

MINUTES OF A PUBLIC HEARING HELD BY THE MAYOR AND COUNCIL  
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,  
MONDAY, OCTOBER 21, 1985, 7:30 P.M.

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

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

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

Public Hearing on Women's Center Rezoning

Council Member Pasquini asked if the applicant planned to ask for a postponement of this hearing.

Mayor Nassif said that the Council had two options, to hold the hearing that night and to have the hearing continued since this hearing had already been called or the petitioner can ask that this item be withdrawn.

Council Member Howes suggested that the Council hear the applicant's presentation before deciding which action to take.

Mr. Grainger Barrett, an attorney representing the applicant, said that the applicant had been to a recent Planning Board meeting at which it was suggested that the applicant might better pursue a text use amendment to the Development Ordinance that might suggest a special use permit procedure rather than to pursue the request for rezoning. He said the applicant had begun working on a text use amendment request and as such would like to have this hearing postponed to enable further consultations with the staff and neighborhood involved.

Mayor Nassif said he felt it would be better for this item to be withdrawn from the agenda so that the hearing would not be split and heard by two different Councils.

Mr. Barrett, after conferring with his clients, said the applicant agreed to withdraw the item from the agenda.

Mr. Lightning Brown, speaking as a resident of Cobb Terrace, introduced a petition from the residents of Cobb Terrace and Spring Lane stating they were not against a postponement of the hearing but that they did opposed a change in zoning as well as any changes in the Development Ordinance which would permit non-residential uses in existing downtown neighborhoods. (For copy of text, see Clerk's files)

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER SMITH TO ALLOW THE APPLICANT TO WITHDRAW THE WOMEN'S CENTER REZONING APPLICATION. THE MOTION PASSED UNANIMOUSLY, (7-0).

Manager Taylor asked that item #4, Payments in Lieu, be moved up on the agenda to be addressed next since the applicant for item #2 was not yet present.

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Public Hearing on Payments-in-Lieu of Recreation Areas -  
Development Ordinance Text Amendment

Roger Waldon, Planning Director, told the Council the Amendment was proposed to make the Town's existing provisions for payments-in-lieu consistent with recent State enabling legislation. He said that the primary changes in the proposed amendment clarified that the Town had to use such payments for the acquisition or development of parks or open spaces, etc. that would serve the residents of the developments for which the payments were made; clarification that the amount of payment would be based on the expected fair market value of the development site after its development; specific reference to the Town's Community Facilities Report as the basis for determining the "service area" of Town parks and Town use of in-lieu payments; and clarification that such payments are due before final approval of the development, or phase thereof. Mr. Waldon said that if there was a discrepancy between what the developer and the Town believed was fair market value, the proposal allows for a committee of appraisers to decide the issue and recommend a value for Council approval.

Mr. Waldon said the Planning Board and Parks and Recreation Commission recommended approval of the proposed ordinance amendment.

Manager Taylor recommended approval of the ordinance amendment.

Mayor Nassif expressed concern about the wording of the ordinance. He felt the ordinance was worded to require the payments-in-lieu to be used to purchase land, etc. to serve residents ...in the immediate area, implied that the payments-in-lieu would be used to improve or purchase park area adjacent to the development that provided the payment-in-lieu. He said he was against the Town providing for a proliferation of "subdivision" parks that would be maintained by the Town. He felt the subdivisions should donate and maintain park/open space if they want that space in their immediate area for their residents. The Town should provide "Town" parks, serving more than subdivisions.

Manager Taylor stated that he interpreted the ordinance to mean that payments-in-lieu would be placed in a fund for development and improvement of parks and open space in areas designated by the Town's Community Facilities Report and not in every subdivision.

Attorney Karpinos said the wording of the ordinance was based on the wording in the statute passed in May by the Legislature enabling municipalities to have payments-in-lieu.

Ron Secrist, Assistant Town Manager for Community and Human Services, stated that the proposed ordinance specified that payments-in-lieu may be used to acquire recreation land or develop recreation areas that serve the development or subdivision within the immediate area of the development or subdivision. He said the reference to the Community Facilities Report was included because this report identifies classifications of parks and their service areas, thus providing a basis for future use of payments within the service area of the development that provided the money. As an example, he suggested that if several adjoining developments opted for payments-in-lieu, and the Town accepted these payments, then the Town might acquire a neighborhood park to serve all the developments rather than having small parcels of land in each development.

Council Members Preston and Smith agreed with Mayor Nassif's concern over the wording of the proposal and felt it should be clarified further.

Council Member Kawalec stated she felt that the payments-in-lieu issue had been sponsored by the NCLM in the General Legislature and that she was uncertain as to the specific intent of the wording of the statute with regard to "immediate area".

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO REFER THE ITEM TO THE MANAGER.

Council Member Thorpe said he felt the payment-in-lieu should be paid in full at the time the Zoning Compliance Permit was issued.

Council Member Smith suggested the Town contact the Attorney General's Office for further clarification of the wording of the general statute.

THE MOTION PASSED UNANIMOUSLY, (7-0).

Council Member Thorpe said that the time frames listed on the agenda face sheet were for Council's information only and should not be used by citizens as a schedule of times to appear before Council.

Council Member Howes agreed that the times designated were only estimates and that the face sheet should be modified to indicate that the Council would proceed with agenda items without specific regard to the estimated time frames.

Public Hearing on Doctor's Building - Modification of Special Use Permit

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

---Agenda #2, October 21, 1985, "Doctor's Building" -  
Modification of Special Use Permit for Planned Development  
(PD-47-A-10)

---Applicant's Project Fact Sheet

---Applicant's Statement of Justification

---Applicant's Traffic Impact Report

Roger Waldon, Planning Director, gave a brief presentation saying that the site was adjacent to the existing Doctor's Building on the 100 block of Connor Drive. He said the developer had worked with the staff in an effort to preserve several of the large deciduous trees presently on the site. He cited an example showing that the drive was to be reduced to one way along the northern section of the building in order to save a 48" oak tree. Mr. Waldon said the proposal, if approved, would keep two nonconforming features, lack of sufficient buffer around existing developed portions of the site; and a planned development site of less than five acres. He said the staff recommended exempting the project from these two regulations because the Special Use Permit existed before the minimum lot size for Planned Developments was raised to five acres and because the staff felt the building adjacent to the proposal would provide sufficient buffering from the street.

Mr. Bob Anderson, speaking for the applicant, said the owners had no exceptions to the stipulations proposed. He stated that he had worked with the Planning Board and staff in an effort to provide a proposal that would preserve as many of the trees as possible. He pointed out that they planned to use turf stone in the driveway area around the 48" oak and had retained the services of Dr. Ritchie Bell to assist in the preservation of trees during construction. Mr. Anderson said that the traffic impact analysis showed that the office building would not have an adverse effect on Connor Drive. He pointed out that the peak hours for the office building traffic was not the same as for major thoroughfares. He said he felt the development would be in harmony with the surrounding area.

Manager Taylor recommended adoption of the proposed resolution with stipulations.

Mr. Walter Trott, speaking as a resident of Willow Terrace, spoke in support of the development saying that it appeared that the developer would attempt to preserve as many trees as possible, and that if the property had to be developed that this was probably the best use. He expressed appreciation for the help he received from the staff.

Council Member Smith asked the staff to check to see if all the stipulations of the original Special Use Permit had been met. He expressed concern over the traffic impact this development and Sun Stone apartments would have on Connor Drive's intersection with Willow Drive.

Council Member Preston asked that the amount of impervious surface be indicated in the memorandum.

Council Member Pasquini asked that the developer and staff check into the number of parking spaces being proposed in an effort to consider a reduction in the overall number.

Council Member Thorpe thanked Mr. Trott for inviting him to view the site and stated that he was pleased to see that the original garbage container area had been changed by the applicant.

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

#### Public Hearing on Cedar Ridge Offices - Drive-In Window

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

---Agenda #3, October 21, 1985, "Cedar Ridge Offices" - Drive-In Window Special Use Permit (UBD-34-B-1)

---Applicant's Project Fact Sheet

---Applicant's Statement of Justification

---Applicant's Traffic Impact Analysis

Roger Waldon gave a brief presentation stating that the site was located on the east side of Airport Road opposite its intersection with Barclay Road and contains 2.1 acres zoned OI-2. He said the applicant proposed a drive-in window on building #3 of the project. He said the concerns were access, circulation and buffers. Mr. Waldon said the staff recommended better signage within the site to help internal circulation. He also said the staff recommended Type D buffers along Airport Road from the north parking area to the southern boundary.

Mr. Guilford Waddell, speaking as the applicant, said he was not certain the Type D buffer was needed. He said they had proposed a hedge along the drive connecting the drive-in window and a heavier buffer along Airport Road in front of Building #3. He indicated that at present he did not have a use for the drive-in window but still wanted to pursue the application.

Manager Taylor recommended that Council adopt the proposed resolution with conditions. He stated that the Special Use Permit, if granted, would be valid only for one year.

Council Members Kawalec, Preston and Howes stated they felt a Type D buffer was unnecessary for the site.

Council Member Preston and Mayor Nassif asked if the original Special Use Permit had been abandoned and/or if all the stipulations had been met.


Manager Taylor said that the staff would investigate this matter.

Council Member Smith said he felt the staff needed to review the buffer requirements on existing buildings and as they relate to different types of buildings.

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

The meeting adjourned at 10:05 p.m.

Mayor Joseph L. Nassif

  
Nancy J. Wells  
Town Clerk

