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MINUTES OF A PUBLIC HEARING HELD BY THE MAYOR AND COUNCIL  
OF THE TOWN OF CHAPEL HILL, NORTH CAROLINA,  
TUESDAY, OCTOBER 17, 1989, 7:30 P.M.

Mayor Howes called the meeting to order.

Council Members in attendance were:

Julie Andresen	Nancy Preston
David Godschalk	James C. Wallace
Joe Herzenberg	Arthur Werner
David Pasquini	Roosevelt Wilkerson, Jr.

Also in attendance were: Town Manager David Taylor, Assistant Town Managers Sonna Loewenthal and Florentine Miller, Public Safety Director Cal Horton, Planning Director Roger Waldon, Long Range Planning Coordinator Chris Berndt and Town Attorney Ralph Karpinos.

Mayor Howes noted that the matter before the Council this evening, the proposed rezoning of properties, meant a great deal to many people. Mayor Howes added that the remarks presented this evening by individual speakers will be recorded and receive the Council's full attention. Mayor Howes stated that the ultimate outcome may not be the one that some desire, but the Council will take into account the remarks of all speakers in formulating their decision.

Planning Director Roger Waldon presented the staff report to the Council. Mr. Waldon stated that the proposal before the Council called for rezoning of certain undeveloped land in the extraterritorial jurisdiction, outside the Town's limits. Mr. Waldon said it is anticipated that this land will be developed at urban intensities in the future. Mr. Waldon noted that the genesis of the rezoning proposal occurred in 1984, when the Town Council appointed a Growth Management Task Force to explore the feasibility of an "Adequate Public Facilities Ordinance", tying the timing of development to the adequacy of public facilities. Mr. Waldon stated that one of the Task Force's findings was that the type of ordinances which worked in other communities were not suitable for Chapel Hill.

Mr. Waldon noted that the idea of small area development plans for undeveloped areas had been discussed with the Planning Board. Mr. Waldon noted that the small area development plan approach was time-consuming.

Mr. Waldon stated that many citizens had recently contacted the Planning Department, inquiring why the rezoning proposal was being put forward. Mr. Waldon said that the rezoning is necessary to adequately manage the timing of development. Mr. Waldon said that the currently undeveloped areas will develop at urban intensities in the future. Mr. Waldon noted that the Planning Board

favors a two step rezoning approach, recommending that the Council not rezone property prior to enacting small area plans. Mr. Waldon concluded his remarks by noting that rezoning of some areas will be a joint process with Orange County. Mr. Waldon said the area being discussed this evening is within the Town's extraterritorial jurisdiction.

Long Range Planning Coordinator Chris Berndt said that this evening's hearing had been called by the Town Council on August 28th. She noted that a display advertisement had appeared in the Chapel Hill Newspaper and notices were mailed to approximately twenty-four hundred property owners within the potentially affected area. Ms. Berndt showed the two areas proposed for rezoning. She noted that the portion within the Town's planning jurisdiction was the focus of this evening's discussion. Ms. Berndt stated that the total rezoning area is approximately twenty-two hundred acres, with most parcels currently zoned R-1 or R-2. Ms. Berndt stated that the proposal does not include areas in the Town limits, recently annexed properties, areas with pending development proposals, existing subdivisions, or existing commercial and industrial uses.

Ms. Berndt stated that the proposed rezoning category, rural transition, would permit a minimum lot size of 100,000 square feet for a single family dwelling. Ms. Berndt stated that existing lots of record containing less than 100,000 square feet will not be affected by the rezoning proposal.

Ms. Berndt showed the two major areas within the extraterritorial jurisdiction proposed for rezoning.

Ms. Berndt stated that rezoning may be accomplished by an amendment to the Zoning Atlas, by one of three methods: correction of a manifest error; due to changing condition in an area or jurisdiction; or to achieve the purposes of the Comprehensive Plan. Ms. Berndt said that the final alternative was the recommended approach, to facilitate orderly development in the future.

Council Member Andresen inquired when annexed areas would be provided with Town facilities and services. Ms. Berndt responded that detailed plans would be done on an individual basis to determine the timing of facilities and services.

Council Member Andresen asked whether rural transition zoned areas would serve as holding zones until services are provided. Ms. Berndt said yes, until facilities are available or can be made available.

Council Member Herzenberg inquired about the inclusion of land within Carrboro's planning jurisdiction within the rezoning proposal. Ms. Berndt stated that some of the land falls across interjurisdictional boundaries.

Council Member Preston inquired about the size of "small" area plans. Ms. Berndt said the size would be variable, noting that the proposed northern rezoning area contains approximately four hundred and fifty acres, while the southern area contains about seventeen hundred and fifty acres. Ms. Berndt said the matter of size could be considered in the future.

Town Manager Taylor said his preliminary recommendation to the Council was the adoption of a resolution rezoning the parcels to rural transition.

Planning Board Chairperson Bruce Guild said that the Board had met on September 19th, and voted unanimously (8-0) to recommend that the Council not rezone property prior to undertaking small area plans.

Council Member Godschalk asked how long it would take to develop small area development plans. Mr. Guild said this was difficult to say, but would be in the order of approximately one year.

Ed Pizer, Principal in Eastowne Development, said his firm controls one-half mile of frontage along U.S. 15-501. Mr. Pizer stated that a master plan for the Eastowne tract had been presented to the Town approximately twenty to twenty-five years ago. Mr. Pizer said that extensive planning and development for water, sewer and roadways has occurred during the intervening period. Mr. Pizer said that water, sewer service and roadway capacity are available in Eastowne. He added that Eastowne was carefully planned to occur at a slow pace. Mr. Pizer said that all Town Comprehensive Plans to date have adopted the Eastowne Master Plan as part of the overall Town plan. Mr. Pizer said that Eastowne should be excepted from inclusion in the rezoning proposal.

Leonard Hughes asked about the status of persons having less than 100,000 square foot lots in the rezoning area. Mr. Hughes said that smaller property owners would be unable to develop their land under the proposal. Mr. Hughes said he opposed the rezoning proposal.

Mayor Howes said he was glad that Mr. Hughes was presenting the practical aspects for property owners this evening.

Sally Jessee said she applauded the intent of the rezoning plan, but would argue that the rezoned property would not realize the same monetary return. Ms. Jessee noted that the Council desire quality and controlled growth. Ms. Jessee suggested that infrastructure could be put in place by public or private initiatives. Ms. Jessee said that the Council's efforts to control growth to date had worked well and therefore she did not see the need for the rezoning proposal.

Ms. Jessee read a letter from Mary Burch, expressing her opposition to the proposed rezoning. Ms. Burch's letter stated that

her family owns seventy acres of land in the vicinity of Seawell School and Homestead Roads. Ms. Burch continued that the rezoning will drastically reduce the land's value, perhaps to one-third of its current worth.

Ms. Burch said she understood the Council's desire for orderly growth, but this should not include more regulations. Ms. Jessee said that Ms. Burch requested that the Council follow the Planning Board's unanimous recommendation.

Ernest Burch expressed concern that the number of units per acre permitted by the Council over time was being reduced. Mr. Burch said he feared that he would be unable to sell his R-4 zoned property for a sufficient sum to pay his taxes on the land. Mr. Burch stated that since his land abuts commercial property, his land should likewise be zoned commercial instead of rural transition.

Curtis Jackson said his position, opposing the rezoning proposal, had been adequately enunciated by previous speakers.

Betty Margison, representing part of the Northwoods subdivision, stated that many members of her group were holding a homeowners meeting this evening. Ms. Margison said that Northwoods residents experience a great deal of traffic problems on Airport Road. She added that the group favors the rezoning proposal, feeling that it is a responsible attitude by the Council, which will benefit existing neighborhoods.

Joe Hakan stated that downzoning in the Town had been attempted thirty years ago. Mr. Hakan said that the approach was found to be unfair. Mr. Hakan stated that zoning is a right which should not be reduced. Mr. Hakan said he did not own any property in the potentially affected areas, but felt the proposal is unfair. Mr. Hakan expressed concern that rezoning to rural transition will basically stop all growth in the Town.

Margaret Johnson said that the Merritt property shouldn't not be rezoned to rural transition, since utilities are about to be made available, with measures to provide water and sewer service underway. Ms. Johnson said that the Merritt property is surrounded by existing subdivisions. She added that attempts to downzone the property are unreasonable and capricious. Ms. Johnson said that the existing R-2 zoning is adequate to monitor future development of the property. Ms. Johnson concluded her remarks by expressing her belief that the procedure for downzoning is a maneuver to stop development in Chapel Hill.

Moyer Smith expressed his support of the present zoning categories and related ordinances. Mr. Smith said that the current system allows developers to present plans to the Council for controlled growth. Mr. Smith said that if development is stopped in the Town, expansion of the tax base will also stop.

John Harold inquired whether property owners would be able to rebuild should their home burn down. Mr. Waldon responded that if an existing lot of record were involved, the property could be used for any permitted uses in the rural transition zone. He added that if the existing lot were under 100,000 square feet, the home could be rebuilt. Mr. Harold said he was representing an area beyond Dogwood Acres Road, outside the Town limits. Mr. Harold inquired who administers this area. Mayor Howes said that the Town Council had authority to administer the Joint Planning Area by State Statute.

Sharon Finch, a property owner in the Erwin and Weaver Dairy Road area, said that the entire business community is concerned with the need for affordable housing. Ms. Finch said she favors the current zoning regulations, rather than the rezoning proposal. Ms. Finch said she would like to see a parcel by parcel survey of the properties under consideration for rezoning.

Margaret Brown said she was speaking in favor of the rezoning proposal and orderly growth. Ms. Brown said the proposal would allow the Council to get a handle on growth in the community. Ms. Brown said that if the proposal is adopted, Town officials should contact Carrboro officials to discuss future development in the Smith Level Road area.

Margaret Taylor, President of the Alliance of Neighborhoods, said that there is a conflict between public and private interests, with residents having had a larger voice in Town matters since the early 1980's. Ms. Taylor said that the Town needs a plan of sensible, managed growth. Ms. Taylor said that the Town has not had some some critical growth management tools in the past. Ms. Taylor expressed hope that residents would take a long-term view of the rezoning proposal.

Don Henson said that most of his points had already been made by others opposing the rezoning proposal.

Todd Zapolski, representing the Chapel Hill-Carrboro Chamber of Commerce, said that the proposal is not a positive one for the Town as a whole or the business community. Mr. Zapolski said that current development methods work well and urged the Council to maintain these procedures.

P.H. Craig said the rezoning proposal is unfair. Mr. Craig stated that none of the Council members lives on a lot of 200,000 square feet. Mr. Craig said it was difficult to believe that the Council is interested in low-cost housing, since affordable housing lots are typically about 10,000 square feet. Mr. Craig said that any Council member voting for the rezoning proposal could not be interested in affordable housing. Mr. Craig said that the rezoning proposal would preclude future housing opportunities for working people and minorities. Mr. Craig said that the neighborhood alliance has selfish desires to fence off the Town from

outsiders. Mr. Craig said that the proposed rezoning proposal will seriously depreciate property values.

Gary Saleeby said that property owners can see the value of their property being taken away for an unknown period of time. Mr. Saleeby expressed concern that there is no clear picture of when upzoning from rural transition would be approved. Mr. Saleeby stressed the need for balanced development, with a varied and diverse economic base. Mr. Saleeby suggested that a nodal plan be initiated, tied to small area plans.

Betty Smith, a resident of Morgan Creek Road, said she was offended by a letter she had recently received from the Chamber of Commerce. Ms. Smith said she did not like to be told that if the Council votes for the rezoning proposal, property taxes will rise. Ms. Smith stated that she had not seen her property taxes decrease in ten years, even though development has been occurring. Ms. Smith said that the use of the term "downzoning" sets off a kneejerk reaction. Ms. Smith stated that many of her neighbors were similarly offended by the letter from the Chamber of Commerce. Ms. Smith said she favored the rezoning proposal.

Larry D. Reid inquired whether the area in Orange County proposed for rezoning was a topic of discussion this evening. Mayor Howes indicated that the Council would hold a joint public hearing in the future with Orange County to discuss this area.

Bruce Long said his family has owned property on Smith Level Road for many years. He added that his family had done a good job of managing this property. Mr. Long said he did not understand why the Town wants control of the area. Mr. Long said his family loves their land and have no intention of selling it at this time. Mr. Long said that the rezoning proposal, as presented, will hurt small property owners.

Mr. Long said he was happy to receive Police protection services from the Town, but opposed the rezoning proposal.

Gordon Mitchell, a property owner in the proposed rezoning area, said that the proposal was not for downzoning, but low-density zoning. Mr. Mitchell said he would like to see the Council move in the direction of more intensive zoning. Mr. Mitchell said that his property is currently served by most utilities, except sewer, since his property is located in the watershed.

Henry Whitfield said the item before the Council is an important situation which should command the Council's concern. Mr. Whitfield said as a child, he had played in the woods on the site of the current North Carolina Memorial Hospital. Mr. Whitfield said he did not own any property in the area under consideration for rezoning. He expressed concern that the rights to property were being taken away. Mr. Whitfield also expressed concern about the impact of the proposal on property values. Mr.

Whitfield said that current Planning staff and regulations would adequately handle growth patterns in the Town.

Tom Heffner said he owns one hundred and twenty-five acres in an area south of the Town. Mr. Heffner said he opposed the concept of the rezoning proposal. Mr. Heffner stated that utilities will be extended in the near future in many areas near the Town limits. Mr. Heffner noted that it would be naive to think that growth will not occur near the Town limits in the future. Mr. Heffner concluded his remarks by stating that current development regulations are handling growth patterns very well.

Gary Saleeby inquired about the process for protesting rezoning proposals.

Jay Zaragosa said that there are a great many arguments for not encouraging denser zoning categories, such as quarter acre zoning. Mr. Zaragosa said that a mechanism more dense than one unit per 2.3 acres is needed for the rezoning proposal. Mr. Zaragosa stated that smaller property owners will be inclined to sell out to developers if lower-density zoning is promulgated in outlying areas. Mr. Zaragosa said he would prefer the Council to recommend one-half and three-quarter acre lots in the rezoning proposal.

Bob Neal said that the Town's current growth management system works well. Mr. Neal said he would like to see the continued use of current growth management tools.

Mary Pendergraph expressed concern about property owners with one-acre lots. Ms. Pendergraph urged the Council to think about persons with lower incomes in considering their final decision. Ms. Pendergraph said that the Council needed to reconsider the rezoning proposal in light of points made by other speakers earlier in the evening.

Ms. Pendergraph expressed her opposition to the proposal. Reverend Samuel Jones said that he owned property which would be affected by the rezoning proposal. Reverend Jones urged the Council to reach a decision which would take into account the needs of the rich and the poor. Reverend Jones expressed concern that poorer people would be unable to continue to make tax payments if the rezoning were to occur. Reverend Jones concluded his remarks by requesting the Council to formulate a plan that the majority of citizens would find agreeable.

E.S. Wang said that Chapel Hill is perceived as the southern part of heaven. Mr. Wang said this was true for the wealthy. Mr. Wang said that many people are unable to find desirable housing at a reasonable price in the Town. Mr. Wang requested that the Council continue to make the housing needs of poor and middle income people a top priority. Mr. Wang requested that the Council carefully examine the situation.

Mayor Howes inquired about the procedure for filing a protest petition. 233

Town Attorney Karpinos stated that a brochure outlining the procedure is available in the Planning Department. Mr. Karpinos noted that no protest petitions had been filed to date. Mr. Karpinos added that protest petitions must be filed two days prior to the date of a public hearing.

Henry Whitfield inquired about the genesis of the rezoning proposal. Mayor Howes noted that detailed information was provided in the agenda materials furnished earlier in the evening.

Council Member Preston said that there is a great deal of misunderstanding about the possible impact of the rezoning proposal. Council Member Preston requested that the Town Clerk make available the audio or video tapes of April 10th and a previous work session for her review.

Council Member Herzenberg expressed concern that citizens were not aware of the existence or procedures for protest petitions.

Council Member Godschalk said that the interim downzoning would provide a one to two year period to study all zoning in the area. Council Member Godschalk stressed the importance of making long-range growth plans in undeveloped areas of the Town. Council Member Godschalk stated that some of the smaller lots in the area ultimately may not need to be downzoned. Council Member Godschalk requested that the Town Manager provide a time estimate for development of small area plans prior to Council action on this item. Mayor Howes requested that information be provided concerning tax rates in the event the properties are downzoned.

Council Member Pasquini said that rezoning proposal is a fundamentally good concept, but there is a need for a timetable. Council Member Pasquini said that property owners should not be left in limbo.

Council Member Werner also said he wished to emphasize the importance of timing. Council Member Werner stressed the importance of establishing a schedule and maintaining it.

Mayor Howes inquired about the proposed scheduling of the item. Town Manager Taylor indicated that the item would be back for Council consideration no later than November 30th.

Council Member Pasquini inquired whether a work session would be held. Town Manager Taylor said this would be possible, if the Council expressed a desire to hold one.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO ADJOURN THE PUBLIC HEARING.

THE HEARING STOOD ADJOURNED AT 9:41 P.M.