

**SUMMARY MINUTES OF A PUBLIC HEARING
OF THE CHAPEL HILL TOWN COUNCIL
MONDAY, FEBRUARY 21, 2005, AT 7:00 P.M.**

Mayor Kevin Foy called the meeting to order at 7 p.m.

Council members present were Sally Greene, Ed Harrison, Mark Kleinschmidt, Bill Strom, Dorothy Verkerk, Jim Ward, and Edith Wiggins.

Council Member Cal Hill was absent, excused.

Staff members present were Town Manager Cal Horton, Deputy Town Manager Florentine Miller, Assistant Town Manager Bruce Heflin, Town Attorney Ralph Karpinos, Town Information Officer Catherine Lazorko, Planning Director Roger Waldon, Senior Development Coordinator J.B. Culpepper, Senior Planner Phil Mason, Parks and Recreation Director Kathryn Spatz, and Deputy Town Clerk Sandy Cook.

Item 6 - Concept Plan: Homestead Road Property - Residential Development

Ms. Culpepper said the proposal is to construct a residential development on Homestead Road. She said the proposal involves construction of 36 buildings with 72 dwelling units totaling approximately 125,000 square feet of floor area with 137 parking spaces. She said the site is located at the southwest corner of Homestead Road and Seawell School Road. Ms. Culpepper displayed a map pointing out the location of the proposed development.

Ms. Culpepper noted that the Council had first reviewed a Concept Plan for this site on June 21, 2004, but the proposal had changed. Ms. Culpepper called the Council's attention to a chart on page 4 of the materials that highlighted the changes made to the Concept Plan since the Council saw it last June. She said the applicant had obtained additional property so the boundaries had been adjusted.

Ms. Culpepper said the Concept Plan proposal had returned to the Community Design Commission (CDC) in January and again on February 16. She noted that the CDC's comments were included in the materials.

Ms. Culpepper said that the Concept Plan process does not include a staff review. But, she said, they do believe that when this proposal becomes an application, it will require a rezoning and a Special Use Permit. The staff recommends that the Council hear from the applicant, from citizens, and adopt a resolution transmitting comments to the applicant.

Eric Chupp, of Capkov Ventures, Inc., said they were back before the Council after almost a year of revisions to this project. He stated that they had tried to incorporate the Council's earlier comments as well as those from the CDC, whom they have appeared before on three different occasions. Mr. Chupp said they believe they now have it right and will be able to bring this forward as an application in a month or so.

Mr. Chupp said when the Council reviewed this project the first time, the feedback was twofold. First of all, he said, it was acknowledged that the plan was too dense, and displayed a site plan map of the property. Second, he said, for the affordable housing component they had offered size-restricted housing, but that had been modified to expand that but with the same amount of units. Mr. Chupp noted that the street structure had been significantly modified from the previous proposal.

To address the affordability component, Mr. Chupp said they had modified the plan to include 20 percent affordable housing as opposed to size-restricted units previously proposed. He said this type of community allows them to seamlessly integrate affordable housing in with market rate housing by way of the duplex configuration. Mr. Chupp said their goal was that the "casual observer" would not be able to tell the difference between the affordable units and the market rate units.

Mr. Chupp said one of the most important elements of the affordable housing component in this project is that it places the affordable housing within walking distance of the three primary schools, noting that part of the plan calls for providing a sidewalk that attaches to existing sidewalks.

Mr. Chupp said other attributes of this location include the new park and eventual aquatics facility that will be located on Homestead Road, the Senior Center that will also be located on Homestead Road, and eventually the development of the Horace Williams site which is very close to this property.

Mr. Chupp said the market rate housing would be moderately priced by Chapel Hill standards, and may well be the lowest priced family housing built in Chapel Hill at that time. He said they hoped to maintain a price level of \$250,000 for market rate homes. Mr. Chupp said they believe that this is the right community in the right spot.

Mr. Chupp said they had addressed the density issue by retaining the same amount of homes at 72, or 36 duplex units, and have added 66,000 square feet of usable land to the previous site. He said this had been accomplished by a well thought out trade between Capkov Ventures and the Gallitano-Burch family, with the additional land also allowing us to add a more interesting street layout that gives the project a more community feel, and affording more room between homes. Mr. Chupp pointed out the land swap on the map displayed of the site. He noted that the additional land had also allowed them to consolidate the stormwater facilities and the detention facilities into one facility, which they believe has numerous benefits from a water quality standpoint.

Mr. Chupp said they believe this is a good project, and believe that the CDC agrees with them. He said another thing worthy of note is that there has been little community opposition to the project.

Phil Post, speaking as a representative of Capkov Ventures, said they had one question on the development side and would appreciate having an answer this evening. He said as you read through the chart provided in the materials there is one area in which they exceed the ordinance

requirement, and that is in the floor area. Mr. Post said that Ms. Culpepper had mentioned in her opening remarks that they may need a rezoning, but he would like to suggest that there may be another alternative. He said there is a portion of the Town's ordinance that allows the Council to modify one of the rules, such as in this case where the proposed development meets all of the requirements but one, with the ordinance allowing the Council to grant an exception in such a case.

Mr. Post gave a brief overview of how the development was placed on the site, the amount of open space that would be retained, its close proximity to the schools, and several other factors. He said that because of these facts, the project meets the threshold for the "public purposes" as specified in the ordinance. Mr. Post said if a project meets the public purposes to an equivalent or greater degree, then the Council can grant an exception. He said they were not asking for that exception tonight, since they must prove it, but did ask that the Council give them some direction as to how to proceed. Mr. Post said in the area of floor area, they need to know if the Council would like them to proceed on the basis of the ordinance provision that allows the Council to target the floor area "like a laser beam," or did they want then to come in with a request for rezoning. He said they needed to leave here tonight with some indication of how the Council wanted them to proceed.

Mayor Foy asked Town Attorney Ralph Karpinos to respond to Mr. Post's request. Mr. Karpinos said his concern with Mr. Post asking for that commitment tonight is that that decision is for the Council to make at the Special Use Permit stage, and he did not believe the Council was in a position to give that type of commitment to an applicant now because it has not received the evidence. He said he had not studied the Concept Plan so he did not yet have an opinion of whether the proposal would meet that criteria or if the Council would have that discretion. But, Mr. Karpinos said, he did not think the Council was in the position at the Concept Plan review to tell an applicant what it is going to do when a Special Use Permit application comes back.

Mr. Karpinos said he understood that what the Council wanted when they established the Concept Plan review process was to help the applicant, but he did believe the kind of commitment the applicant is requesting is one the Council can make.

Mr. Post said he believed his request had been misstated. He said they were not asking for a commitment, rather they were asking for guidance as to whether their application should be a rezoning application or would it be more convenient to discuss their request for additional floor area under the proviso that might allow the Council to adjust a single element of the ordinance criteria under the paragraph he had distributed earlier to the Council.

Mayor Foy asked if under either scenario, would there be a Special Use Permit application. Mr. Post responded that was correct, adding they needed to know if they had a Special Use Permit, or a Special Use Permit with a rezoning. Mayor Foy said he did not understand why that was important at this stage in the process. Mr. Post answered because they need to know if they need to ask for a rezoning, or was the Council going to handle their request for additional floor area as an exception to the ordinance, which would require only the Special Use Permit.

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Mr. Karpinos reiterated that he believed the applicant was asking for the Council to commit that it would be willing to make a determination that the public purposes would have been found to be met to an equivalent or greater degree. He said that was the determination that needed to be made to modify the standards.

Mayor Foy, based on the comments from Mr. Karpinos, informed Mr. Post that the Council would not be making that determination at this time.

Council Member Harrison asked Ms. Culpepper to account for the sentence about "we will anticipate this might require a rezoning." Ms. Culpepper stated that they will encourage the applicant to file a rezoning request and a Special Use Permit application because the intensity imposed meets the Residential-2 requirements, but the intensity does not meet the intensity allowed with the floor area ratio within the R-2 zoning district.

Council Member Harrison asked if the applicant would "pick" which zone that would be. Ms. Culpepper responded that the applicant would have to look carefully at the floor area ratios, and because the staff had not yet conducted a review of the proposal, she did not know what the R-3 or other zoning would do, especially considering the Resource Conservation District line running through the property. Council Member Harrison said he did not want to make any sort of commitment tonight either, but as a Concept Plan it was difficult for him to keep a concept of it without knowing if there would be a rezoning. He said he had brought this up because we don't normally make such a statement as "we will anticipate this might require a rezoning."

Louis Taft, a resident of Homestead Village, wanted to make sure the position of Homestead Village was represented fairly. He said that when this had come before the Council in June, a representative of Homestead Village had indicated that the residents in the neighborhood had a strong preference for single family detached homes. But, Mr. Taft said, they would not oppose this proposal, mainly out of fear that an even higher density proposal might be made if this one is rejected. He said that at the meeting of the CDC last week, it was noted that the entrance to this proposed development was on a curve. Mr. Taft said that traffic moves quickly in this area and there was some concern about potential accidents there. He said there was also some concern about run-off from the site and the effect on Bolin Creek.

Mr. Taft said that finally, there was some concern regarding the bus service that recently began in Homestead Village, and that that service might eventually be extended into this project. He asked the Council to make sure there were plenty of room for buses to make the necessary turns and that the streets were wide enough.

Bill Burch noted that the property Mr. Chupp had described as being acquired to add square footage on the site was property previously owned by him and his sister. Using the site map, Mr. Burch indicated the property. He asked for some assurance from the Council that at whatever time his family decides to do something with the neighboring tract, that they will not experience any difficulty in putting in a street on the 50-foot width that borders the school property. Mr. Burch said they endorsed this proposed development, adding it was well thought out and would be an asset to Homestead Road.

Mayor Foy asked Mr. Post to comment on the proposed 137 parking spaces, and asked if that included on-street parking. He said it looked like there was specific on-street parking. Mr. Post said there were 38 garages and 38 pull-off paths. He said that the minimum number of parking spaces required by the ordinance is 137, so what we are proposing is on-street parking for about half of the requirement, then paths or garages for the other half.

Mayor Foy said he had looked at the CDC's comments from last year, where they said they were concerned about the design, and had made suggestions for revised building design to "provide a diversity of building types and sizes." He said this proposal did not look like it was a diversity of building types and sizes. Mr. Post said the drawings may be deceiving. Using the map, he indicated the different styles of housing, and reminded the Council that some had garages. Mr. Post said that there would be differing views, with some having front doors or side doors, and some with front porches or side porches. He said there was building to building diversity and scale diversity, as well as streetscape.

Council Member Greene said that when looking at the Council's minutes of June 21, 2004, one of the other things they had talked about was setback diversity, and asked had that been addressed. Mr. Post said yes, noting that the former proposal was sort of a "cookie cutter" design, so they had broken that up with several large tree preservation areas. Using the map, Mr. Post indicated several areas of trees, and indicated road patterns and other aspects of the project.

Mayor Foy asked Mr. Chupp how many of the total units would be affordable. Mr. Chupp responded that 15 of the proposed 72 units would be affordable. Mayor Foy asked if those units would be in the Land Trust. Mr. Chupp responded that they would be in the Land Trust.

Council Member Strom stated it was unusual for an applicant to bring a Concept Plan back to the Council for a second time. He asked Ms. Culpepper if that was an option for any applicant. Ms. Culpepper responded that whenever changes are made to a Concept Plan, and in this case the boundaries have changed as well as some other elements, we encourage the applicant to the return to the Council, especially if significant changes are being proposed. Council Member Strom stated he found it to be useful to see such projects a second time. He said it would have been helpful to have seen the proposal for the Wilson Assemblage a second time. Mayor Foy agreed.

Mr. Chupp thanked the Planning Department for their guidance on this. He said they had come back to them to ask should they or should they not appear before the Council a second time, and they had advised them to do so. Mr. Chupp said that had led to the appearances before the CDC, all of which had been productive.

Council Member Ward asked what the dimensions were of the interior streets proposed to have on-street parking. Mr. Post responded that near the entrances the streets would be three lanes wide or more, and other streets would be 27 feet wide. Council Member Ward asked would there be on-street parking on both sides of the street. Mr. Post responded that the Town's standard for public streets was 27 feet in width, which allowed for on-street parking on one side only. He said that although these streets would be "private" streets, they would be built to Town standards.

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Council Member Ward said he would be concerned with sight distances when you allow on-street parking near driveways, and there appears to be a continuous curve in this interior road. He asked the applicant to be conscious of this, particularly since children would be coming out into the road. Mr. Post said when this was brought back they would fully address this issue.

Council Member Ward said there was an earlier comment by an advisory board, and he agreed, that there was not a sidewalk on Homestead Road and he believed that was important to the connectivity the Town was trying to achieve. He said we were achieving it in part with this kind of plan, but we need pedestrian mobility improved along Homestead Road.

Council Member Ward said this was a Concept Plan, but the "huge" intersection off of Seawell School Road where the entrance looks like it was designed to allow "a couple of school buses to pass each other while a dump truck is doing something," and is not designed for the people who are going to be living there. He asked the applicant to consider slowing down traffic with a tighter curb radius, and making it more user friendly for people not in cars, while still maintaining the traffic that you need. Mr. Post said there were engineering drawings that showed that the curb radius was much tighter, but it was difficult to see in these conceptual drawings.

Council Member Ward said he would look for much richer connectivity beyond the two entrances in terms of getting into and out of this development on a bicycle and on foot, and whether there are public paths on the perimeter so that people can get to where they want to go. He said he was curious what the access is to the central open space and the open space along the creek and making sure that it is clear and public, or a least community access to these.

Council Member Ward said he was concerned about putting 72 homes times how ever many people that turns out to be surrounding these "wonderful" trees. He noted that off of Erwin Road there was a beautiful oak tree that he believes the applicant was involved in, and now that tree is a skeleton. Council Member Ward said it takes a lot to protect these old trees, and if that is indeed a goal then it takes going beyond the minimum. He said they have to be protected not only during construction, but in terms of the use around them. Council Member Ward suggested looking at the trees around a playground, noting that kids with size 13 shoes can compact soil just like a tractor trailer. He said those trees would be gone if this was not considered carefully.

Council Member Ward noted that as the Council had said with other developments of this sort, an effort should be made to save the existing houses. He said there are two houses located on this site and he would be interested in having the applicant explore the opportunities for their relocation and offering to assist in that effort if it was at all appropriate. Mr. Chupp said that they had purchased a lot down by the Habitat development on Rogers Road, and that both of the existing houses would be moved to that lot.

Council Member Harrison said Mr. Post had referred to the streets as "private." He asked if all of the streets would be private. Mr. Post responded that was the current proposal, but they would be built to public street standards. Council Member Harrison said taking into account Mr. Taft's comment on bus usage, would you run a bus in and out of a private street? Mr. Post answered

that they had not been before the Transportation Board as yet, but if the Town were to run a bus route through the development then they may have to rethink that. He said they had been encouraged by the CDC to bring the houses as close to the street as possible so that the appearance of the development was not dominated by long driveways. Mr. Post said this "doesn't comport" to a public street right-of-way and front setbacks off of a public street right-of-way.

Council Member Harrison said that makes it "tough" for buses to do anything other than pull in and out of the development. Mr. Post said there would be substantial widening improvements along Homestead Road and Seawell Road. He said they had not yet vetted this through "bus route" thinking, but if the Town wants to run a bus route through then they would rethink the proposal. Council member Harrison said it sounds like the secondary roads could handle it. Mr. Post said their earlier thinking was bus stops and widenings would fully accommodate that along the two parameters.

Council Member Harrison said regarding the request for guidance from the Council, he did not know how other Council members feel but he believes this proposal looks like it would need a rezoning.

Council Member Ward said regarding the exchange of land between the applicant and the Gallitano-Burch family and the RCD running through it, he did not want the family to think there was any certainty of what can or cannot be done with that site. He said at this point he did not understand it well enough to give anyone any certainty as to that corridor being a guarantee to get to that property. Mr. Chupp responded that what he believes they should do is represent that corridor as a right-of-way on the next plan when they submit it so that it could be recognized as part of the SUP application. He said that might give the land owners the assurance they are looking for. Mr. Chupp said without having a concept in mind of what their future use might be, although they have floated a few such as several retirement homes for family members and that kind of thing, he believes that when we submit the next plan we will show this as a dedicated public right-of-way.

COUNCIL MEMBER KLEINSCHMIDT MOVED, SECONDED BY COUNCIL MEMBER WARD TO ADOPT RESOLUTION R-1. THE MOTION WAS ADOPTED UNANIMOUSLY (8-0).

A RESOLUTION TRANSMITTING COUNCIL COMMENTS ON A CONCEPT PLAN FOR THE HOMESTEAD ROAD PROPERTY-RESIDENTIAL DEVELOPMENT (2005-02-21/R-1)

WHEREAS, a Concept Plan has been submitted for review by the Council of the Town of Chapel Hill, for the Homestead Road Property-Residential Development; and

WHEREAS, the Council has heard presentations for the applicant, and citizens; and

WHEREAS, the Council has discussed the proposal, with Council members offering reactions and suggestions;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council transmits comments to the applicant regarding this proposal, as expressed by Council members during discussions on February 21,2005, and reflected in the minutes of that meeting.

This the 21st day of February, 2005.