

MINUTES OF A PUBLIC HEARING HELD BY THE
MAYOR AND COUNCIL OF THE TOWN OF CHAPEL HILL,
MUNICIPAL BUILDING, MONDAY, SEPTEMBER 16, 1985 7:30 P.M.

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

- David Godschalk
- Beverly Kawalec
- David Pasquini
- Nancy Preston
- R. D. Smith
- Bill Thorpe

Council Members Marilyn Myers Boulton and Jonathan Howes were absent, excused. Also present were Town Manager David R. Taylor, Assistant Town Managers Sonna Loewenthal and Ron Secrist, and Attorney Ralph Karpinos.

Public Hearing on Revising the Sign Ordinance

Roger Waldon, Planning Director, gave a brief presentation on the proposed interim changes to the sign regulations. The presentation included slides which illustrated several examples of "good" and "bad" signs. He stated that pole signs in particular were examples of "bad" signs in that they were not visually connected to their surroundings.

Josh Gurlitz, representing the Community Appearance Commission, spoke in support of interim measures to aid in establishing a better sign ordinance. He said the Appearance Commission was working on a performance based sign ordinance. Mr. Gurlitz said the interim measures proposed by the Appearance Commission included eliminating pole signs, limiting signs to those lots with at least 100 foot frontage, and not more than one sign per 200 feet, and requiring the letters/message of internally illuminated signs to be nonreflective and of a cream, beige, or other similar color. He said the Appearance Commission recommended adoption of ordinance A.

Alice Ingram, representing the Planning Board, spoke in support of the Appearance Commission's recommendation.

Manager Taylor recommended ordinance B which does not have a color requirement or the 200 foot minimum distance between signs.

Len Van Ness, representing the Chamber of Commerce, agreed with the Manager's recommendation but still had some concerns over the proposed reduction in the size of signs and the remaining non-conforming signs. He said the non-conforming signs would remain because there was no incentive to change, especially if the ordinance further reduced the maximum size allowable. He urged further study to find out exactly where the problem areas were and if these proposed changes would alleviate the problems.

Mayor Nassif questioned the possibility of grandfathering in the non-conforming signs. He said there should be a designated time frame in which those non-conforming signs would have before they had to conform. He suggested the length of time the company uses to amortize the sign.

Ted White, speaking as a citizen, spoke in favor of the Manager's recommendation as being the most practical.

Council Member Thorpe said that he felt the area of sign ordinances was one in which the Council could take the lead and require all signs to be visually attractive and equal, i.e. all business owners would be treated equally and fairly.

Council Member Kawalec asked for clarification from Mr. Gurlitz regarding the way the ordinance would affect shopping centers like Eastgate. Mr. Gurlitz replied that the proposal would not eliminate signs over the individual stores but would require them to be smaller, pedestrian oriented, and they would have to be uniform.

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Council Member Kawalec asked that since this was an interim measure when would the final plan be ready. Mr. Gurlitz replied that the Appearance Commission was trying to develop a performance oriented ordinance as opposed to a prescriptive one. He said that way the Commission could evaluate signs in context taking into consideration the foliage around it, where it was located on the site, and how it related to a building. He said the Commission was having trouble developing this type of ordinance, but that there would be a qualitative ordinance of some type available to the Council by early spring.

Council Member Kawalec asked Mr. Gurlitz to respond to the question that with the 200 foot minimum between signs, a property owner with a 100 foot frontage might not get to have his own sign. Mr. Gurlitz replied that it was true. He said the majority feeling of the Appearance Commission was that one should not look at the each individual site but rather at the gross number of signs that a driver would have to encounter for a specific time period and distance.

Council Member Preston asked about the authority of the Town to regulate sign color. Manager Taylor replied that he did not think the Town had the authority to regulate sign color except in special appearance or historic districts. Town Attorney Ralph Karpinos said that the authority to regulate color or aesthetics was that of the legislative body with police power such as the Council and could not be delegated to a commission. He said the Town did have the authority from the State in the areas of special appearance districts and historic districts and the Statutes set out what criteria must be followed in order to create a special district. Mr. Karpinos questioned the legality of limiting the color requirements to only illuminated signs and not to all signs.

Council Member Smith asked if there was anything in the ordinance which would require a specific distance between the street right-of-way and ground signs. Mr. Gurlitz replied that the ordinance required a minimum setback and at intersections there was the site triangle in which no signs could exist.

Mayor Nassif said he hoped the new performance oriented sign ordinance would come to Council before spring. He felt regulating color was unnecessary and that the size of the signs should be related to the size of the lots on which they sit. Mayor Nassif suggested the development of a type of special use for all signs. He disagreed with the idea of requiring all the signs in a shopping center, like Eastgate, to be the same. He pointed out that the signs for the businesses along Franklin Street were not the same and were not required to be the same, nor were they 200 feet apart. They are however, he said, for the most part attractive and add to the uniqueness of the area.

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

Public Hearing on Proposed Buffer Regulations for Interstate-40

Roger Waldon, Planning Director, gave a brief presentation on the proposed Interstate-40 (I-40) overlay district. He said the staff recommended the development of a new Type E Buffer which would require a 100 foot buffer with very dense planting requirements around that section of I-40 which passes through the Chapel Hill zoning district. He referred to several maps which showed the path of I-40 and the vegetation surrounding it.

Alice Ingram, representing the Planning Board, recommended adoption of an ordinance and resolution requiring a Type E buffer around I-40.

Manager Taylor recommended that the Development Ordinance be amended to include a Type E buffer.

Council Member Kawalec said she did not want homeowners to have the 100 foot buffer as their sole backyard, to do with as they saw fit. Manager Taylor replied that the buffer requirements would prohibit homeowners from clearing the 100 foot buffer area.

Council Member Kawalec said she would like to have a setback requirement included in the ordinance which would require a certain amount of space between a building and the beginning of the buffer.

Mayor Nassif asked how the Town would ensure that trees remained in the buffer and who would be responsible for replacing any trees that die.

Council Member Godschalk said he would like to see the extraterritorial planning jurisdiction enlarged, especially since Chapel Hill's growth was in the northern areas.

Council Member Pasquini asked if there were any locations in Carol Woods which would be non-conforming with this proposed ordinance change. Manager Taylor replied that he was not sure but would report back on this.

Mayor Nassif introduced a letter from Enid Woodward, the President of the Resident's Association of Carol Woods, in which she stated the Association supported the restriction of development in areas near I-40, including the requirement of setbacks of at least 100 feet. (For a copy, see Clerk's files.)

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

Wilco Food Mart - Modification of Special Use Permit (SU-24-40)

Citizens wishing to speak to Council about this proposal were sworn in by the Town Clerk.

Manager Taylor requested that the following documents be entered into the record of this meeting:

- Agenda #3, September 16, 1985, "Wilco Food Mart" - Modification of Special Use Permit (SU-24-40)
- Applicant's Project Fact Sheet
- Applicant's Statement of Justification
- Applicant's Traffic Impact Report

Roger Waldon, Planning Director, gave a brief presentation on the application for modification. He said the applicant sought approval of a new convenience store and gasoline sales facility. The applicant planned to demolish the present building and construct a new store and two more gasoline pumps. Mr. Waldon said the internal circulation as proposed would be awkward but could be eased by extending the median between the driveway entrances southward. He also said the staff recommended the applicant construct one-half of the proposed widening of Airport Road, with curb and gutter and sidewalk, along the lot's frontage. Mr. Waldon also stated that the staff recommended that the applicant be required to conform to the Development Ordinance and have a Type D buffer along Airport Road.

Arthur Williams, III, representing the applicant, Williams Oil Company, spoke in support of the proposal. He introduced a memorandum into the record which addressed his desires and concerns regarding the modification of the Special Use Permit to construct a convenience store. He expressed opposition to requiring a Type D Buffer saying that it would require a site plan change, would block the view of the gasoline prices, and would reduce visibility of the convenience store from the highway which could create a security problem for those employees who work the evening hours. He also expressed opposition to the requirement that the applicant widen that portion of Airport Road which abuts the property.

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Ms. LeAnn Neace, an attorney representing the applicant, requested that Council not include the requirement to widen the roadway. She said it was her legal opinion that there should be a reasonable relationship between widening the road and what the applicant does, ie that this modification would cause or significantly contribute to the need to widen Airport Road. She also said there was concern that if the applicant widened the road now and the State came in and widened the road later, the State might consider that section unusable. Ms. Neace said that Section 8.7.1 of the Town's Development Ordinance allowed for exemption of the Type D buffer. She indicated the security problems the Type D buffer would create as one reason for the exemption.

Alice Ingram, representing the Planning Board, said the Board recommended denial with the buffers as one reason for denial. She said the main problem was the internal circulation. Ms. Ingram also pointed out that this store was situated at an entranceway into Chapel Hill and as such could be designed more attractively.

Josh Gurlitz, representing the Appearance Commission, said that the Commission had not had a chance to review this project.

Council Member Pasquini questioned whether or not this applicant would have to change their sign to meet the proposed changes in the sign ordinance. Attorney Karpinos replied that if the applicant's modification was approved and the current signs were removed and if the changes to the sign ordinance were adopted prior to the issuance of a building permit then the applicant would have to meet the new requirements.

Manager Taylor recommended that Council adopt resolution B with its stipulations.

Mayor Nassif said the traffic on site would remain the same in spite of the proposed changes. He said he did not see a need for the applicant to widen the road but to dedicate right-of-way if that was what was needed. Mayor Nassif suggested reversing the site plan and have the building where the gasoline pumps were as a way to meet barrier/landscape requirements and improve the security arrangement. He said he did not think anyone could see into the building in its proposed location even without the buffer because of the clutter caused by the gasoline pumps. He said this was an opportunity to make the facility nice and one of a kind.

Council Member Thorpe said he believed the increase in the number of gasoline pumps and a larger convenience store would increase the traffic flow.

Council Member Pasquini said he agreed with the comments made by Mayor Nassif and Council Member Thorpe and asked what was on the adjoining property. He said he felt the security problems had been overstated by the applicant.

Council Member Godschalk asked for clarification of how the site would be non-conforming. Manager Taylor replied that with the stipulation requiring the applicant to have a Type D buffer the proposal would conform.

Council Member Godschalk said he did not think widening the road an additional 8½ feet across the front of the site would be that burdensome to the applicant. He asked what represented a Type D buffer. Roger Waldon replied that it was a substantial buffer, 30 feet wide. Manager Taylor said that the buffer could be smaller and more dense or larger and less dense.

Council Member Kawalec asked for confirmation of the reason for the Planning Board's recommendation of denial. She asked if it were true that the Board felt this development, as designed, would not promote the public health, safety and welfare. Ms. Ingram agreed, saying this was true especially from the standpoint of the danger on the internal circulation. Council Member Kawalec also asked if the Board felt the development did not comply with all the required regulations with the absence of the buffer. Ms. Ingram agreed.

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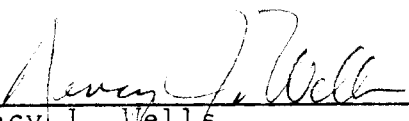
Council Member Smith said he was concerned that the Town was asking the applicant to widen the road with the modification application when this was not a condition of the original special use permit. He asked if the developer had been made aware of the problems cited by the Planning Board. He also asked that this proposal be sent to the Appearance Commission for their consideration since the site was located at an entranceway. Council Member Smith said he felt requiring a thirty foot buffer would be extreme in this case, especially in view of the current development in the area.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER PASQUINI TO REFER TO THE MANAGER, ATTORNEY, AND COMMUNITY APPEARANCE COMMISSION. THE MOTION PASSED UNANIMOUSLY, (7-0).

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

The meeting adjourned at 10:00 p.m.

Mayor Joseph L. Nassif



Nancy J. Wells
Town Clerk

making the map more useful to the road with the modification
of the map.