

MINUTES OF A PUBLIC HEARING HELD BY THE MAYOR AND COUNCIL
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,
MONDAY, FEBRUARY 15, 1988, 7:30 P.M.

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

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

Council Member Wallace was absent, excused. Also present were Town Manager David R. Taylor, Assistant Town Manager Ron Secrist, and Town Attorney Ralph Karpinos.

Public Hearing on Zoning Atlas Amendment: Tate Property at North Side of West Rosemary Street and the East Side of Sunset Drive

Roger Waldon, Planning Director, said the purpose of this hearing was to receive public comment on the proposed rezoning of an area from Residential-3 to Town Center-2. He said the parcels of land were near the Chapel Hill - Carrboro Town limits and were currently undeveloped, and were surrounded by residential uses. Mr. Waldon stated that the adopted Land Use Plan identified this area as medium density residential and one of the major goals and objectives of the Comprehensive Plan was to conserve, enhance, and protect existing residential neighborhoods. He said that there were reports of a loitering problem on these parcels and that the applicant indicated that this was one reason for the proposed rezoning. Mr. Waldon said the staff had investigated the general area of the proposed rezoning and found that during the past three to five years no significant changes in uses had occurred in the immediate area.

The applicant was not present at the meeting.

Alan Rimer, representing the Planning Board, said the Board found that the proposal was inconsistent with the Zoning Atlas and the other elements necessary to approve a rezoning, and the Board voted unanimously to deny the request.

Manager Taylor said his recommendation was to deny the rezoning request.

Lucille McDougal, speaking as a resident and adjacent property owner to the proposed rezoning, spoke against the rezoning. She said she felt the residential neighborhood to be well-established and stable and therefore did not want the property rezoned to TC-2.

Lillian Cannon, speaking as a property owner, spoke against the proposed rezoning. She said she was in favor of improving areas of the Town but not at the expense of adjoining neighborhoods.

Robert Joesting, speaking as a citizen, spoke against the proposed rezoning. He said extension of the TC zone further into the Northside neighborhood would be a disservice to the area.

Roslyn Purefoy, speaking as a resident, spoke against the rezoning. She said she felt it would be inappropriate for the parcels to be rezoned and developed under Town Center standards.

Lucy Farrington, speaking as a resident, spoke against the rezoning. She said the area was an established residential area that would be negatively affected by business development on the parcels proposed for rezoning.

Clementine Self, speaking as a resident, spoke against the proposed rezoning. She said she did not wish to see the residents of this area having to be bothered with the results of the development of these parcels for business purposes. She said the area was one of the oldest, well-established Black neighborhoods in the Town.

Council Member Werner said it seemed to be clear there was not much public support for rezoning as a method of controlling loitering. He asked the Manager if there were a loitering problem in this area and if so what could be done about it. Manager Taylor said there had been some problem with loitering and the staff had worked with the neighborhood and property owner to handle this problem.

Council Member Pasquini asked the Manager to check whether notices were sent to the affected property owners. He said that Ms. Cannon had indicated that she had not received a notice. Manager Taylor responded that every property owner within 500' of the proposal as listed in the Orange County Tax Records were supposed to have been sent notices of the public hearing.

Council Member Preston said she thought the applicant was supposed to send out the notice. Manager Taylor said the applicant furnished the Town with the envelopes and postage but the Town mailed the notices to individuals.

Council Member Wilkerson asked for clarification of the implications of being in the central fire district on any remodeling of homes in this area. Manager Taylor said that he thought that if residences were in the central fire district, certain rules and regulations applied to the Town Center district that dealt with the types of building materials and providing fire proof walls, etc. He said extending the zoning did not necessarily extend the fire district. He said this would require separate action by the Council.

Council Member Wilkerson asked the Manager which of the lots in this area were under the central fire district. Manager Taylor said he did not think any of these lots were covered by the central fire district.

Council Member Wilkerson asked what type of tax implications would the potential rezoning have on the neighborhood. Manager Taylor said that if the lots in the proposal were rezoned, there should be no immediate impact on the adjoining lots as far as tax values were concerned. He said, however, that Orange County sets the tax values and not Chapel Hill and each revaluation takes into consideration the current value and current use and the potential value of property. He said it would be difficult for him to say what Orange County would value the property, at the next revaluation.

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

Public Hearing on Village Associates - Application for Modification of Special Use Permit

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

Manager Taylor requested that Agenda Memo #2, "Village Associates - Application for Modification of Special Use Permit (SUP-17-14A/41)", dated February 15, 1988, be entered into the record of this hearing; along with the following:

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

Roger Waldon, Planning Director, said the application was for modification of a Special Use Permit for the Timberlyne Office Park North from Village Associates. He said the Special Use Permit was originally approved by Orange County when this property was not within the Town Limits and covered the entire site including what was currently Kensington Trace Apartments. He said the Council approved a site plan approval for Kensington Trace Apartments in the early 1980's and in doing so took that part of the site out from under the coverage of the Special Use Permit. Mr. Waldon stated that the request was to modify the SUP to reduce the amount of land covered by the SUP from approximately 20 acres to 7 acres. He said the applicant also proposed an extension of the current construction completion date and requested approval of a 13,000 square foot building that would be added to the 7-acre parcel and an additional 18-space parking lot. He said the applicant also asked that the construction starting date be set at three years from the date of the approval

instead of the customary one year. Mr. Waldon said approval of the modification would leave about 14 acres of land zoned OI-2 with no development approvals.

Mr. Waldon said the frontage along Weaver Dairy Road would be required to be widened to 1/2 of Weaver Dairy Road's ultimate cross-section, with a sidewalk, and a type D buffer, and a type C buffer along the western edge and type B buffer along the northern and eastern edge would also be required. He said the staff also recommended that a portion of McClamroch Circle be dedicated for road right-of-way purposes to facilitate development of the adjoining property. Mr. Waldon stated that the type B buffer along the north and C buffer along the west as required would not, the staff felt, be able to be provided in a manner suggested in the Town's Design Manual. He said, therefore, the staff recommended that if the modification were approved it include a stipulation that the applicant apply to the Appearance Commission for an alternative buffer for those buffers.

He said that there was a provision in the Development Ordinance which exempted transmission towers from the height restrictions that applied to structures, provided that the tower was no higher than the horizontal distance from the tower to any property line. Mr. Waldon said in this case the tower was 155' in height and the requirement was easily met from the existing property lines, but the property lines as indicated in the modification were smaller than the required 155' radius from the transmitting tower. He said the staff had overlooked this point when originally reviewing the application. He suggested that a stipulation be added which indicated that the ultimate line of coverage for the SUP instead of what was requested would need to be redrawn such that there was a 155' radius around the transmitting tower.

Council Member Andresen asked if the modification were approved, the applicant could at some future date apply for development of the portion of the site proposed to be removed from the current SUP under OI-2 regulations. Mr. Waldon replied yes.

Council Member Preston asked for clarification of why the type B and C buffers could not be provided in the normal manner. Mr. Waldon responded that the buffer could not be provided in the normal manner on the western property line because of the existing conditions. He said currently there was a parking lot along that edge and a mobile home park adjacent to the site and therefore there was not enough room for a type C buffer. He said along the northern edge the buffer provision would be complicated by the presence of the Duke Power line and easement.

Council Member Godschalk asked what would be the costs and benefits to the community of vacating the central portion of the SUP. Mr. Waldon said the cost was one of certainty in that there was plan that was approved and removal of the approval removed the certainty of what would be developed. He said that the benefit was that the original approval was granted by Orange

County and did not include provisions for buffers, etc. whereas with the modification, any further development in the area would have to meet Chapel Hill development requirements in relation to buffers and landscaping.

Council Member Godschalk asked about the status of the improvements to Weaver Dairy Road. He said it was important that this be moved forward. Mr. Waldon said that the last SUP had been broken into phases and part of the requirements for phase one was that road improvements be made along Weaver Dairy Road. He stated that a bond had been placed for the improvements but those improvements had not been made. Mr. Waldon said one of the reasons the staff encouraged the applicant to make the proposal was that the starting time limits were about to expire under the existing SUP and would preclude the applicant from making the road improvements. He said the modification would require the road improvements along Weaver Dairy Road prior to the issuance of the certificate of occupancy.

Council Member Pasquini said approval of the modification to the SUP would mean the buffers would be changed and via approval of the Appearance Commission would meet the Town's current Development Ordinance requirements and a stipulation would be added to increase the size of the area covered by the SUP to meet the requirements regarding the transmitting tower. Mr. Waldon said the alternate buffers would achieve the equivalent screening effect of the buffer requirements in the Design Manual.

Council Member Pasquini said if the proposal were a new SUP application instead of being a modification of a SUP would it meet all of the other requirements like open space, livability space, etc. Mr. Waldon said it would except for the buffers.

Grainger Barrett, an attorney representing the applicant, Village Associates, said the request was to modify a Special Use Permit to reflect what currently existed and what was proposed in response to what had occurred over the past few years. He said the applicant agreed with all the stipulations in Resolution A and also to adjust the area covered by the Special Use Permit to meet the requirements regarding the transmitting tower. He said the applicant thought the right-of-way for McClamroch Circle had already been dedicated but that if it had not, the applicant was more than willing to dedicate the right-of-way and also would dedicate the right-of-way all along the seven and fourteen acre sites' frontage for the expansion of Weaver Dairy Road. Mr. Barrett said the Council had instituted a set of starting time limits of construction time primarily to stop speculative trading and approvals of development. He said the Village Companies would be building the addition but were not sure of the timing because of the possibility of a recession this year and because the plan was to expand an existing division on site and if the division moved to other offices off-site, then it would take time for the other operations to expand.

Council Member Godschalk asked what was the likelihood that the fourteen acres would be sold and subsequently developed. Mr. Barrett said he knew of no plans to sell the property or to development.

Council Member Godschalk said that by separating the fourteen acres out of the SUP it meant those acres could be sold and developed separately and it meant improvements to Weaver Dairy Road along the frontage of that parcel would also be put on hold.

Council Member Werner said that stipulation #4 indicated that the full length of the McClamroch Circle 60' right-of-way be dedicated prior to issuance of a building permit for the building expansion and that a note be placed on the final plat for the 14-acre residual tract that indicated that roadway improvements to McClamroch Circle be made at the time of development of that tract. Mr. Barrett said that stipulation would go into effect when approved plans were made for the expansion and would put someone on notice that the Town would require improvement of the portion of McClamroch Circle on the 14 acres. He said currently there was a driveway in that location and if there were to be a private drive developed for the fourteen acre site then it would not be a public road.

Alan Rimer, representing the Planning Board, said the Board voted unanimously to recommend approval of Resolution A.

Manager Taylor said his preliminary recommendation was for approval of Resolution A with the addition of a stipulation relating to the need for additional land to meet the requirements for the transmitting tower.

There were no citizen comments.

Council Member Godschalk said he was interested in the improvements to Weaver Dairy Road and when this might be scheduled. He asked if there were any conditions placed with the Kensington Trace development with regard to Weaver Dairy Road improvements. He said that there appeared to be a significant portion of Weaver Dairy Road could be improved with these properties. Manager Taylor said that with Kensington Trace the Town did require road improvements to be made and the road was widened along its frontage. He said improvements had also been made along the frontage of Timberlyne Shopping Center. He said Weaver Dairy Road was a State highway and was on a high priority of the Town's street improvements. Manager Taylor stated that the odds of getting the State to make the improvements in a concentrated project from Erwin to at least N.C. 86 were very slim. He said that at the eastern end the proposal was to connect Weaver Dairy with Sage Road.

Council Member Godschalk said he would like to see the small pieces connected to make it a logical, safe road. He asked the Manager to investigate this possibility of linking up some of the

short segments, especially when negotiating with development along the intervening areas.

Council Member Pasquini said he agreed with Council Member Godschalk's comments and also that he would like some information on what the Town normally required of developers in relation to road improvements. He said the requirement that road improvements be made prior to issuance of a certificate of occupancy might need to be changed. He pointed out that with the Village Associates proposal this could mean it could be up to four years before the road was improved. Manager Taylor agreed and said that if the road improvements were required before a building permit it could mean three to three and a half years.

Council Member Werner said he shared the frustrations expressed by Council Members Godschalk and Pasquini with regard to improvements to Weaver Dairy Road. He said as a result he had some concerns with stipulation #3 because he was not sure there would be very much gained by widening the small stretch along the seven acres. He said the frontage along the fourteen acres between Kensington Trace and the Village Associates seven acre tract would not be widened. He asked if there was an alternative way of using the funds for widening the seven acre frontage to widen Weaver Dairy along the fourteen acre site frontage. Manager Taylor said there was an alternative of the Council allowing the applicant to make a payment-in-lieu of the cost of road improvements and by doing this they place the funds with the Town. He said the Town would still have to spend the funds on improvements to Weaver Dairy Road but it could be done as part of a coordinated project. He said that this would also mean that there was no guarantee as to when the improvements would be made.

Council Member Preston asked how many feet were along the frontage of the seven acre site. Mr. Waldon replied around 300 feet.

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

Mayor Howes asked if the Executive Session scheduled next on the agenda was needed. Attorney Karpinos replied no.

A MOTION WAS MADE AND DULY SECONDED TO ADJOURN THE MEETING. THE MOTION PASSED UNANIMOUSLY, (8-0).

The meeting adjourned at 9:00 p.m.

