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 University City Plan Zoning

An Adjourned Meeting of the City Council of the City of Charlotte, North Carolina, was held in the Student Union Cafeteria at the University of North Carolina at Charlotte on Monday, January 12, 1970, at 7:30 o'clock p.m., with Councilmen Fred D. Alexander, Sandy R. Jordan, Milton Short, John H. Thrower, Jerry Tuttle, James B. Whittington and Joe D. Withrow present.

ABSENT: Mayor John M. Belk.

Also present were Chairman Charles Lowe, Chairman of the County Board of Commissioners, and Commissioners Martin, Myers, Osborne and Peterson.

ABSENT: None.

Present for the Charlotte-Mecklenburg Planning Commission were Chairman Toy, and Commissioners Albea, Embry, Godley, Sibley, Tate and Turner.

ABSENT: Commissioners Blanton, Brewer and Stone.

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OVERALL CONCEPT AND PLANS FOR ZONING OF THE UNIVERSITY AREA PRESENTED BY PLANNING DIRECTOR.

Mr. W. E. McIntyre, Planning Director, stated the matter to be considered tonight is specific zoning for the area about the University of North Carolina's campus; an area of some approximately 30 square miles. The zoning to be considered rests upon framework of planning and a series of planning proposals that have been made for the University area.

He then reviewed some of the principal concepts and ideas that were established in this plan. He stated there were a number of goals and objectives they hoped to serve and see developed as the area about the university evolves and becomes a community. (1) They wanted to create quality environment for the 35,000 people who will be induced into the area primarily by the jobs and educational opportunities that will be afforded by the university and the university research park. (2) They wanted to provide opportunities for housing in the area that will meet the needs of the people who will plan to locate here. (3) They aspire to develop the residential area into a well protected neighborhood hopefully conveniently serviced with schools, parks, governmental facilities and similar services for convenient living. (4) They wanted to establish a system of major roads that will provide convenient and adequate circulation about the area and desirable connections into other parts of the county and region. (5) They wanted to establish and preserve an open space system for the community through the wise use of land around streams that are subject to play. (6) They hope to provide ample recreational facilities for the community through the use of flood plains and other land for playgrounds and parks. (7) In close proximity to the campus they wanted to provide the opportunity for the development of arrays of facilities and services such as dormitories, fraternities, churches, offices, church related student centers and so forth; they wanted to provide the type of facilities that are necessary to meet the needs of the university community.

Mr. McIntyre stated this hearing is intended to consider certain zoning proposals designed to carry out some of the planning goals he has mentioned; the zoning proposal will carry out the land development aspects of the plan; we are considering the zoning that would help to bring this kind of planning for development into being for the area.

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Mr. McIntyre stated the area covers two governmental jurisdictions. It covers an area that is under the control of city ordinances and therefore under the control of the City Council. A portion of the area is within the area of jurisdiction of the Board of County Commissioners so the zoning of this area will finally be determined after this hearing and after any other considerations they may wish to bring into the matter.

Mr. McIntyre stated the area of jurisdiction established for a long time under the city council's control is known as the perimeter and is an area that extends out into the county. The line starts at the north side of McClain and in a northerly direction along the Southern Railroad to the Backcreek Road intersection to N. C. 49; then the line runs cross country, across property, and as it gets close to Highway 29 the line runs roughly parallel to Mallard Creek Church Road on its northerly side. As it crosses Highway 29 then the line runs in a southerly direction towards town about 300 feet on the westerly side of Highway 29 until it gets to Mallard Creek then the line follows Mallard Creek, crossing I-85 staying on the Mallard Creek course. Then it follows Mallard Creek again westerly until it gets to Mallard Creek Church Road; then continues to follow the creek a short distance west of Mallard Creek Road; then the creek turns in a northerly direction and at that point is an area that establishes a line between the area already zoned on its westerly side by the county and the area that is unzoned at the present time and will be considered for county zoning as a result of this hearing tonight. That line runs north in a northerly direction; then it runs roughly parallel with Prosperity Church Road and cuts across Prosperity Church Road following property lines until it gets to a Duke Power right of way line that extends across the county in this general location; then following property lines going generally to the north and northeast crossing Oehler Road, crossing Ridge Road and finally up to the Cabarrus County Line.

Mr. McIntyre stated within this area we will be talking about the initial zoning under county ordinance and under county control; on the other side of the line, generally on the town side, we will be talking later about various proposed amendments to the already established zoning for that area.

He stated zoning involves two basic things - (1) a written ordinance, and (2) establishing districts on a map that are transferred on the ground.

Mr. McIntyre then presented items relating to the jurisdiction of the county only.

PRESENTATION OF PROPOSED AMENDMENT TO THE TEXT OF THE ZONING ORDINANCE TO ESTABLISH A NEW ZONING DISTRICT TO BE KNOWN AS INSTITUTIONAL DISTRICT.

Mr. W. E. McIntyre, Planning Director, stated the Institutional District is designed to provide locations for institutional related purposes that are desirable and that can be properly controlled and a proper environment created for them. That since many of these uses can have considerable impact on the area in which they are located, standards are written to provide protection for nearby property as well as to related uses within the district satisfactory to each other. This district is designed to forestall traffic and congestion problems by giving special consideration to the relationship between individual institutional developments and their impact on the street system.

He stated this district proposes two definite ways to allow uses to take place within the district:

- (1) It proposes that certain uses be allowed as a matter of right in the conventional and ordinary matter of zoning regulations. These uses are churches, synagogues, parish houses, sunday school buildings and similar uses; colleges and universities with all assessorly facilities except

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stadiums; day nurseries, day care centers and prep schools; dormitories operated and located on the principal site of the institution service; dwellings, one family detached and duplex; hospitals, libraries, parks and playgrounds, operated on a non-commercial basis for purposes of public recreation; police and fire stations; schools, elementary, junior and senior high, public and private.

(2) There is an extensive list of uses proposed to be allowed on a conditional basis. The conditional basis means they will be allowed after specific review of the proposed development of an individual piece of property by the Planning Commission and the governing body.

The conditional uses that will be allowed by this provision would be banks; buildings for dramatic musicals and other cultural activities; buildings for social, fraternal, social services, civic and union organizations; clinics, dental and doctor offices; coliseums, stadiums, community recreation centers; commercial schools, and schools providing adult training in any of the arts, sciences, trades and professions; commercial uses in conjunction with certain multi-family and office uses; country clubs and swimming clubs operated on a non-commercial membership basis; dormitories other than those operated by and located on the principal site of the institution served; dwellings, multi-family, condominium, single family attached and planned multi-family projects; golf courses, public and private; golf driving ranges, archery ranges, laboratories and other facilities for research, both basic and applied in enclosed buildings, conducted by or by an individual organization or concern whether private or public, subject to the performance standards now in effect for this use in the established RESEARCH district; motels, motor courts, and hotels with associated commercial uses; office and office buildings; post offices; studios for artist, designers, photographers, musicians, and sculptures; YMCA and comparable organizations; nursing homes and rest homes for the aged.

Mr. McIntyre stated non-residential uses within the Industrial District would be subject to certain dimensional requirements comparable basically to the R-15 requirements in the established ordinances both in the city and county. The dimensional requirements that would govern residential uses would be similar to dimensional requirements already established in the R-12MF districts in both the city and county regulations.

Mr. Robert Alexander asked if synagogues, parish houses and soforth can not be put into every category now zoned? He asked if colleges, and universities and facilities are not covered in practically every category? Mr. McIntyre replied that is right with the exception of being allowed in the industrial districts.

Mr. Alexander asked if day nurseries are not allowed in every class with the exception of industrial districts; and dormitories are allowed in every category with the exception of industrial? Mr. McIntyre replied he is not sure about the day nurseries in business area but the remainder of the statement is correct. Mr. Alexander went through the list of permitted uses and asked if all these uses are not permitted in most every class; he stated all the rights they have left is dormitories and for most of the other, their property can be condemned and they can take it anyway.

Mr. Alexander then went through the individual uses permitted conditionally under Institution and asked what districts they are now permitted as uses in the City of Charlotte. He stated he is asking these questions because a good many of the people did not know what is proposed for the area and what is in the present ordinance.

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Mr. Richey of Sandburg Avenue stated 1969 has made us aware of a new word in our vocabulary - ecology. Ecology deals with man's relationship to his environment, and if you study environment you cannot ignore the fact that in it is a very definite balance, and to destroy the balance is to destroy the environment. That the Planning Commission has endeavored to maintain that balance in their overall plan; they have not said that the University City will be all one thing or all another. Instead the plan is a slice of life. Life is not all Myers Park and it is not all ghetto, and it is not all Independence Boulevard; it is a little bit of this and a little bit of that; it is ecology - it is a balance environment. That the only concern he has is that balance be kept. He stated the area around Central Avenue and Amity Road used to be a balanced environment, but today it is going apartment complexes all the way.

Mr. Richey stated he does not think the people in this area will object to some high rise apartments and some multi-family projects, but they want their ecology respected.

Mr. Faison Barnes, Attorney for some landowners with respect to both the City and County, stated as a lawyer it is his opinion that the proposed amendment to the ordinance would be a bad thing, and there are a number of reasons for that. First, on the basis of some of his extensive research this is dipping into some very troubled legal waters with this kind of zoning.

He then read some comments from the American Law for Zoning. "The conditions generally imposed are those designed to protect adjacent land from the loss of use value which might occur if a newly permitted use was made without restraint of any kind. Conditional zoning is voundable to the objection that it offends the requirement that all zoning regulations shall be uniform for each class or kind of buildings throughout each district. Conditional zoning measures ordinarily apply to small parcels."

Mr. Barnes stated he has not found one instance where there was a conditional use kind of zoning of this type that had been tested in the courts that withstood the test unless the conditions necessary to qualify were specified and spelled out - this ordinance does not spell it out. He stated the Planning Commission is recommending that the area marked Institutional be zoned R-12 with the right to petition to rezone to one of the conditional categories. This is nothing more than single family zoning for uses that are already permitted in the city's existing classifications. He called their attention to the map as shown and the area zoned single family and asked them to add the area marked for Institutional and they will see that the Planning Commission is recommending that a 30 square mile area is for single family uses. Mr. Barnes read from the U. S. News and World Report an article entitled "The Rush to Apartments", in which it was stated that apartment living looks like the way of the future in the United States; the young typical couple setting up housekeeping is going into an apartment as are many older couples whose children are grown; for most low income families home ownership is almost out of the question. As costs begin to rise many moderate income families see their opportunity to purchase a house growing dim unless the wife takes a job. He stated the trend of going to apartments has been growing for years. In the early 1950's, multi-family units made up less than 10% of the housing need; the proportion has increased steadily to 40% within recent years and may soon go over the 50% mark. This does not include mobile homes. Mr. Barnes stated the same kind of statistics are set forth in the December issue of Fortune Magazine. The housing crisis is building up in the United States; the shortage of shelter that has long affected the black and poor is spreading to the white middle class and to the affluent. Housing prices and rent are climbing higher; the shortage has been developing since 1966. He stated it is true you want to create some kind of ecology, but you do not want to create an imbalance of the kind that the Planning Commission is recommending.

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He stated the proposed Institutional zoning does not constitute planning at all; it constitutes a substitute for planning; in effect it constitutes a freeze zoning, a no zoning. He stated as long as the only uses that are permitted in this area are a matter of right there will be no development in the area. The proposed Institutional zoning will inhibit development of the area and that is the purpose in this area and it will devalue it for every land owner.

Mr. Barnes stated the first time a request for conditional zoning is denied, the ordinance will be stricken down by the court.

Mrs. Lydia McNeary stated the Institutional zoning could have some highly desirable results but many things are workable in theory but not in practice and having witnessed many changes in the University plan from October to its present plan she gives credence to the pipe dreams of severability and general welfare by offering them Institutional zoning for their property.

She stated the institutional zone is vague in that it removes all profitable uses of the land; it restricts land; that its conditional nature would open a pandora's box. She asked why they should be subjected to costly and time consuming pleas for the right to use their land, particularly when there is no other existing zoning which requires so much from the property owner. She requested that Petition 70-1 be denied and the same reasoning applied to Petitions 70-4 and 70-9.

Mrs. Carrie Alexander stated Institutional zoning is a recent local innovation created to exert undue precedented control over land use in the University area. She stated she feels such zoning would make their land worthless to them as most of it is neither suited nor desirable for any of the uses that would be permitted under this zoning. She stated they are agreeable to and look forward to the growth of the community, but feel logical and just regulations should consider people as well as land; that it seems unfair that most of their land would be taken for this institutional zoning while politicians and big business interests - some of whom have recently bought land in the college area - should be given preferable consideration. She stated they have been zoned once and taxed accordingly. She asked if they must be zoned again so soon and their taxes increased. She requested that they forego this periodically zoning changes.

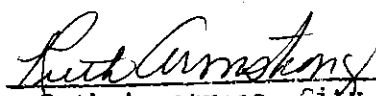
Mr. Bill Booe, Attorney for some land owners in the area stated they would like to voice their disapproval of the plan. He stated he feels there are some legal obstacles in this plan. He stated he feels they do not have unlimited authority in connection with this zoning matter.

Also speaking in opposition was Mr. Joe Griffin, Attorney, representing Mr. D. E. Smith and Mr. Ray Perry; Mr. Newton Barnette of Mallard Creek Church Road, Dr. James M. Alexander and Mrs. Majorie Alexander Thompson.

ADJOURNMENT.

Mayor pro tem Whittington stated realizing that those involved in the County zoning will not be through tonight the City Council has voted by ballot to continue its part of the petitions to Thursday night; if the hearings are not completed on Thursday the meeting will be continued until everyone involved with the University area plan will have their opportunity to be heard before Council takes a vote on it.

Councilman Short moved that the meeting be continued until 7:30 p.m., Thursday night, January 15 in the Parquet Room of the Student Union. The motion was seconded by Councilman Alexander and carried unanimously.


 Ruth Armstrong, City Clerk