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MINUTES OF A CONTINUED PUBLIC HEARING OF THE MAYOR AND COUNCIL  
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,  
WEDNESDAY, MAY 23, 1984, 7:30 P.M.

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

Marilyn Boulton  
(Jonathan Howes\*)  
Beverly Kawalec  
David Pasquini  
Nancy Preston  
R. D. Smith  
Bill Thorpe

(\*Councilmember Howes arrived later during the meeting, as noted in the minutes.) Councilmember Broadfoot was absent, excused. Also present were David R. Taylor, Town Manager; Sonna Loewenthal and Ron Secrist, Assistant Town Managers; and Grainger Barrett, Town Attorney.

Proposed Changes to Land Use Intensity (LUI) Standards in the Development Ordinance; Six Proposed Rezoning

Mr. Mike Jennings, Planning Director, stated that three alternatives were available to address proposed changes to the Schedule of Intensity Regulations:

1. Revise the LUI ratios to lower floor area ratios for R-1, R-4, R-5, and Town Center (increasing the open space, livability space, and recreation space ratios in most cases), and rezone six properties from R-4 to R-6 to avoid non-conformities (Planning Board's recommendation).
2. Revise the LUI ratios but do not rezone the six R-4 properties to R-6 (Manager's preliminary recommendation).
3. Revise the LUI ratios in R-1, R-5 and Town Center districts (creating no non-conformities) with no revisions in the floor area ratios for R-4.

Mr. Jennings stated that a letter had been received from Haakan/Corley and Associates, Inc., Architects, Engineers, and Planners, which supported the recommendation of the Planning Board.

Mr. Taylor stated that the Manager's preliminary recommendation was that proposed ordinance "b" be adopted (to lower the LUI ratio, but not rezone the six properties).

Mr. Steve Hull, representing Kuester Development Corporation in Charlotte, NC, who represented the owners of Foxcroft Apartments, spoke in support of proposed alternate #1 (to revise the LUI ratios and to rezone the six properties). Mr. Hull stated that to not rezone the properties would create undue hardship if more than 50% of the assessed value of the property was destroyed, prohibiting rebuilding of the original structure.

Mr. Pierre Morell, a resident of 404 Brookside Drive and speaking for other property owners on Brookside Drive, opposed rezoning of the six properties. Mr. Morell stated that the protection of Special Use Permit hearings (re rezoning and land coverage ratios) was removed at the time the Development Ordinance was adopted in 1981.

He stated that three of the six properties were adjacent to R-2 properties. If these three properties were rezoned to R-6, apartments could be constructed within six feet of the R-2 properties. He did not concur with Mr. Hull's remarks re hardships created for developers by non-conformities.

Mr. David Robert, a Chapel Hill citizen, felt that rezoning of these properties to R-6 was appropriate in light of changed conditions in the area.

Ms. Bernadette Smith, property owner of 212 McCauley Street, supported rezoning of the property to R-6.

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Mr. Gary Saleeby, speaking for the Chapel Hill Board of Realtors, stated that the Board felt that the Council "should maintain the status quo [of] the Development Ordinance as [recently] modified and...authorize the updating of the Comprehensive Plan so that it would conform with current regulations."

Mr. Saleeby stated that the 1981 Development Ordinance involved the co-operative effort of the Town's staff, business community, and citizens. He felt that to begin this effort again would be the most beneficial way to direct the future of Chapel Hill, "rather than to modify [the Development Ordinance] piece-by-piece,..."

Councilmember Pasquini suggested that the Chapel Hill Board of Realtors might encourage developers to build more affordable housing in Chapel Hill. Mr. Saleeby stated that the greatest contribution to the cost of housing was the cost of developed land. He felt that reducing land use intensity ratios and putting caps on development was counter productive to cost reduction.

Mr. Watts Hill, Jr., expressed his opinion that multi-family housing, more dense development, and subsidized housing would be necessary to provide modest income housing in Chapel Hill.

Re LUI standards, Mr. Hill asserted that the Chamber of Commerce had recommended (at the time the Development Ordinance was adopted in 1981) that the Development Ordinance and Comprehensive Plan should have mandatory periodic review. The Chamber had felt that without a comprehensive periodic review, the Development Ordinance would be amended piece-meal without regard to the impact of one amendment on another. Mr. Hill stated that "...what we've had is exactly that."

Mr. Hill stated that the Mayor was correct in his statement that the only true indicator of the amount of development was the number of Certificates of Occupancy issued. He stated that the threat of a glut of multi-family residential units would have the effect of lowering rent prices and the cost of home ownership. He asserted that he felt that the threat of overbuilding was greatly exaggerated and that there was no cause for panic. The Chamber supported a reduction in LUI ratios; the Chamber felt that the 1981 Development Ordinance did not provide for an adequate transition from single-family to multi-family developments.

The Chamber supported the proposed changes in the LUI ratios without rezoning the six R-4 properties to R-6. The Chamber felt to rezone these properties was equivalent to spot zoning and that such rezoning would allow the conversion of these properties to use by fraternities or sororities.

The Chamber suggested that fraternities and sororities be placed under a zoning overlay; i.e., change the zoning for existing fraternities and sororities to a zone that was appropriate for the area in which it was located. This grandfathering would limit the amount of development on the property and eliminate the high density development threat to neighborhoods.

The Chamber also suggested a moratorium on amendments to the Development Ordinance. Mr. Hill requested that the Council give the Development Ordinance a chance to operate for a reasonable period of time without further amendments and to require an annual review. After the review, a coordinated set of amendments could be considered.

Mr. Richard W. McEnally of 401 Brookside Drive concurred with Mr. Robert's earlier remarks. He expressed concern that to rezone properties to R-6 would start a chain reaction to rezone other properties in this area to a higher density.

Councilmember Boulton asked if options for handling non-conformities could be compiled by the staff for Council's consideration.

Mr. Barrett stated that he felt that grandfathering was not a favored option because of the appearance of discrimination.

Councilmember Smith expressed his concern for the pressing need to update the Comprehensive Plan. In response to Councilmember Smith, Mr. Barrett explained that nonconformities presented legal concerns for public health, safety, and welfare. Councilmember Smith felt that properties should not be declared nonconforming if they were conforming at the time it was developed.

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Mayor Nassif stated that he had encouraged the Council to not make changes in the Development Ordinance until it had been given a chance to work. The Council had always tried to be responsive to the entire public. He referenced the rate of completed development in Chapel Hill since 1975 compared to the number of requests approved since that time, stating that the Council's approval of development was not indicative of the actual growth in Chapel Hill. Mayor Nassif asserted that Council's action did not cause an increase in the cost of development, nor increase property values. Prices reflected market demand.

(Councilmember Howes arrived at 8:36 P.M.)

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

Councilmember Pasquini asked that the Manager add a grandfather clause to the proposed amendment for the Council to consider.

Councilmember Thorpe stated that he would withhold his statements re changes in the Development Ordinance, as Councilmember Broadfoot was not present to take part in this decision.

THE MOTION TO REFER CARRIED UNANIMOUSLY.

The meeting was adjourned at 8:40 P.M.

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Joseph L. Nassif, Mayor

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Robin G. Rankin, Deputy Town Clerk