adjacent properties.

Because of the requirement for an adequate site triangle, the Commission felt they could not address specific landscaping concerns. The McDonald's Corporation's representative had, however, stated his willingness to work with the staff to meet desired developmental goals and objectives; the representative, however, had stood firm re the need to meet Corporation requirements for the appearance of the building and signage, as it was part of the McDonald's identity. Ms. Norton stated that she had access to slides showing many other McDonald structures throughout the United States that used less standard approaches in these areas.

Ms. Norton stated that the Commission was concerned that the applicant was not able to redesign the site plan to retain the trees on the property. The Commission felt this reflected a problem with the Development Ordinance as there seemed to be a total disregard for existing topography and vegetation. The Commission, therefore, requested "that the Council and the Planning Board work with the Commission to...[address]...inappropriate site planning."

Mr. Phil Srostak, representing the Hotel Europa, expressed concern re the need for adequate buffer from the proposed development and the desire to maintain a pedestrian atmosphere within their development. He expressed the desire to see the Community Appearance Commission and The McDonald's Corporation representative work toward a site plan that would address these concerns.

Mr. Jud Pellicci, representing The McDonald's Corporation, expressed the intent and willingness of the Corporation to work towards achieving the desired goals and objectives in creating a development that Chapel Hill would be proud of. He stated that he understood that Chapel Hill was different and desired special consideration for overall appearance, but felt the Corporation should have the chance to maintain its identity.

He felt that no alternative site plan for this development or any other development could preserve the trees. He asserted that there were other businesses in the area that did not currently meet many of the criteria. The McDonald's Corporation was willing to spend funds to effectively address these concerns, even though he felt the Corporation had no obligation to address exterior concerns if the drive-in window were not approved.

No citizens requested to speak.

Ms. Gina Cunningham felt that site plan information presented at this meeting had not been previously considered by the Planning Board and requested that the matter be referred back to the Planning Board.

Councilmember Howes assured Mr. Pellicci that the Council expected nothing less than that the development show a sensitivity to its surroundings. He requested that the proposal not be brought back before the Council until it could be assured that the advisory boards were satisfied and comfortable with the proposal.

Mr. Barrett responded to Councilmember Broadfoot that this request was a combination site plan review and Special Use Permit request for a drive-in window. If there was no request for a drive-in window, only the Planning Board would review the site plan.

Councilmember Smith felt traffic from the U.S. 15-501 service road could be a hazard. Mr. Anderson felt that most traffic would travel on U.S. 15-501. Mr. Bill Morris responded that access to the service road would probably prove to be too difficult to warrant its use as an access route.

Mayor Nassif stated that the Council desired to work with the applicant to enhance Chapel Hill and to enhance the McDonald's business and would hope that the reverse would also be true.

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

Mayor Nassif asked the Manager to address, in his final report, the reasons for the excessive number of curb cuts on this proposal.

Request to Exempt Places of Worship from the Requirement for a Title Restriction when Parking Requirements Are Not Met with Off-site Spaces (Amendment to Section 6.6.2 of Development Ordinance)

Mayor Nassif turned the consideration of this item over to Mayor Pro-tem Boulton.

Mr. Jennings stated that currently no off-street parking for churches was required in Town Center or within 1500 feet of the Town Center. One parking space per four seats was required in all other zones. The continuing availability of parking must be ensured by a restriction on the title to the parking lot.

Staff did not feel that requiring the restrictions was a manifest error, nor were there changed conditions, nor did the Comprehensive Plan support special consideration for churches re off-site parking.

Mr. John McKee, applicant and member of Binkley Baptist Church, stated that the church was adjacent to the University Mall parking lot and therefore had no need to provide additional parking, even though there was ample space to do so.

Ms. Gina Cunningham, Chair of the Planning Board, stated that the Board felt that restriction on the title was questionable, and voted 5 to 4 in support of the amendment.

The Manager's preliminary recommendation was to deny the request.

No citizens requested to speak.

Councilmember Smith felt that it was unjustified that the ordinance had two sets of requirements for churches, depending on their location. He felt that the title restriction should be deleted for churches that had no adequate parking arrangements.

Mr. Taylor stated to Councilmember Kawalec that churches could not request a variance.

Councilmember Broadfoot felt the title restriction should be deleted.

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER KAWALEC, TO REFER THE MATTER TO THE MANAGER. THE MOTION CARRIED 7 TO 0 (Mayor Nassif abstaining).

Request to Rezone 1.6 Acres on the East Side of Hillsborough Street from Residential 2 to R-4 (south of Dumbarton Walk and east of Towne House Apartments)

Mayor Nassif presided over the remainder of the meeting.

Mr. Jennings stated that the request was to rezone approximately 1.59 acres on the east side of Hillsborough Street from R-2 to R-4. This had been classified at a higher density in the old Zoning Ordinance.

Mr. Jerry Barrett, applicant, stated that the request was appropriate for its surrounding areas, and would conform to the Comprehensive Plan.

Ms. Gina Cunningham, Chair of the Planning Board, stated that the Board voted 7 to 2 to grant the request. The two opposing members felt R-3 zoning would be more appropriate.

The Manager recommended approval to rezone from R-2 to R-4.

Mr. Joseph Herzenberg, a resident of 6 Cobb Terrace, supported the request. He supported "an orderly progression of urban growth which would hold down the cost of urban services."

No other citizens requested to speak.

Councilmember Smith felt that a case could be made to rezone any property for the purpose of "infill."

Councilmember Broadfoot stated that he wished to hear comments from the Historic District Commission re this request before the Council made its decision.

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

Request to Exempt Structures in the Town Center-2 Zone from Requirement for Interior and Solar Setbacks where the Building is Adjacent to a Town Center-1 or 2 Zoning Lot

Mr. Jennings stated that the request would exempt structures in the Town Center-2 district from the provision that minimum interior and solar setbacks increase with a structure's height above the primary height limitation, where interior lot lines in Town Center-1 or Town Center-2 districts abut.

The amendment would treat each structure block by block, not lot by lot.

Floor area ratios would remain the same.

The applicant was not present.

Ms. Gina Cunningham, Chair of the Planning Board, stated that the Board approved the request. Opposition was for aesthetic reasons.

The Manager's recommendation was to approve the request.


Ms. Nancy Preston, a citizen, felt the proposed amendment would create "too much bulk" in downtown Chapel Hill.

Councilmember Howes felt that since the applicant could not be present, the public hearing should be recessed, or the matter deferred to a later date.

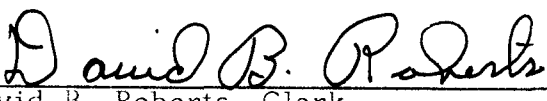
Mr. Taylor felt that October 24 would include 3 interrelated items, which should be considered at the same time.

COUNCILMEMBER KAWALEC MOVED, SECONDED BY COUNCILMEMBER BOULTON, TO REFER THE MATTER TO THE MANAGER TO BE BROUGHT BACK BEFORE THE COUNCIL ON OCTOBER 24, 1983. THE MOTION CARRIED UNANIMOUSLY.

The public hearing was adjourned at 11:08 P.M.



Joseph L. Nassif, Mayor



David B. Roberts, Clerk