

MINUTES OF A PUBLIC HEARING HELD BY THE MAYOR AND COUNCIL  
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,  
MONDAY, SEPTEMBER 15, 1986, 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 was Town Manager David R. Taylor, Assistant Town Managers Sonna Loewenthal and Ron Secrist, and Town Attorney Ralph Karpinos.

Public Hearing on Zoning Areas Annexed on August 31

Roger Waldon, Planning Director, gave a presentation on the proposal to assign zoning classifications to property that was annexed by the Town on August 31. He said those properties not formally zoned prior to the annexation needed to be zoned within 60 days of the annexation. He said that the Planning Staff memorandum was incorrect in stating that all of Area A needed to be zoned. He said that several of the tracts included in Area A were already covered by Chapel Hill zoning. Mr. Waldon said that Area B was completely covered by Chapel Hill zoning and therefore did not need to be considered at this hearing. Portions of Area C in Orange County were already under Chapel Hill zoning, but those parcels in Durham County needed to be zoned.

Mr. Waldon said the staff and Planning Board considered three approaches to the question of assigning Chapel Hill zoning classifications to the newly annexed areas. The three approaches were assigning zoning to correspond to the designations of the Land Use Plan; assigning low-density zoning to all new areas and entertain requests for up-zoning; and a combination of the previous two approaches by creating a new zoning definition for mixed-use, and zone areas so shown on the Land Use Plan accordingly, and in other areas zone either to reflect existing land use, what is on the Land Use Plan, or to replicate existing zoning by Orange and Durham Counties.

Mr. Waldon stated the staff felt, that to the greatest extent possible, zoning of these areas should be consistent with the recently adopted Land Use Plan. He said the key area around the Interstate-40 interchange was designated as mixed-use on the Land Use Plan but the Chapel Hill Zoning Atlas did not at this time have a classification to match the mixed-use, therefore a new

mixed-use zoning district should be added to the Chapel Hill Development Ordinance. Once a definition of mixed-use was developed, then the Town could zone those areas designated as mixed-use on the Land Use Plan to this new zone. In order to do this, the staff recommends calling a public hearing on the mixed-use zoning classification on October 22 to discuss this proposal.

With regard to the other areas in the newly annexed areas, the staff recommends that if properties are developed be assigned zoning in such a way as to not create non-conformities. If the properties are not developed, then the staff recommends zoning according to the designations on the Land Use Plan unless there are reasons related to timing of public facilities that suggest delaying full development at this time, and if development at the present time was not desirable, the staff recommends zoning the property as R-1.

Alice Ingram, Planning Board Chair, said the Board recommended that areas A and C be zoned according to the Land Use Plan and that the areas designated as mixed-use be zoned mixed-use. If a definition of mixed-use had not been adopted by the Council by November 1st, then the areas designated as mixed-use should revert to R-1 until such a time as a use definition is adopted. She also said the property along Weatherstone Drive in Area A should be zoned R-4 to correspond to the larger area abutting it. Ms. Ingram said there was discussion on the Board with regard to zoning prior to a definition of mixed-use and the advisability of zoning small parcels as mixed-use. She said the Board also recommended the Council hold a public hearing on October 22 to consider the creation of a mixed-use zoning district.

Council Member Andresen asked if the Board had considered the buffer requirements along N.C. 86 and asked what type of buffer would be necessary. Ms. Ingram said the buffer was not discussed but that a Type D buffer was required.

Council Member Preston commented that she hoped there would be flexibility in the mixed-use definition. She said the idea behind the mixed-use designation was to encourage individual property owners with small tracts to join together to create larger tracts capable of mixed-use development. She agreed that having the underlying zone as R-1 would act as an incentive for property owners to join together.

Council Member Werner said the memorandum indicated the Planning Board had some reservations about the Land Use Plan. Ms. Ingram said the Board did have some reservations.

Council Member Smith asked how many acres were in the areas proposed to be zoned as mixed-use, because he felt if the proposal suggested a minimum 20-acre site for mixed use then the Council and staff needed to be aware of the exact number of acres in the proposed zone. Mr. Waldon said he did not know exactly how many acres were involved.

Manager Taylor recommended that the Council recess this hearing so that it could be continued on October 22 so specifics of mixed use could be considered.

Ron Strom, representing a partnership, Chapel Hill North, spoke in support of the proposed mixed-use zoning and development of a mixed-use definition. He said it would be consistent with the Land Use Plan, protect the entranceway, impede small scale special use development and discourage subdivision of tracts.

Grainger Barrett, representing Dennis and Linda Howell, property owners in Area A, expressed concern of using mixed-use zoning for properties of one to two acres on the south side of Weaver Dairy Road. He said it was not realistic to think that the owners of these small tracts, which combined would not amount to 10 acres much less 20, would be able to combine meet the mixed-use requirements. He said this area was designated as commercial in the Land Use Plan and the owners felt zoning it as such would be consistent with the Land Use Plan. He said the owners understood the Council's concerns against strip development in that area and suggested the Council consider zoning the area as commercial but have more stringent buffer requirements. He stated the property owners were interested in meeting with the staff to discuss possibilities.

Council Member Smith asked Mr. Barrett to point out the property on the map. Mr. Barrett pointed to the area south of Weaver Dairy Road along N.C. 86, the site of the former Rest Home.

Berry Credle, speaking as a resident, asked what would be the status of any proposal for development in the annexed area prior to the adoption of a mixed use zoning district and if once a mixed use zone were established whether or not the proposals would be required to meet the mixed use zoning requirements. He said he was concerned about the possibility of confusion and would prefer to see these areas zoned R-1 until a mixed use definition was adopted. Town Attorney Karpinos said in the only decisions he was aware under North Carolina Law, the issuance of the building permit was the point at which a vested right occurred.

Chuck Beemer, representing the owners of property on Weaver Dairy Road (Montessori School site), agreed with zoning the property north of Weaver Dairy Road as mixed-use, but felt the property south of Weaver Dairy was not applicable to mixed-use zoning. He said these property owners would have a harder time combining their lots due to timing reasons as well as the fact that the total acreage was less than 10 acres. He said he felt the Council should zone the area as the indicated use in the Land Use Plan which was commercial.

Council Member Andresen said the Land Use Plan was a plan for long range development and did not mean that areas should immediately be zoned to match the designation. The Plan was developed to give the residents and the Council time to make sure development occurs as it feels appropriate.

Bruce Guild, speaking as a resident of White Oak Drive, said the property in Area C around White Oak Drive was single family developments on .5-acre or larger lots and was proposed to be zoned R-2 by the Town. He would prefer that the Town zone it R-1. He also asked if the Town had any buffer requirements along I-40 like Durham County did as an overlay zone. Mr. Waldon replied that the Town required a 100 foot buffer along the Interstate as well as other buffer requirements like enhanced plantings for development along the Interstate in the Development Ordinance.

Council Member Howes asked if the interchange areas were also required to maintain a 100' buffer. Mr. Waldon replied yes.

Doug Lay, speaking as a property owner, asked that his property which is intersected by the Durham County line have the same zoning district. He said the proposal would split his property between the current commercial zoning of the Orange County section and the proposed mixed-use for the Durham County section. He asked that the entire site be zoned commercial.

Linda Convissor, speaking as a resident of White Oak Drive, asked the Council to remember the need for infrastructure improvements before allowing development of the areas along Old Chapel Hill Road and Interstate-40. She said she understood the principle behind zoning this area mixed-use but urged the Council to make sure infrastructure improvements were made prior to any major development of the area.

Council Member Andresen asked Ms. Convissor if she was also in favor of zoning the residential area R-1 instead of R-2. Ms. Convissor replied yes.

Council Member Preston asked if the lots in the proposed R-2 areas were large enough to support R-1 zoning. Mr. Waldon responded that the lots were large enough.

Council Member Howes asked if duplex developments were allowed in R-1 zones. Mr. Waldon said they were not.

Joe Berman, representing Alton and Roger Elliott, stated that some of the property in the proposed mixed-use zone was under restrictive covenants which would prevent any development other than residential on the property for at least 10 years. He said his clients were in favor of the mixed-use concept but felt the proposal for applying it to areas of 20 acres or more might be too restrictive and that flexibility should be included for those smaller properties.

Chuck Wachtel, representing Diabs Realty Company, said his property was also divided by the county line and under two different zoning districts. He also agreed that the Council needed to be flexible in the use of mixed-use zoning for smaller tracts of property.

Council Member Preston asked what the zoning district was for the Diabs property in Orange County. Mr. Wachtel replied that it was zoned R-2 and that if the mixed-use zone were adopted, they would probably apply for a rezoning of the Orange County property so that the entire site would be singularly zoned.

Council Member Pasquini said he liked the request to zone as R-1 the property in Area C proposed as R-2. He asked why the property in Area B was not being considered in this hearing since it had been recently annexed. Manager Taylor responded that the property in Area B was now and had been under Chapel Hill zoning regulations prior to the annexation and therefore any "zoning" of the property would be a "rezoning" and did not fall under the heading of this public hearing.

Council Member Preston said flexibility was needed in deciding on the definition of mixed-use. She commented that she had thought mixed-use would have certain qualifications or general guidelines and that proposals would be brought forth and at that point it would be decided if it qualified for mixed-use.

Council Member Werner stated that the purpose of the Land Use Plan was for long term planning and that the designation of mixed use for the interchange areas was to prevent a hodge-podge of development along these corridors. He said this was to give the Council time to allow quality development of the area.

Council Member Thorpe agreed with Mr. Werner and said that the Council should use the 60 day period between annexation and the point at which the property should be zoned to make sure the property is developed in a manner consistent with the Town's long range plans.

Council Member Smith agreed, but said that the Council needed to remember to be realistic in applying a mixed-use zoning district to those properties where it does not appear feasible. He said to have the mixed-use zone on the south side of Weaver Dairy Road where it would require 20 acres of land for any development did not seem realistic.

Manager Taylor said the staff and Planning Board were working on the text for the definition of mixed-use zoning and recommended that the Council recess this hearing to continue on October 22 when a public hearing would be held on the proposal to adopt a Development Ordinance Text Amendment on mixed-use zoning.

Mrs. Rosemary Andrews, speaking as a citizen asked for clarification of the schedule on mixed-use zoning definition and application. Manager Taylor said at the next regular meeting the Council would consider calling a public hearing for October 22 to discuss an amendment to the Development Ordinance to create a mixed-use zoning district.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER HOWES TO REFER THE COMMENTS FROM THIS HEARING TO THE MANAGER AND TO RECESS THIS HEARING UNTIL OCTOBER 22, 1986. THE MOTION PASSED UNANIMOUSLY, (9-0).

Public Hearing on Petition for Annexation - Altemueller Property

Planning Director, Roger Waldon, gave a brief presentation on the petition for annexation saying the property was approximately 74.7 acres of land adjacent to the Northwoods subdivision and Fire Station #4. He said the petition met all the legal requirements for annexation by petition of a contiguous area. Mr. Waldon stated that the petitioner had also submitted an application for a subdivision on this site and that this application was being reviewed simultaneously with the annexation petition. He said the proposed schedule for sequential consideration items was (1) final action on the annexation; (2) zoning of the parcel; and (3) consideration of the subdivision application.

Council Member Godschalk commented that the petition for annexation did not include the entire property and asked if there were any particular reasons why it did not. Mr. Waldon said he did not know of any special reason why the entire tract was not included other than that the petitioner was proposing a subdivision for the parcel under consideration for annexation.

Council Member Pasquini questioned the proposed schedule, expressing concern about zoning the property the same night a subdivision proposal was considered. Mr. Waldon said the staff and petitioner were reviewing the property as if it were zoned R-1 and if the Council in their actions in zoning the property zoned it in a manner that would not accept the subdivision proposal, then the subdivision proposal item would be pulled from the agenda of that meeting.

Council Member Werner asked how this property was designated in the Land Use Plan. Mr. Waldon replied that it was designated as low density.

Council Member Smith asked for clarification of the criteria necessary for voluntary annexation.

Bruce Ballentine, representing the petitioner and subdivision developer, said he was available to answer any questions from the Council.

There were no citizen comments.

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

Public Hearing on Petition for Annexation - Owens/Krusche Property (Barbee Chapel Road)

Roger Waldon, Planning Director, gave a brief presentation on the petition for annexation of approximately 1.5 acres of land on Barbee Chapel Road, 150' south of N.C. 54. He said the Durham County Planning Board had recently received a request to rezone the portion of this property which lies in Durham County and noting the proximity of the site to Chapel Hill had suggested that the property owner pursue development of the site by requesting annexation by the Town. Mr. Waldon stated the petition met all the legal requirements necessary for annexation by petition of contiguous property.

Council Member Pasquini asked if the Town had received any development plans for this property and asked what the property had been designated as in the Land Use Plan. Mr. Waldon replied that no development plans had been received and that the land was designated as medium density.

There were no citizen comments.

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

COUNCIL MEMBER THORPE MOVED, SECONDED BY COUNCIL MEMBER WERNER TO ADJOURN THE MEETING. THE MOTION PASSED UNANIMOUSLY, (9-0).

The meeting adjourned at 9:11 p.m.

