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MINUTES OF A PUBLIC HEARING HELD BY THE MAYOR AND  
COUNCIL OF THE TOWN OF CHAPEL HILL, MUNICIPAL  
BUILDING, MONDAY APRIL 21, 1986 7:30 P.M.

Mayor Pro-tem Bill Thorpe called the meeting to order. Council Members present were:

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

Mayor Wallace was absent, excused. Also present were Town Manager David R. Taylor, Assistant Town Manager's Sonna Loewenthal and Ron Secrist, and Town Attorney Ralph Karpinos.

JNS Group Rezoning

Roger Waldon, Planning Director, made a presentation on the application for Zoning Atlas Amendment. He said the site was located on the west side of Couch Lane approximately 200' south of E. Franklin Street. Justification for amending the Zoning Atlas would be that the amendment corrected a manifest error in the Zoning Atlas; was appropriate due to changed or changing conditions in the particular area; or achieved the purpose of the Comprehensive Plan. He said the staff did not feel there was an error in the Zoning Atlas nor that the amendment would achieve the purpose of the Comprehensive Plan. Mr. Waldon stated that most of the changed conditions in the area recently represented development in accord with the 1981 zoning. He said construction of two office developments within the R-5 district could indicate a changed condition, but that the staff did not feel they necessarily represented changed conditions that justified the proposed rezoning. He pointed out that Couch Lane was essentially a local street not designed to accommodate the higher traffic loads generally generated by many office and institutional uses.

Mr. Gordon Fisher, representing the applicant, the JNS Group, pointed out that the site was smaller in square footage than the adjacent office development buildings. He said the applicant wanted to use the present building for office rather than residential use. Mr. Fisher said the overshadowing of the high density residential use on two sides and the office construction adjacent to the property had resulted in a deterioration of the desirability of the site for residential use. He said the justification for the rezoning was to get the property more in line with what was currently there. Mr. Fisher concluded by saying the property could serve as a buffer between the high rise apartments and the office buildings.

Mr. Julian Raney, representing the Planning Board, said the Board had voted unanimously to recommend approval of the request for rezoning. He said the vote was based on the changed and changing conditions in the area.

Council Member Andresen asked Mr. Raney if the Planning Board had considered how the property could be used if the house on the site were torn down? Mr. Raney replied that the Board had considered the rezoning request for all uses in an OI-1 zone and not for specific use.

Manager Taylor said his preliminary recommendation was to deny the application for the reasons outlined in the memorandum.

Council Member Andresen asked for clarification of the types of businesses which would be allowed on the site if rezoned, and what differences existed between the current R-5 zoning and the proposed OI-1 zoning with regard to floor area ratios and height limits? Roger Waldon replied that any type of office could be built on the site ranging from day-care centers to churches, to clinics to typical offices. He also said the primary height limit in R-5 was 39', whereas in OI-1 it was 29', and the floor area would also be less in OI-1 than in R-5.

Council Member Pasquini asked the staff to provide additional information on how much area would be paved with the proposal and what amount if any would be cut and fill, and what kind of screening would be along Old Durham Road to limit visibility of the repair bays.

Council Member Preston asked if there were any sidewalks on Old Durham Road at present and what was the ultimate plan for road width for Old Durham Road. Manager Taylor replied that there were no sidewalks and that the road was to be 41' wide with curb and gutter.

Council Member Preston commented that if there were to be a sidewalk it should probably be on the residential side of Old Durham Road.

Council Member Andresen asked if there were any way to require the applicant to put in a sidewalk and still be able to keep the photinia hedge. Roger Waldon replied that he did not believe both could occur based on present conditions.

Council Member Andresen asked what kind of trees would be planted in the buffer along US 15-501. Mr. Waldon replied willow oaks and red maples.

Council Member Werner asked if the Entranceways Task Force had seen the proposal since the site was in an area designated as an entranceway. Mr. Waldon replied that he did not think the Task Force had reviewed the project.

Council Member Preston suggested the staff provide copies of the sketches of the Entranceways Task Force's proposed changes to the Old Durham Road/15-501 intersection.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER GODS-CHALK TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (8-0).

#### Mill Race

Citizens wishing to speak to the 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, April 21, 1986, "Mill Race" - Application for Modification of Planned Development-Housing Special Use Permit (PD-81-A-2)
- Applicant's Special Use Permit
- Applicant's Statement of Justification

Roger Waldon, Planning Director, gave a brief presentation on the application stating the applicant desired to modify its Special Use Permit to change the stipulated starting time limit for July 8, 1986 to July 8, 1987. He said the request was based on the length of time between the Council's granting of the Special Use Permit (SUP) and the Board of Adjustment's granting of a variance for the Resource Conservation District. Mr. Waldon said that under normal circumstances an applicant has 12 months after approval of the SUP to make final financing arrangements, prepare final plans, await Town and utility approval of final plans, and make final arrangements for actual construction. He said the staff felt the 12 month period allowed for start of construction was enough time to accommodate delays. Mr. Waldon stated the four month delay between approval of the SUP and the granting of the variance still left an 8-month period for the applicant to prepare final plans and have them reviewed.

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Grainger Barrett, an attorney representing the applicant, stated that the applicant desired the modification in the SUP to allow the applicant enough time to make final plans and to have them reviewed. He said the delay of four months between approval of the SUP and granting of the variance was justification for the granting of the modification. He said the Planning Staff in their memorandum to the Planning Board for their April 1 meeting recommended approval of the application for extension of the starting time. He introduced this memorandum into the record. Mr. Barrett said the applicant would accept an extension of the start of construction until one year from receipt of the variance from the Board of Adjustment.

Council Member Godschalk asked for clarification of whether or not Mr. Barrett meant the applicant would accept what amounted to a six month extension (until December 1986, one year from receipt of the variance) in place of the 12 month extension. Mr. Barrett replied yes.

Council Member Preston asked what kind of plans needed to be completed prior to the start of construction. Mr. Barrett replied that plans still needed to be reviewed by OWASA, Duke Power, and Town staff.

Council Member Smith said if the applicant knew they were running behind due to the Resource Conservation District variance then he should have encouraged his engineers to get started and work harder. Council Member Smith asked the Manager if there had been other requests for extensions due to delays in receiving variances from the Board of Adjustment. Manager Taylor replied no, but that there was a list of projects whose one year term was due to expire soon.

Mr. Barrett commented that the Council had adopted the rule against extension of starting times for construction to prevent speculation. He said the applicant planned to develop the site and were not viewing it for speculative purposes.

Julian Raney, representing the Planning Board, said the Board voted unanimously to approve the resolution to extend the time limit.

Council Member Smith asked if the four month delay in the granting of the variance was due to the inability of the Board of Adjustment to make a decision. Mr. Barrett replied that the delay was due to a backlog of cases before the Board of Adjustment and not a problem in making a decision.

Manager Taylor said his preliminary recommendation was for the Council to deny the request.

Council Member Andresen said the Town's old policy was that there were fixed time limits and there would be no extensions. She said with the Planning Board's recommendation to approve the application the Town needed to review its policy and come to a consensus.

Council Member Werner asked if there were any extenuating circumstances and if the Town could expect other requests. Manager Taylor replied that the reason for the year's time limit was to allow time for all the stipulations to be met with leeway for delays. He said the prior policy was to allow for management flexibility to grant extensions but that the Council had changed this to have the Council review and decide if extensions should be granted.

Council Member Godschalk stated that there still needed to be some form of flexibility in the process.

Council Member Howes agreed with Council Member Godschalk and spoke in favor of returning this authority to the Manager's office.

Mayor Pro-tem Thorpe said he agreed there needed to be flexibility but that he felt the authority should remain with the Council.

Council Member Godschalk commented that the application amounted to spot zoning and the Council needed to be extremely careful of how it dealt with this issue. He said the Council had called a public hearing to discuss a proposed change in the Development Ordinance which would allow for the use of Special Use Permits in these types of cases rather than to rezone the property. He felt this was a better approach to the problem.

Council Member Preston agreed with Council Member Godschalk and asked when the public hearing was scheduled. Manager Taylor replied that the hearing was set for June.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER HOWES TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (8-0).

Performance Chevrolet - Modification of Harriss-Conners Chevrolet Unified Business Development Special Use Permit

Citizens wishing to speak to the 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 #2, April 21, 1986, "Performance Chevrolet" - Modification of Harriss-Conners Chevrolet Unified Business Development Special Use Permit
- Applicant's Project Fact Sheet
- Applicant's Statement of Justification

Roger Waldon, Planning Director, gave a presentation on the application for modification. He said the site was located on the south side of US 15-501 between Blue Cross/Blue Shield and NCNB buildings. Mr. Waldon stated that the modification was for modernization and expansion of the current site. He said there was an error in the memorandum on page one. There should be no statement indicating the applicant proposed to expand the body shop. Mr. Waldon said the staff recommended the applicant make improvements to Old Durham Road and the service road in front of the property as a part of the application. He also commented that the buffers would have to be improved with additional plantings along the service road. He said the stipulation requiring these plantings (#4 in the Planning Board's recommendation and #6 in the Manager's recommendation) should read that trees proposed to be planted along 15-501 be at least 3 inches in caliper at the time of planting. Mr. Waldon said the applicant also proposed an additional access off of Old Durham Road and that the staff recommended making this access an entrance only access.

Council Member Smith stated that the new plantings along the service road should not be situated so as to hinder the site distance for those vehicles exiting the site. He also said the traffic out of the repair bays which would exit onto Old Durham Road should be justification for having the applicant pay for improvements to Old Durham Road.

Dave Hansing, speaking as one of the owners of Performance Chevrolet, spoke in support of the application saying the proposed modifications would attempt to bring the site more into conformity with current Town standards as well as attempt to modernize the facility.

Gary Giles, speaking as the architect for the applicant, stated the owners wanted a more pleasing, contemporary facade for their facility and a means of more efficiently handling their clientele. He said the proposal would reduce some of the nonconformities presently on the site. Mr. Giles said the improvements would be a new showroom and storage area, changes in the signage, improved circulation, and improved landscaping and shading. He said the applicant concurred with the Manager's recommendation except for stipulations #2 and #4 which dealt with the improve-

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ments to the service road and Old Durham Road. He felt the number of trips on these two roads were too small to require the recommended off-site improvements. He also said if the road and sidewalk improvements were required along Old Durham Road then the present buffer of photinia would have to be removed.

Council Member Werner asked if the staff were recommending improvements to the service road and if those improvements included a sidewalk? He said a sidewalk was especially needed for the people who work in Eastowne and at Blue Cross/Blue Shield. Roger Waldon replied that the staff was recommending improvements to the service road but that a sidewalk was not among the proposed improvements.

Council Member Smith asked the applicant to further explain the character of design of the proposed new sales office. Mr. Giles replied that the proposed sales office would blend in with the current building by having the same facade and the use of a serpentine wall to visually connect the office with the other building.

Council Member Smith asked what percentage of Performance Chevrolet's customers were from Chapel Hill. He asked this because of the potential access problems to the site with the pending redesigning of the intersection of Old Durham Road and 15-501. Mr. Hansing replied that approximately 70% of the service business and 30% of the sales business was from Chapel Hill.

Julian Raney, representing the Planning Board, stated the Board had voted 6-1 to recommend approval with stipulations of the application. He said the Board did not recommend improvements to the service road, and had expressed concern about the potential for cut-through traffic with the proposed new access off of Old Durham Road. Mr. Raney said the Board addressed this potential problem by suggesting this new access be an entrance only.

Roger Waldon, speaking for the Community Appearance Commission, said the Commission recommended approval of the application. He said the Commission expressed concern about the photinia hedge and recommended deleting the stipulation requiring the construction of a sidewalk on Old Durham Road.

Manager Taylor said his preliminary recommendation was for the Council to adopt resolution A approving the application with stipulations.

Ann Fleming, speaking as a resident of University Heights, introduced a memorandum into the record expressing concern about the proposed new access onto Old Durham Road. She said she was concerned that this access along with the proposed changes to the Old Durham Road/15-501 intersection would increase the potential for cut-through traffic through her neighborhood by individuals trying to avoid congestion at the Old Durham Road/15-501 intersection.

Council Member Werner asked if Ms. Fleming would prefer the proposed new access to Old Durham Road to be entrance only, exit only, or both. Ms. Fleming said in the long term she would not like to see another access onto Old Durham Road at all. She said she was in favor of reducing the traffic on Old Durham Road.

Council Member Howes suggested that the applicant would not want cut-through traffic and could reduce its occurrence through the use of speed bumps and chaining the entrance during the hours the business were closed. He asked Ms. Fleming how she felt about the proposed modernization of the facility. Ms. Fleming replied that she was in favor of the modernization but that this alone did not justify the potential for increased traffic on Old Durham Road with the proposed new access.

Margot Wilkinson, speaking as a resident of University Heights, also spoke against the proposed new access to Old Durham Road because of its potential for increased cut-through traffic.

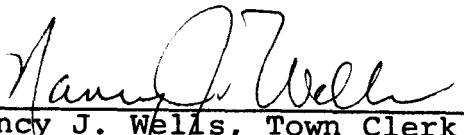
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COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER GODS-  
CHALK TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED  
UNANIMOUSLY, (8-0).

A MOTION WAS DULY MADE AND SECONDED TO ADJOURN THE MEETING. THE  
MOTION PASSED UNANIMOUSLY, (8-0).

The meeting adjourned at 9:28 p.m.

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Mayor James C. Wallace

  
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Nancy J. Wells, Town Clerk