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MINUTES OF A PUBLIC HEARING  
HELD BY THE MAYOR AND COUNCIL OF THE  
TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,  
MONDAY, MAY 20, 1985, 7:30 P.M.

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

Marilyn Myers Boulton  
David Godschalk  
Jonathan Howes  
David Pasquini  
Nancy Preston  
Bill Thorpe

Council Members Beverly Kawalec and R. D. Smith were absent, excused. Also present were Town Manager David R. Taylor, Assistant Town Managers Sonna Loewenthal and Ron Secrist, and Acting Town Attorney Michael Patrick.

Public Hearing on Wilson Rezoning

Roger Waldon, Planning Director, made a presentation on the rezoning application. The area under consideration was approximately 0.5 acres of land adjacent to the Chapel Hill Boulevard/Scarlette Drive/Old Durham Road intersection. He stated the three reasons for justifying rezoning: 1) correcting a manifest error in the Zoning Atlas; 2) changed or changing conditions in the particular area or in the jurisdiction generally; and 3) achieving the purpose of the Comprehensive Plan. Mr. Waldon said the staff did not believe the exiting zoning of the site represented a manifest error. The staff is concerned over access to the site. Mr. Waldon said the realignment of the Scarlette Drive/Old Durham Road intersection would improve access but the staff was unclear as to how adequate that access would be for an intense commercial development of the site.

John McCormick, an attorney representing P. L. Wilson, owner of the site, stated that no manifest error was meant to be implied, rather the rezoning request was due to the changing conditions of the area surrounding this parcel of land. He said he felt the rezoning would achieve the purposes of the Comprehensive Plan and that the property was virtually unusable as residential property with the Cemetery, Wilson's Lawn and Garden, Wendy's and Hardee's next to it. He said the owner would like to expand his own business on this lot. Mr. McCormick stated that if the traffic access was a primary problem then the owner would agree to a delay in the rezoning until the Colony Lake Development realigned the Scarlette Drive intersection; a condition of the Special Use Permit.

Lightning Brown, representing the Planning Board, stated that the Board had concerns regarding the adequacy of access to the site. Therefore the Board recommended that the rezoning application be approved, but that Council postpone its action for 180 days to assure that the proposed improvements to the Scarlette Drive/Old Durham Road intersection be completed as called for in the Colony Lake Special Use Permit.

Manager Taylor recommended denial of the rezoning request.

Council Member Thorpe asked the Town Attorney if Council could make an agreement with the applicant regarding delaying the rezoning until realignment of the intersection. Attorney Michael Patrick replied that delaying action on the rezoning until after the realignment of the intersection did not mean that Council was approving the rezoning.

Council Member Thorpe stated that he was against the rezoning and that the applicant should have waited until after the realignment of the intersection before requesting a change.

Council Member Boulton asked how the realignment of the intersection was being planned and designed. Manager Taylor replied that it all was part of a Special Use Permit for the Colony Lake Development and approved by DOT.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO REFER TO THE MANAGER. THE MOTION PASSED UNANIMOUSLY, (7-0).

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Public Hearing regarding Mitchell rezoning

Roger Waldon, Planning Director, made a brief presentation saying that the site, composed of two lots, was approximately one acre on the west side of U.S. 15-501 south, 800' north of its intersection with Smith Level Road. The applicant would like to rezone the property from Residential-2 to Neighborhood-Commercial. This site is encompassed on 3 sides by land zoned for and containing low-intensity residential development. He also said that the area adjoins a Carrboro commercial zone. Mr. Waldon said the staff did not believe a manifest error existed in the Zoning Atlas or that conditions in the area had changed to the extent that would warrant rezoning of the property.

Mr. Gordon Mitchell, speaking as the owner of the property, asked the Council to rezone his property to Neighborhood-Commercial. He said that he had acquired the property in 1977 and had trouble keeping quality tenants. He also pointed out that there was commercial property in the area, the Triangle Massage Parlor being only 25 feet from a house on his property.

Council Member Howes asked Mr. Mitchell what occupied the space where the massage parlor now resides when Mr. Mitchell bought his property. Mr. Mitchell replied that he wasn't sure, but that since he purchased the property, that building had been the site of an oyster restaurant, topless bar, and a massage parlor.

Lightning Brown, representing the Planning Board, stated that the Board recommended approving the request to rezone lot 10 of the applicant's request, but denying the request to rezone lot 7.

Manager Taylor recommended denial of the applicant's request.

Mr. Marvin Poythress, speaking as a property owner, spoke against rezoning the property from R-2 to Neighborhood-Commercial. He questioned whether or not the clearance between the house and the massage parlor would be adequate if the site was rezoned commercial and the house was utilized for commercial purposes. He also expressed concern over the traffic impact if the property were rezoned. Mr. Poythress concluded by expressing concern over the impact the rezoning would have to the cemetery adjacent to Mr. Mitchell's property.

Mr. Phil Poythress, speaking as a resident, spoke against the rezoning application.

Mr. Archie Dollar, speaking as a resident, spoke against the rezoning.

Mr. Barry Burns, speaking as a resident, spoke against the rezoning. He cited the potential negative traffic impact as a reason for denial.

Mr. Robert Poythress, speaking as a resident, spoke against the rezoning application.

Mrs. Robert Poythress, speaking as a resident, spoke against the rezoning. She said the tenants now occupying Mr. Mitchell's property seemed to be quality tenants. She also expressed concern about the cemetery adjacent to Mr. Mitchell's property and what effect rezoning would have on it.

Council Member Pasquini asked the Town Attorney if it were possible to build upon a cemetery. Attorney Michael Patrick replied that the cemetery in question was not part of the rezoning request.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO REFER TO THE MANAGER. THE MOTION PASSED UNANIMOUSLY, (7-0).

A MOTION WAS DULY MADE AND SECONDED TO ADJOURN. THE MOTION PASSED UNANIMOUSLY, (7-0).

The meeting adjourned at 8:30 p.m.

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 Mayor Joseph L. Nassif

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 Nancy J. Weissa, Information Services