

MINUTES OF A PUBLIC HEARING HELD BY THE MAYOR AND COUNCIL
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,
WEDNESDAY, JANUARY 20, 1988, 7:30 P.M.

Mayor Jonathan B. Howes called the meeting to order. Council Members present were:

- Julie Andresen
- Joe Herzenberg
- David Pasquini
- Nancy Preston
- Arthur Werner
- Roosevelt Wilkerson, Jr.

Council Member Godschalk arrived late. Council Member Wallace was 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 Special Use Zoning Application Request

Roger Waldon, Planning Director, said the proposal was to rezone 1.26 acres from R-4 to NC-S. He said the site was located on the east side of Airport Road opposite Critz Drive. He stated that the reasons for justification for a rezoning were 1) to correct a manifest error in the zoning atlas; 2) due to changed or changing conditions; or 3) to achieve the purposes of the comprehensive plan. Mr. Waldon said that the Land Use Plan designated this area for medium density residential but that the goals and objectives of the Comprehensive Plan encourage small-scale commercial and business employers in low-intensity developments and encourage commercial development centers serving community-wide markets served by thoroughfares, etc. He said that the proposal would address these objectives. Mr. Waldon also stated that since a special use zoning district required a Special Use Permit for any use, the Council would have a great deal of flexibility in evaluating and approving any specific use for the site.

Robert Baucom, speaking as the applicant, stated that there currently existed Neighborhood/Commercial development in the area. He stated that the Special Use Permit which would be required of any development on the site would give the Council flexibility on what could be placed on the site. He said he did not feel the rezoning would have a negative impact on the community. Mr. Baucom said he had neighborhood support for his proposal and asked for those in attendance to stand.

Council Member Preston asked Mr. Baucom if he would still live on the site. Mr. Baucom replied yes.

Alan Rimer, representing the Planning Board, said the Board, in general, did not have a problem with the rezoning request. He said the Board felt it was consistent with the need for additional commercial areas in the Town.

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Manager Taylor recommended approval of the rezoning request.

Eleanor Carter, speaking as a resident, spoke in support of the rezoning.

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

Public Hearing on Growin' Green - 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 #2, "Growin' Green - Application for Special Use Permit (29-2)", dated January 20, 1988 be entered into the record of this meeting along with the following:

- Applicant's Statement of Justification
- Applicant's Project Fact Sheet

Roger Waldon, Planning Director, said the application was for a Special Use Permit to operate a landscape nursery business on a site proposed to be zoned Neighborhood Commercial-S. He said that this application was contingent upon the rezoning of the site to a special use zoning district. Mr. Waldon stated that the use and proposed activity of the request would meet several of the goals and objectives related to land use, environment, form of development, economy and employment, and provide an effective buffer between existing residential areas and Airport Road. He said the traffic impact was projected to be minimal. Mr. Waldon stated that the primary issue, other than the special use zoning district, was the manner in which the applicant proposed to meet the buffer requirements. He said the applicant had worked out an agreement with an adjoining property owner to provide an off-site buffer along the site's southern boundary. He said the staff have stipulated that this agreement must be clear and recorded prior to issuance of a Zoning Compliance Permit. He stated that the applicant also proposed the use of an alternate buffer of permanent and temporary plantings to be used as a staging area and a six foot high wooden fence around three sides of the site. He said the alternate buffer would have to be approved by the Appearance Commission.

Council Member Preston asked if the staging area of temporary plantings would be necessary to meet the buffer requirements or in addition to the buffer requirements. Mr. Waldon responded that he believed the temporary plantings to be necessary to meet the buffer requirements.

Council Member Godschalk said that to monitor the temporary portion of the buffer would require a lot of work on the staff.

Mr. Waldon agreed that it would take more periodic checking by Town staff. He said the Council could require that the buffer be complete with permanent plantings.

Council Member Andresen asked how the fence would look from Airport Road and if it would screen the appearance of the site. Mr. Waldon replied that the fence was proposed for three sides of the site and not along Airport Road.

Robert Baucom, speaking as the applicant, said that his proposal would not increase the commercial use in the area as he already operated a nursery in the area. He said that he did not propose to use a dumpster since most of the refuse would be recyclable but that the site plan would include an area for locating a dumpster if necessary in the future. He said the alternate buffer proposed would be a display area rather than staging area and that the majority of the buffer would be large permanent plantings. He said what he proposed with the display area would be a thicker buffer than was required. Mr. Baucom said the fence around the site was for security reasons. He also stated that he had an agreement with Ashley Forest with regard to the buffer between the two sites to add to the buffer on the Ashley Forest property.

Council Member Werner said that he felt it was a good idea for the additional plantings in the buffer. He asked if the permanent plantings in the buffer would meet the buffer requirement. Mr. Baucom responded that the trees would be permanent and would meet the majority of the buffer requirement.

Council Member Werner asked if there were any problems with the proposed "floating" buffer. Attorney Karpinos responded that the applicant had the choice of applying for an alternate buffer that had to be approved by the Community Appearance Commission. He said that the Appearance Commission's approval was necessary to ensure that the alternate buffer met all the necessary requirements.

Council Member Pasquini stated that he would prefer a permanent buffer and then another area for display or staging. He asked if the fence would be outside or inside the buffer. Mr. Baucom replied that the proposal was for the fence to be outside the buffer since it was only for security reasons.

Council Member Pasquini asked if the fence should be within the buffer if the Town were to require the buffer plantings. Attorney Karpinos said that he would research this question.

Mr. Baucom said that he would prefer to keep the buffer rather than the fence if there were a question about the use of the fence.

Council Member Pasquini asked if the Manager was satisfied with the applicant's proposal for garbage collection. Manager Taylor replied that it was the applicant's option to provide for Town pick-up of commercial refuse or for the applicant to deliver his refuse to the landfill. He said the staff was satisfied on this issue that the applicant had chosen to deliver the commercial refuse to the landfill.

Council Member Pasquini expressed concern with the shared buffer and the easement. He asked the Town Attorney to give the Council an opinion on whether such use was clearly allowed in the Development Ordinance. He also asked if the Women's Center lawsuit and the outcome if it should show some fault in the Council's procedures, would have an affect on the Council's action with regard to this proposal. Attorney Karpinos responded that there were questions in the Women's Center lawsuit and *Chrismon v. Guilford County* case which might have an impact on the legality of the Council's actions on this request.

Council Member Preston asked if the proposed greenhouses would be the same design as the current ones. Mr. Baucom responded that they would be the same type. He also pointed out that he had worked on several developments within the Town where shared buffers were a common occurrence.

Alan Rimer, representing the Planning Board, said the Board recommended approval of the application. He said there were precedents within the Town for approving buffers for developments on other properties with agreements between those involved. He said the Board had felt the permanent trees in the buffer and the other plants would provide a buffer that more than met the requirements.

Cassandra Sloop, representing the Appearance Commission, said the Commission did not make a recommendation on the project. She said the Commission did recommend against the proposal to incorporate a temporary staging area into the required buffer. Ms. Sloop said the Commission also expressed concern about the potential for the trash collection area to become a nuisance to surrounding properties; the impact of the security lighting on the surrounding properties; and the visual impact of the fence. (For copy of text, see Clerk's files.)

Mary Alexander, speaking as a resident, spoke in support of the rezoning.

Jane Brown, speaking as a resident, spoke in support of the rezoning.

Manager Taylor said he recommended approval of Resolution A.

Council Member Pasquini asked surrounding property owners were notified. Manager Taylor replied yes.

Council Member Godschalk spoke in support of the proposal saying it was a desirable approach to low-intensity commercial use. He pointed out that there would be improvements to the site and that the applicant would continue to live on-site.

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

Public Hearing on N. C. Medical Associates Building - 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 #3, "N.C. Medical Associates Building - Application for Special Use Permit", dated January 20, 1988 be entered into the record of this hearing, along with the Applicant's:

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

Council Member Preston said that she would have a direct interest in this project and therefore would abstain from the discussion and vote on this project.

Roger Waldon, Planning Director, said the application was for a new building, containing 28,581 square feet of floor area on Lots 2 and 3 of the Eastowne Office Park. He said the proposal was consistent with the overall plans for Eastowne Office Park and was designed and proposed to be operated so as to maintain or promote the public health, safety and general welfare. He said the development also complied with the required regulations within the Development Ordinance. Mr. Waldon said the Resource Conservation District existed at the western property line and that the applicant did not propose any development within the RCD. He said the applicant proposed a "B" type buffer on the north, east and south sides of the property and a "B" type buffer easement along the western property line. He stated that the applicant was in the process of acquiring the buffer easement from the adjoining property owner. Mr. Waldon said approval of the application would include a stipulation that the agreement be recorded prior to issuance of the Zoning Compliance Permit.

Council Member Andresen asked for information on the building elevations. She said it appeared to be a large building with a lot of parking and little green space. Mr. Waldon replied that if the Special Use Permit were approved, the detailed building elevations would be reviewed by the Appearance Commission. He said the proposal included more parking than was required by the Development Ordinance but that the floor area ratio was less than what was permitted.

Bob Anderson, representing City Planning and Architectural Associates and representing the applicant, said that the proposal was for a muscular skeletal medical partnership. He said the proposal was consistent with the deed restrictions and zoning ordinances. He said the proposal adhered to all the development regulations and that the livability space and open space was more, almost 100% more, than that which was required under the Development Ordinance. Mr. Anderson described the site and the proposed building saying that the site sloped to the rear and that the building would be two levels with the main entrance on the second level in the front of the building and additional entrances on the first level in the rear of the building.

Council Member Werner asked why the applicant was proposing over 50% more parking than the ordinance stipulated. Mr. Anderson said the proposal included the number of parking spaces to meet the needs of the medical office use. He said that studies have shown that there were different parking needs for different uses and that what the ordinance required was not based on the use of the building. Mr. Anderson said the number of parking spaces proposed was consistent with medical uses.

Council Member Werner asked if the amount of parking areas proposed was the reason why the applicant proposed a buffer easement on the western property line. Mr. Anderson replied no, that the buffer easement was proposed because of the configuration of the OWASA easement through the site. He said the recommendation was that the applicant provide either the easement or the buffer. He said that without the buffer easement the buffer would be in the middle of the site due to the OWASA easement configuration. He stated that the applicant had contacted and received permission for the buffer easement.

Dr. Stephen A. Grubb, speaking as the applicant, said the proposal was to house the Chapel Hill branch of the Durham - Chapel Hill Orthopedic Center, Rehabilitation Center, Bone Diagnostic and Research, etc. He said the Spine Center was a multi-disciplinary center for tertiary referral of complex spinal problems from various states. He stated that the therapy center was a large portion of the facility and included a swimming pool.

Alan Rimer, representing the Planning Board, said the Board had voted in favor of the application. He said the Board had felt the buffer easement was a good idea and that the RCD made a natural buffer since it would not be built upon.

Cassandra Sloop, representing the Appearance Commission, said the Commission recommended approval of the project and expressed the opinion that the site lighting should compliment lighting already in use in the area and that where rip-rap was required, indigenous stone should be used.

Council Member Andresen asked if the Appearance Commission would look at the detailed landscaping. Ms. Sloop replied yes.

Manager Taylor said the staff recommended approval of resolution A.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER WERNER TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (7-0), WITH ONE ABSTENTION.

Public Hearing on Covington Place Subdivision Petition for Annexation

Roger Waldon, Planning Director, stated that the Town had received a petition for satellite annexation on October 27, 1987 for approximately 11.29 acres of undeveloped land located northwest of Erwin Road, close to the Sage Road intersection. He said the property was in the Chapel Hill Planning Jurisdiction and that the Council had approved a 39-lot subdivision for the site. He recommended that the Council receive citizen comments and refer to the staff.

Grey Moody and James Fountain, speaking as the petitioners, said they were available to answer any questions.

There were no citizen comments.

There were no comments from the Council.

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

COUNCIL MEMBER ANDRESEN MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG TO ADJOURN THE MEETING. THE MOTION PASSED UNANIMOUSLY, (8-0).

The meeting adjourned at 9:12 p.m.

