

MINUTES OF A PUBLIC HEARING HELD BY THE MAYOR AND COUNCIL OF THE TOWN OF CHAPEL HILL, MONDAY, MAY 15, 1989, 7:30 P.M.

Mayor Pro Tem Pasquini called the meeting to order. He announced that Mayor Howes and Council Members David Godschalk, Nancy Preston and James C. Wallace were absent excused from this evening's hearing.

Council Members present were:

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| Julie Andresen | Arthur Werner |
| Joe Herzenberg | Roosevelt Wilkerson, Jr. |

Also in attendance were Town Manager David R. Taylor, Assistant Town Manager Sonna Loewenthal, Town Attorney Ralph Karpinos and Planning Director Roger Waldon.

Public Hearing on request to rezone 30 acres east of 15-501 and south of Mt. Carmel Church Road from R-1 to Mixed Use R-1 (Bennett property)

Planning Director Roger Waldon showed a vicinity map to the Council. Mr. Waldon stated that the request involved rezoning of thirty acres out of a total parcel of thirty-eight acres.

Mr. Waldon noted that the Town has three criteria justifications for rezoning of property:

- (1) Correction of a manifest error
- (2) Changing conditions in an area
- (3) Achieving the purposes of the Comprehensive Plan

Mr. Waldon stated that none of the three criteria were met by this request.

Grainger Barrett, Attorney at Law, representing John Hoetger/Protean Group Ltd., said the requested rezoning would achieve several significant purposes of the Comprehensive Plan. Mr. Barrett said that the Mt. Carmel Road/15-501 area had a substantial population and volume of traffic. He stated that the application conformed with three key assumptions of the Comprehensive Plan: (1) compact form of land use and development, (2) growth at an orderly pace in the Urban Services District (not leapfrog development), and (3) the site would be on a major transportation corridor without creating an adverse traffic impact.

Mr. Barrett provided statistics from population studies conducted by CACI, Inc.. He stated that the studies found that approximately 6,000 persons lived within a one mile radius of Mt. Carmel Road and 15-501 in 1988. By contrast, Mr. Barrett stated that 3,500 persons resided within a one mile radius of 15-501 and

Highway 54, while an estimated 6,400 persons resided within a one mile radius around Estes Drive and Franklin Street. Mr. Barrett said that substantial growth was occurring in the area of Mt. Carmel Church Road and 15-501.

Mr. Barrett stated that growth would continue in the southern portion of the Town. Mr. Barrett said that currently vacant commercial spaces were filling up quickly. He added his opinion that there were no other feasible mixed-use sites in the southern part of Town. Mr. Barrett cited the Watts Motel site, stating that topography and sewer problems inhibited development of the site. Mr. Barrett said that it would cost approximately \$750,000 to provide wastewater service to the Watts Motel site. He stated that sewer service was available within two hundred feet of the Bennett property.

Mr. Barrett distributed a chart to the Council, outlining traffic volumes and lane capacity in the Mt. Carmel Church Road/15-501 area. He stated that the majority of traffic to and from the site would flow in the opposite direction from peak volume traffic. Mr. Barrett said he did not understand why the Southbridge, Woodlake and Culbreth Park subdivisions had been approved or were under consideration, if roads were over capacity in the area.

Mr. Barrett said that single family homes were located near University Mall, while single and multi-family units are located near the Timberlyne Shopping Center. He stated that some residents fear that if the rezoning is approved, there would be a domino effect. Mr. Barrett contended that the unavailability of sewer service would inhibit further mixed-use development in the area.

Mr. Barrett stated that mixed-use development could occur near the top of slopes on the site. He noted that several developers had walked away from residential options to the property.

Mr. Barrett submitted a petition in favor of the project, signed by one hundred and fifty property owners.

Mr. Waldon said the Planning Board unanimously (9-0) recommended denial of the rezoning request.

Town Manager Taylor said his preliminary recommendation to the Council was denial of the request.

Pete Andrews, 298 Azalea Drive, said he lived one block from the proposed rezoning site. Mr. Andrews said he was the spokesman for several hundred area residents who oppose rezoning of the Bennett property for mixed-use. Mr. Andrews said transportation and traffic were important concerns in this matter. He said that Mr. Barrett's traffic arguments were not persuasive.

Mr. Andrews said the Mt. Carmel Church Road/15-501 area is a low density residential area. He stated that if rezoning were approved, there would be a major argument of changed conditions, enabling others to apply for rezoning. Mr. Andrews said this would encourage strip development along 15-501. Mr. Andrews said he strongly opposed the proposed rezoning to mixed-use R-1.

Betty Francisco, 333 Bayberry Drive, said that Planning staff had done a good job of summarizing the issues for this case. Ms. Francisco said the Town has longed prided itself on being a place that plans, and that it should respect its plans.

Douglas von Huey, 1611 Old Oxford Road, said that there is nothing constant in the world other than change. He requested that the Council put their minds to maintaining the current status in the 15-501/Mt. Carmel Church Road area.

Margaret Taylor, President of the Alliance of Neighborhoods, indicated that her earlier remarks to the Planning Board on this request were contained in the Council's materials. Ms. Taylor said she hoped the Council would uphold current zoning of the Bennett property.

Don Francisco, 333 Bayberry Drive, stated that the 15-501/Mt. Carmel Church Road was largely undeveloped at present. Mr. Francisco said the Bennett property was not suitable for commercial development, due to its proximity to 15-501 and a nearby creek. Mr. Francisco said that the Watts Motel property is located along a straight portion of 15-501, and has few topographical problems.

Katherine Myers, 106 Mallard Court, said that her remarks before the Planning Board were contained in the Council's agenda materials. Ms. Myers stated that she had circulated a protest petition against the proposed rezoning. Ms. Myers said she had observed bumper-to-bumper traffic at Mt. Carmel Church Road and Mallard Court at 8:00 a.m. She stated that several residents of her neighborhood have critical care positions at North Carolina Memorial Hospital. Ms. Myers said that these residents oppose the proposed development. Ms. Myers noted that she had recently read an article in The New York Times concluding that zoning laws were less for the public good, and principally used as a starting point for negotiation. Ms. Myers said she hoped Town zoning regulations would be used for the common good.

Council Member Andresen said she had listened to the applicant's argument concerning traffic and found it not compelling. Council Member Andresen said that even if 15-501 were widened in this area, commercial uses would not be desirable at this site. Council Member Andresen concluded her remarks by noting her desire to see how mixed-use development will work in the northeast part of the Town.

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 COUNCIL MEMBER WILKERSON MOVED, SECONDED BY COUNCIL MEMBER WERNER, TO REFER COMMENTS TO THE TOWN MANAGER. THE MOTION WAS ADOPTED UNANIMOUSLY (5-0).

Public Hearing on Request for special use permit for 308 West Rosemary Street

Three persons were sworn to provide testimony in this matter: Mr. Josh Gurlitz, representing West End Partners, Town Manager David R. Taylor and Planning Director Roger Waldon.

Town Manager Taylor requested that the agenda item and related materials be entered into the record of the public hearing. Mayor Pro Tem Pasquini concurred.

Planning Director Roger Waldon showed an area map to the Council. Mr. Waldon said that a buffer would be required along the northern property line. Mr. Waldon stated that two key points of application were the upgrade of a traffic signal and provision of recreational area. Mr. Waldon said inclusion of a left-turn phase for the traffic signal would cost between \$3200 and \$3500. He stated that payment was being requested in lieu of an upgrade.

Mr. Waldon said the project proposed a total of twelve residential dwelling units, requiring 1850 square feet of recreational area or payment in lieu. Mr. Waldon stated that condition 3 of Resolution A would require that recreational area needs be addressed prior to the issuance of a Zoning Compliance Permit (ZCP).

Council Member Andresen asked whether the project included office and residential uses. Mr. Waldon said yes. Council Member Andresen inquired about the possible inclusion of retail uses at the site. Mr. Waldon said this possibility had been discussed with the applicant.

Josh Gurlitz, representing West End Partners, showed a site plan of the proposed project at 308 West Rosemary Street to the Council. He stated that the proposal was for a mixed-use project in the TC-2 district. Mr. Gurlitz said the proposal was sensitive to surrounding buildings. Mr. Gurlitz said only 70% of available floor area had been used in designing the project.

Mr. Gurlitz said that a total of ninety-two parking spaces would be available in the building, with the parking excavation occurring at a maximum depth of eighteen and a half feet.

Mr. Gurlitz said he was open to the concept of retail uses on the ground floor of the building, although there was no guarantee of sufficient foot traffic to make such a venture viable.

Mr. Gurlitz said eight residential units, varying between 1,000 and 1,100 square feet would be located on the third floor. Mr.

Gurlitz said the fourth floor would have four larger units with three bedrooms and terraces, averaging a total of 1,550 square feet.

Mr. Gurlitz said the predominant material for the exterior of the building would be brick. He noted that the adjacent Chancellor Square building is completely brick constructed.

Council Member Andresen said that if office and retail uses were included in the 308 West Rosemary project, others might follow suit. Council Member Andresen commended Mr. Gurlitz for doing a good job of getting parking out of the way.

Planning Director Roger Waldon, speaking in the absence of Planning Board Chairperson Alan Rimer and Planning Board Vice-Chair Bruce Guild, said that the main subject of Planning Board discussions had been the traffic signal upgrade.

Council Member Werner asked whether the proposed left-turn phase would move vehicles from Rosemary to Church Street. Mr. Waldon said yes. Council Member Werner asked whether people should be encouraged to make movements down Church Street. Mr. Waldon said the ultimate objective was to establish an integrated traffic control system in the area. Council Member Werner asked whether cut-throughs should be made easier. Mr. Waldon said he would speak to Town Transportation staff to get a more specific response.

Mayor Pro Tem Pasquini inquired about the recommendations of other Boards and Commissions. Mr. Waldon said the Parks and Recreation Commission recommended that the recreational area should be provided by payment in lieu or on-site provision of such an area.

Town Manager Taylor said his preliminary recommendation was resolution A, with stipulation 3 modified to allow flexibility for a payment in lieu of recreation area, area on-site, or a combination of the two.

Council Member Werner said this was a well thought out project, with a good chance of succeeding. Council Member Werner said he liked the idea of residential and office mix. Council Member Wilkerson commented that the applicant had done a very good job of informing area residents about the project proposal. Council Member Wilkerson added that it was his feeling that adequate parking was proposed for the site. Mr. Waldon said 70 spaces were required, while a total of 92 are proposed.

Mr. Gurlitz said he agreed with the conditions of approval. He stated his preference to work with the Parks and Recreation Commission to provide an on-site recreation area or a combination of an area with payment in lieu.

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COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG, TO REFER TO THE TOWN MANAGER. THE MOTION WAS ADOPTED UNANIMOUSLY (5-0).

Town Manager Taylor suggested that the Council recess the hearing to June 12th.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG, TO RECESS THE HEARING UNTIL JUNE 12TH. THE MOTION WAS ADOPTED UNANIMOUSLY (5-0).