

MINUTES OF A PUBLIC HEARING HELD BY THE MAYOR AND COUNCIL
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,
MONDAY, SEPTEMBER 21, 1987, 7:30 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 Manager Sonna Loewenthal and Town Attorney Ralph Karpinos.

Public Hearing on Investors Title Company Application for Special Use Permit

Citizens wishing to speak to this item were sworn in by the Town Clerk.

Manager Taylor requested that Agenda item #1, "Investors Title Company - Application for Special Use Permit (SUP-80-G-17)", dated September 21, 1987 be entered into the record of the meeting along with the following:

- Applicant's Statement of Justification
- Applicant's Project Fact Sheet
- Traffic Impact Analysis

Roger Waldon, Planning Director, gave a presentation on the application for a Special Use Permit. He said the application was for a new five story building for office and commercial use with 69,700 square feet of floor area on East Rosemary Street. Mr. Waldon stated that parking was proposed on two levels below the building and to the north of the building. He said the 5-story building would replace the existing structures at 135 and 137 Rosemary Street and would be the home office for Investors Title Company. Mr. Waldon said the staff felt the proposal met the requirements of the ordinance with regard to land use intensity ratios, setbacks, height, and buffers. He stated the proposal was consistent with the Comprehensive Plan. Mr. Waldon pointed out that a buffer was not required along three sides of the building but that a Class C buffer was required along the rear of the building where it abutted residential uses. He said refuse collection would be handled privately, and that the traffic impacts were expected to be minimal. Mr. Waldon commented that the Planning Board recommended approval of the

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project with the inclusion of a stipulation that the applicant pay 15% of the cost of signal improvements at the intersection of Rosemary and Columbia Streets. He said the Transportation Board had recommended approval of the project with the addition of a stipulation that the applicant pay the full cost of the signal improvements and that the applicant participate in a ridesharing survey. He stated that the staff believed the cost of the signalization improvements to be approximately \$10,000 and therefore the Transportation Board's recommendations were incorporated into the staff recommendation of approval.

Council Member Preston commented that the parking garage plans were not included in the Council's packet. She asked if there were any problems with those plans. Mr. Waldon replied that the staff had felt the parking garage plans were sufficient.

Council Member Andresen asked for clarification of where buffers were required for this proposal and how wide were they to be. Mr. Waldon replied that a type C buffer was required along the north (or rear) side of the building. He said the buffer was twenty feet wide. Ms. Andresen asked what structures were north of the proposal. Mr. Waldon responded that there was a sorority located north of the proposal. Ms. Andresen commented that she was pleased to see the top two floors of the proposal set back and built into the roof line. She said she liked the way the facade would look along Rosemary Street but she was concerned about the height of the building from the property along North Street. Mr. Waldon replied that the staff did not feel it would be intrusive with the buffers along that edge of the property.

Council Member Smith asked about the current square footage in the present building. Mr. Waldon replied that he was not sure.

Council Member Smith asked about the traffic count on Rosemary Street. He asked where were the numbers used to decide that the project would only have a minimal traffic impact. Mr. Waldon replied that he would provide the Council with the raw data, but that the traffic analysts had used the level of service during peak hours to estimate traffic impact, and that this information had indicated a minimal effect on the traffic flow on Rosemary Street.

Council Member Preston asked how the decision on the number of regular parking spaces versus compact parking spaces had been made. Mr. Waldon replied that the applicant had provided the figures but that the staff had concurred with the division of parking spaces.

Council Member Pasquini asked that a site description of the adjoining properties be included when this item was brought back to the Council for consideration. Mr. Waldon stated that east of the proposal was Home Savings and Loan; west was NCNB parking deck; south was Rosemary Street and NCNB Plaza; and north was a sorority and single family homes.

Council Member Pasquini asked for information on the anticipated number of vehicles entering and exiting the site. He also asked if there would be a traffic signal at the entrance to the site and if the staff had considered this. He said he felt the traffic from this proposal could create a bottleneck on Rosemary Street during peak hours.

Council Member Andresen asked if the entrance to the site was directly across from the entrance to the Rosemary Square project. Mr. Waldon replied that the two entrances were offset from each other.

Josh Gurlitz, an architect representing the applicant, said the proposal was to expand the offices of Investors Title Company and have additional commercial uses. He introduced Phil Post, engineer for the proposal, to describe the way the utilities would be handled in relation to the parking deck.

Phil Post, engineer for the proposal, stated that the applicant proposed building a utility corridor (reinforced concrete tunnel) underneath the building to house the storm drainage and sanitary sewer line. He said this corridor would enable access to the lines for maintenance and repair and would allow for the building of the parking decks.

Council Member Preston asked if there would be any problem with connecting these lines in the utility corridor with those outside the corridor. Mr. Post said he did not believe there would be any problems.

Mr. Post said the utility corridor plans had received preliminary approval from the Town staff and OWASA. He also said that the applicant proposed to have a large trash compactor contained within a room next to the entry driveway where trash would be stored, compacted, and then placed in a small dumpster where it would be retrieved by a private sanitation company for final disposal. He said the entire operation would be screened and enclosed from view.

Council Member Werner asked if the applicant had considered the possibilities of recycling paper prior to compaction. Mr. Post replied no.

Mr. Gurlitz continued his presentation by stating that the applicant's traffic impact analysis had been done by Barton-Aschman Associates. He introduced this study into the record of the meeting. Mr. Gurlitz described the design of the proposed building saying that it was compact in shape, situated on the southern portion of the site, and that the building envelope allowed for two additional floors within the roof line. He said the building would have several uses with commercial on the ground floor, a restaurant on the top floor, and office space on the three intermediate floors. Mr. Gurlitz stated that there would be landscaping on the terraces and the entry courtyard, as

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Council Member Andresen asked how wide was the courtyard. Mr. Gurlitz replied that it there was 40' from the sidewalk to the front doors and 28' from the sidewalk to the front colonade. Council Member Andresen asked how far was the building set back before it went up the two additional stories. Mr. Gurlitz replied nine feet.

Council Member Werner asked what percentage of the parking would be for public use versus private use. Mr. Gurlitz responded that there would not be any public parking per se, but that all the parking would be assigned. He said each "use" would have a specified number of parking spaces and a specific area assigned for parking. He stated that visitors to the building would have to indicate where they were going in order to be able to park.

Council Member Thorpe asked how much of the parking would be underground. Mr. Gurlitz responded that none of the parking would actually be underground, rather one parking level would be underneath the building. He said by using the slope of the lot they would not have to excavate the lot to build the parking decks.

Eda Bigner, representing the landscape architect, said they planned to widen the sidewalk in three areas to allow for the placement and growth of trees. She said the plantings were designed to lead into the interior of the building where the atrium would continue the greenspace. She said there would be planting along the terraces and on the upper parking deck in the rear of the building.

Council Member Howes asked if any of the trees shown on the model of the proposal existed. Ms. Bigner replied yes, that there was a large pecan and two maples. She said the applicant hoped to be able to use these trees and that they would be removed and replanted after construction was complete.

Council Member Preston asked if the applicant had made any provisions to try to preserve anything of historical significance in the current building. Mr. Gurlitz said the applicant had agreed to try to save anything of significance for the preservation society. He said the applicant had considered moving the house to another site but that a survey of the structure indicated that the foundation would not allow for a move and therefore the building would have to be demolished.

Council Member Smith asked for clarification of the 5% of additional traffic along North St. to Henderson Street. Mr. Waldon replied that the applicant's traffic analysis had indicated that currently 17% of the traffic going to the site

went along Airport Road through the Columbia/Rosemary intersection. He said the Town staff disagreed with this statistic and reduced the percentage to 12% assuming the other 5% would use North Street and Henderson Street to access the site.

Council Member Smith expressed concern that with assigned parking there would not be enough spaces available for those using the restaurant. He asked what was the anticipated seating capacity of the restaurant. Mr. Gurlitz replied around 120.

Council Member Smith asked if there were enough park/ride lots available for patrons of this proposal, since the applicant's traffic analysis had indicated a number of patrons would either bicycle or use public transportation. Manager Taylor replied that there were park/ride lots but that there were not enough for everybody to use them.

Council Member Andresen asked that a copy of the applicant's traffic analysis be made available to the Council.

Alan Rimer, representing the Planning Board, said the Board had voted 8-0 in favor of approval of the application. He said the Board was concerned about improvements to the traffic signal at Columbia/Rosemary and had recommended the applicant pay 15% of the costs for the improvements.

Manager Taylor said the Transportation Board recommended approval of the application with the additional stipulations of the applicant participating in a ride-share survey and that the applicant pay for the signalization improvements at Rosemary and Columbia Street intersection.

Manager Taylor said his preliminary recommendation was for adoption of resolution B, approving the project with conditions.

James Webb, speaking as a citizen, spoke in support of the proposal.

Joe Herzenberg, speaking as a citizen, spoke in support of the proposal. He commented that he was concerned with the traffic situation on Rosemary Street and in that entire neighborhood. He said it not so much a problem with quantity of cars, but the quality of the driving. He said there was too much speeding and littering in the area.

Council Member Andresen expressed concern about the traffic along the Rosemary Street corridor. She said the Town should consider ways of improving the situation, especially with regard to the North Street and Henderson Street intersections.

Mr. Herzenberg also commented that the alley behind the businesses and the sorority along Rosemary and Henderson Street was used excessively during the summer time and was a common place for speeding and littering.

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Council Member Preston asked for clarification of what kind of improvements would be made to the signal at the intersection of Rosemary and Columbia streets. Mr. Waldon responded that recently a protected left turn signal had been added to the intersection for individuals turning north onto Columbia from west Rosemary Street. He said the additional improvements would be to have a protective left turn from each direction at the intersection.

Council Member Pasquini asked that the following information be provided when the item was brought back for consideration: 1) where was the required open space of 10,700 square feet; 2) site views and elevations of the site from North Street; 3) information on whether or not left turns would be allowed from the site and if so, then there should be some kind of structure to prohibit left turns. He said he was also concerned with the mass of the proposal. Mr. Pasquini commented that the maximum allowable floor area was 70,500 square feet and that the proposal was 69,700 square feet.

Council Member Thorpe asked that an exact cost estimate of the signalization improvements be available. He also commented that the loading zone across from the site, as well as on Columbia Street, tended to be occupied all day long. He said there should be more strict enforcement of the time limits for the loading zones. Mr. Thorpe also stated that the private garbage collection should be scheduled so as not to interfere with peak hour traffic.

Council Member Andresen commented that she was also concerned with the mass of the proposal but felt the architect had done a good job.

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

Public Hearing on Minimum Lot Size for Septic Tanks - Development Ordinance Text Amendment

Roger Waldon, Planning Director, said the proposal was to amend the Development Ordinance to create a minimum lot size for dwellings served by individual subsurface sewage disposal systems like septic tanks. He said the proposal was in response to what the staff believed to be a "regulatory gap" in the Town's Development Ordinance. He said the staff believed development in an urban setting should be supported by public water and sewer and that development of septic tanks in the Town's Urban Services Area should be strongly discouraged. Mr. Waldon stated that if septic tanks are used, large lots would help protect the public health and safety, and would possibly allow room for a second nitrification field as a back-up if the first one should fail. He said the proposal would apply to the creation of new lots.

He commented that with existing vacant lots that do not meet the new minimum lot size, development of single-family houses with septic tanks would still be permitted under the provisions of the Town's "non-conforming lot" regulations as long as public sewer was not available and the County Health Department granted a permit.

Council Member Godschalk commented that he was amazed that there were considerations of having septic tanks on new lots within the Town limits. He spoke in support of the proposal and also stated that he would like to see the proposal address some of the concerns mentioned in a letter to the Council from OWASA relating to septic tanks. He said these included requiring lots to be connected to public sewer when a line was placed at reasonable distance from the lot and public sewer easements should be located on lots with septic tanks and dedicated to OWASA. Mr. Godschalk also stated that he felt the proposal should include a statement that septic tanks were to be discouraged and that there should be room for an alternate drainage field on the site in case of failure of the primary field.

Mayor Wallace agreed with Mr. Godschalk's comments and added that there should be a time limit in which to become connected for those houses which have access to public sewer lines.

Alan Rimer, representing the Planning Board, said the Board had had concerns about the nonconformities which could be created with this proposal, but that the staff had assured the Board that the proposal would not preclude the repair of septic tanks currently on lots, nor the use of septic tanks if no other land were available. He said the Board also suggested using soil tests to determine the suitability of the land for septic systems.

Manager Taylor stated that OWASA had hand delivered a memorandum on the subject to the Council that afternoon and he asked that it be included in the record of this meeting.

Manager Taylor recommended that the Council adopt an ordinance amending the Development Ordinance to require a two-acre minimum lot size for septic systems.

Jim Lilley, speaking as a citizen, commented that he had applied to the Town to subdivide 2.5 acre tract into three lots with the use of septic tanks and that the staff had denied the subdivision application. He said he had appealed the decision to the Board of Adjustment who overruled the staff decision and granted the subdivision application.

Tom Heffner, speaking as a citizen, commented that the proposal would apply to the Chapel Hill planning jurisdiction and not just within the Town limits. He said there were many subdivisions in those areas which contained one-acre lots with septic tanks. He said he had had conversations with various realtors and builders

all of whom were under the impression that there was a one-acre minimum lot size for septic tanks. He said he understood that inside the Town limits the regulations needed to be stricter, but that outside the Town limits a one-acre minimum was sufficient.

Manager Taylor commented that if the proposal was adopted it would apply to all property within the Urban Services Area, not just planning jurisdiction.

Mayor Wallace commented that there was a committee studying ground water and that they were working on a uniform approach for percolation tests throughout the state.

Jeanette Gay Eddy, speaking as a citizen and as chair of the Board of Adjustment, said she was pleased to see the staff review this matter. She said if the proposal was adopted the ordinance would still say that properties should be served by public water and sewer whenever reasonably practical. Ms. Eddy commented that the proposal would just allow for stricter stipulations for septic tanks. She said that if the Town wanted to halt septic tank development, the proposal did not do enough.

Council Member Godschalk asked what the Board of Adjustment would consider "reasonably practical" for the extension of water and sewer. Ms. Eddy said that it would depend on each individual case, but that with Mr. Lilly, there had been no indication that OWASA would be extending the lines to that area any time soon, and that for Mr. Lilly to extend the lines it would cost approximately \$250,000. She said the Board had felt this was an excessive cost. Council Member Godschalk commented however, that the individual could have had use of the property with a septic tank without subdividing.

Robert Joesting, speaking as a citizen, said that he was also pleased to see the staff addressing this matter. He spoke in support of the proposal.

Bob Neal, speaking as a citizen, said he had been under the impression that the minimum lot size for a septic tank usage. He said he felt 2-acres was extreme, and would only make the cost of homes in Chapel Hill more astronomical.

Council Member Smith agreed with Mr. Neal saying he felt a 2-acre minimum lot size would be defeating the goal of affordable housing. He said if the Health Department said the land was acceptable for a septic tank then the Town should agree and not require more land in case of failure of the drainage field.

Council Member Godschalk said the proposal did not prohibit lots of less than 2-acres from having septic tanks but rather encouraged the use of public water and sewer. He said he did not think it unreasonable for the Town to expect that within 10 years all the developed property within the Urban Services Area be connected to public water and sewer.

Council Member Smith argued that if the Town expected all the developed properties within the Urban Services Area to be on public water and sewer within the next 10 years then he did not think the proposal needed to be so restrictive.

Council Member Howes asked for information on whether or not the current policy required houses with private septic systems to hook onto public sewer if the private system failed. He also asked for information on the extent of the areas within the Urban Services Area which would be difficult or impossible to serve with public sewer.

Council Member Werner asked for a map of the areas currently served by public sewer and the areas which would be affected by the proposal. He also asked for OWASA's timetable for sewer extensions. Mr. Werner said that the proposal was a serious matter and that he felt it needed a more thorough review and did not need to be rushed through the process.

Council Member Thorpe asked how the proposal would affect Mr. Lilly's project. Manager Taylor replied that if Mr. Lilly had received final subdivision approval he could proceed with his project. Attorney Karpinos responded that if Mr. Lilly received final subdivision approval then he would have three lots. Mr. Karpinos stated that the principle of nonconformity in the Ordinance said that if a nonconforming lot adjoined another lot which was in the same ownership, then a recombination of the lots was required. He said, in other words, once final approval of the lots was granted and the proposal were adopted, Mr. Lilly would have to take some steps to transfer ownership so that he would not have three adjoining lots and therefore have to recombine them. Council Member Thorpe said he felt this was one of the reasons why this matter was before the Council at this time, and he did not think this was right.

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

Public Hearing on Zoning Ephesus Baptist Church

Manager Taylor stated that this was a public hearing to receive citizen comments on the zoning of the recently annexed Ephesus Baptist Church property in Durham County. He said he recommended zoning the property Residential-2.

Alan Rimer, representing the Planning Board, said the Board concurred with the Manager's recommendation.

There were no citizen comments.

Council Member Pasquini asked if a church were a permitted use in the R-1 zone, and if so why the Manager had not recommended this zoning designation. Manager Taylor replied that a church was a permitted use in all residential zones, but that he was recommending R-2 for the property because it was surrounded by R-2 zoning.

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

Public Hearing on Zoning Chandler's Green Phase I

Manager Taylor said this was a public hearing to receive public comment on the zoning of the recently annexed Phase I of Chandler's Green subdivision. He said he recommended zoning the property Residential-1.

Alan Rimer, representing the Planning Board, said the Board concurred with the Manager's recommendation.

There were no citizen comments.

Council Member Smith asked if the lot sizes conformed to a R-1 zoning. Manager Taylor replied yes.

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

A MOTION WAS DULY MADE AND SECONDED TO ADJOURN THE MEETING. THE MOTION PASSED UNANIMOUSLY, (9-0).

The meeting adjourned at 9:50 p.m.