

MINUTES OF A PUBLIC HEARING HELD BY THE MAYOR AND COUNCIL
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,
MONDAY, FEBRUARY 17, 1986, 8:00 P.M.

Mayor James C. Wallace called the meeting to order. Council Members present were:

- Julie Andresen
- David Godschalk
- Jonathan Howes
- David Pasquini
- Nancy Preston
- R. D. Smith
- Bill Thorpe
- Arthur Werner

Also present were Town Manager David R. Taylor, Assistant Town Managers Sonna Loewenthal and Ron Secrist, and Town Attorney Ralph Karpinos.

Brenner Rezoning Request

Roger Waldon, Planning Director, gave a presentation on the application for a Zoning Atlas Amendment. He said the request was to rezone to Office/Institutional-1 (OI-1) a site of approximately 1.5 acres currently zoned Residential-2 and located on the northwest corner of the intersection of East Franklin and Elizabeth Streets. Mr. Waldon said the possible justifications for rezoning were to correct a manifest error in the Zoning Atlas; due to changed or changing conditions; or to achieve the purposes of the Comprehensive Plan. He said the staff did not believe a manifest error existed nor that there were changed or changing conditions. He said the staff felt there was some justification in support of the rezoning regarding to the Comprehensive Plan criterion. Mr. Waldon stated that the site was referred to as "Institutional" in the 1977 Land Use Plan primarily because of the use of the site at that time. However the Institutional designation in this Land Use Plan was not the same as the current Office/Institutional zoning category. He stated that given the nature of the property which was adjacent to a Neighborhood - Commercial zone, and given the institutional use of the property the staff felt an argument could be made that the OI-1 zoning could be considered appropriate.

Mr. Waldon stated that if the property were rezoned the property owner would have several options. He said there was a current Special Use Permit (SUP) on the site so that before any change in use or alteration of the site could occur the SUP would either have to be modified, abandoned or revoked. He stated that if the property were rezoned and the SUP had been abandoned or revoked, and the building reused without any structural or parking changes, a change in use could be authorized by an administratively issued Zoning Compliance Permit. Mr. Waldon said the staff had concerns about the potential increase in traffic if the property were rezoned and the need for special attention to the landscaping and buffers since the property was in an entranceway.

Mr. Robert Page, representing the applicants, Dr. William E. Brenner and William E. Brenner, Jr., said the applicants had contracted to purchase the property on the condition that it be rezoned Office/Institutional so that they could use it as a medical office. He said at the prior public hearing no opposition was voiced from area residents or anyone regarding this potential rezoning. He stated the applicant agreed with the staff that the proposed amendment achieved the purposes of the Comprehensive Plan. Mr. Page commented that the Planning Board's 5-4 vote on this proposal was the result of concern over the uses allowed in an OI zone. He said in his opinion the office use was the most likely use for this site. Mr. Page also stated that the traffic estimate of 550 cars per day was very high. He said use of the site under the current R-2 zoning, which could allow 4 apartments per acre, would increase the traffic in the area far greater than an OI use.

184
William Brenner, Jr., speaking as an applicant, said he and his father operated a medical practice in Chapel Hill and were in the process of trying to relocate their facilities. He said the medical community was growing in Chapel Hill and therefore more medical office space was needed. He stated that the medical community needed different requirements for office space than other businesses and that the current supply of office space in the area did not seem to be addressing these requirements. Dr. Brenner commented that the Franklin Street location was ideal for the proposed office and would benefit the citizens of Chapel Hill.

Pat Evans, representing the Planning Board, said the Board voted to deny the proposal due to concerns over the uses other than office use that the rezoning would allow.

Manager Taylor stated his preliminary recommendation was that Council adopt an ordinance approving the rezoning.

Dorothy Bernholtz, speaking as a resident, said she lived across the street from the proposed rezoning site. She spoke against strip development and against the rezoning because of all the uses it would allow. She expressed concern about the traffic impact of the proposed rezoning and the potential loss of buffers in order to provide more parking. Mrs. Bernholtz concluded by asking the Council to deny the rezoning request.

Ms. Murray Coke, speaking as a resident, spoke in favor of the rezoning request. She felt the traffic situation would not be worsened by the proposed rezoning stating that most of the traffic congestion currently occurred around the intersection of Estes and Franklin. Ms. Coke said the present property owners, the Masonic Lodge, had said they would not be able to continue using the facility, so that something else would have occupy that space and she felt an office setting would be the logical choice.

Walter Luckett, representing the Masonic Lodge, said he felt the Lodge should not be penalized for trying to sell their building. He commented that traffic associated with the proposal would be able to use Elizabeth Street for ingress and egress to the site.

Council Member Howes asked why the Masonic Lodge wished to sell the property. Mr. Luckett replied that their membership had declined and therefore their revenues. He said the Masons needed to sell the property for economic reasons and they wanted to build a smaller Lodge on some property along Eubanks Road which would also allow for more recreation area. He commented that at present the building was only used four or five times a month.

Council Member Preston asked if the Masons ever rented the property for other uses. Mr. Luckett said that their regulations did not allow for them to rent the building. Council Member Preston said that some of the concern seemed to be the potential for changing the site plan of the lot. She asked if the Masons would be willing to have restrictive covenants in the deed which would allow for a continuation of the current site plan with very few modifications. Mr. Luckett said he felt this could possibly be arranged.

Council Member Smith asked if additional physicians were brought into the Brenner's proposed office complex would the Brenner's expect to expand the building? Dr. Brenner replied that at present he did not plan to expand the building. He said he felt the 6000 square feet currently in the building would be adequate.

Linda Griffin, speaking as resident and an employee of Dr. Brenner, spoke in support of the rezoning request.

James Jennings, speaking as a member of the Masonic Lodge, spoke in support of the rezoning. He commented that membership into the Lodge was by petition only. He said the building was in considerable state of disrepair and that the Masons could not afford to renovate. Mr. Jennings said that Dr. Brenner planned to renovate and use the current building if the property were rezoned. He commented that the main point brought up in the Planning Board against the rezoning was that the property was currently zoned for

high density residential and that it should be maintained as high density residential. He said the property value was such that the only way to maintain the high density residential and be profitable was to develop the site to its maximum density, and that this could be done without rezoning the site. He urged the Council to approve the rezoning request.

Council Member Werner asked how many units could be built on the property with its current zoning. Mr. Waldon replied that six units could be built on the site.

Dick Caldwell, speaking as a resident and member of the Masonic Lodge, spoke in support of the rezoning request. He said if the property were not rezoned then the Lodge would suffer.

Council Member Andresen asked for clarification regarding the Special Use Permit and the rezoning request. Mr. Waldon replied that the rezoning request was not contingent upon the Special Use Permit being abandoned or revoked. He said no change in the use could occur until the Special Use Permit disappeared, and that this could only occur if the Council authorized its revocation or abandonment.

Council Member Preston commented that she thought denial of a rezoning request for a specific site meant that that site could not be considered for another rezoning for another year. Mr. Waldon replied that this was true for applications for the same kind of rezoning. He said the staff had determined that this was not the same kind of rezoning request as the earlier request for Neighborhood/Commercial zoning.

Council Member Werner asked if the property were rezoned and the SUP were revoked, how would the applicants, if they desired, go about applying to change the building structure by either adding onto the current site or demolishing and rebuilding? Mr. Waldon replied that the applicant would follow the normal means for development proposals by going through the site plan review process.

Council Member Pasquini asked for information on the maximum building size allowed with the proposed rezoning request. He also commented that when discussing rezoning requests the Council should not review the request for a specific use but for the general use allowed under the OI zoning.

Council Member Andresen asked for information on the expected traffic use of Elizabeth Street by the new Franklin Hills development.

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER WERNER TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (9-0).

Hardee's Drive-In Window Special Use Permits

Manager Taylor stated that a formal written request from the attorney representing the applicant had been delivered to the Council requesting a withdrawal of the two applications for Drive-in Window Special Use Permits for the Hardee's Restaurants on Franklin Street and Old Durham Road. He asked the Council to direct the Clerk to enter these letters into the record of the meeting.

BY UNANIMOUS CONSENT, THE LETTERS FROM ROBERT PAGE, ATTORNEY REPRESENTING BODDIE-NOEL ENTERPRISES, INC., REQUESTING THE APPLICATIONS FOR DRIVE-IN WINDOW SPECIAL USE PERMITS #SU-86-C-1 AND #SU-27-C-1 BE WITHDRAWN FROM THE AGENDA, WERE ENTERED INTO THE RECORD OF THE MEETING.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER THORPE TO ADJOURN THE MEETING. THE MOTION PASSED UNANIMOUSLY, (9-0).

The meeting adjourned at 8:50 p.m.

Mayor James C. Wallace

Henry Bell
Town Clerk