clearly notified that final plat approval has not yet been secured, that approval is not guaranteed, and that the contract may be terminated if the final plat is materially different from the preliminary plat.

After the required improvements are installed, the city or county inspects them for compliance with the ordinance. If they meet the standards and are built as proposed, *final plat approval* is given. Approval is required if the work is consistent with the terms of the ordinance and the preliminary plat approval. Although there is little discretion involved with final plat approval, this decision is usually made by the city council or county board of commissioners. Submission of the final plat is an offer of dedication of indicated improvements, and with final plat approval the city or county formally accepts the dedication of streets and utilities. After the local plat review officer designated under G.S. 47-30.2 certifies that the plat either meets plat and subdivision standards (or is exempt), the final plat may be recorded with the register of deeds. Upon recordation the owner may begin selling lots.

Exactions

The statutes authorize a variety of development exactions as a condition of plat approval. G.S. 153A-331 and 160A-372 authorize requirements that the following be provided:

1. Streets: Dedication of rights-of-way, construction, or fees in lieu of construction[22]
2. Utilities: Dedication of rights-of-way
3. Recreation, park, and open space areas: Dedication or reservation of sites, fees in lieu of site dedication or development
4. Community service facilities: Construction, bonds for compliance
5. Schools: Reservation of sites for subsequent public purchase

In addition to requiring provision of this public infrastructure, the subdivision ordinance can require the design and layout of the development to be coordinated with planned public streets and other facilities.[23]

The authority to require provision of land and facilities and payment of fees for infrastructure needs created by new subdivisions provides authority for reasonable fees for transportation, water, sewer, recreation, and open spaces needs generated by growth.[24] Local governments can also impose special assessments on benefited properties to pay for improvements for streets, sidewalks, water, sewer, and drainage projects.[25]

However, while North Carolina statutes authorize these fees for public enterprise functions, the statutes do not include express enabling legislation for impact fees that are common in other states.[26] As a result, several dozen North Carolina cities and counties have secured local acts authorizing the use of impact fees to provide for various types of public facilities.[27] Only a portion of the affected local governments have actually adopted fee ordinances. Some of these include Raleigh[28] in 1987 (covering roads, parks, and greenways), Durham in 1987 (covering streets, parks and recreation facilities, and open space), Cary in 1989 (covering roads), and Orange County in 1993 (school impact fees).[29]

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22. The court of appeals has interpreted G.S. 160-372 to preclude requirements that a street be constructed outside of the land area of the proposed subdivision (even if it is adjacent to and serving the subdivision) but noted that the statute explicitly allows collection of fees in lieu of street construction for such outside street improvements. Buckland v. Town of Haw River, 141 N.C. App. 460, 541 S.E.2d 497 (2000).

Although they infrequently do so, local governments may also adopt a transportation corridor official map to protect future rights-of-way. G.S. 136-44.50 through 136–44.54. Building permits for projects within an officially designated right-of-way may be delayed for up to three years.

23. Batch v. Town of Chapel Hill, 326 N.C. 1, 12, 387 S.E.2d 655, 662 (1989).

24. G.S. 153A-331; 160A-314; 160A-372. South Shell Investment v. Town of Wrightsville Beach, 703 F. Supp. 1192, 1206 (E.D.N.C. 1988), *aff'd*, 900 F.2d 255 (4th Cir. 1990) (upholding authority to charge impact fee for water and sewer services). Also, a city can set utility fees in its sound judgment. Atlantic Construction Co. v. City of Raleigh, 230 N.C. 365, 53 S.E.2d 165 (1949). The authority to impose impact fees for public services other than public enterprises is far less clear. The cases nationally are split as to this authority in the absence of explicit statutory authorization (and about half of the states have provided such authorization). See DANIEL R. MANDELKER, LAND USE LAW § 9.21 (5th ed. 2003).

25. G.S. 160A-216 through -238.

26. For general background on impact fees, see Brian W. Blaesser and Christine M. Kentopp, *Impact Fees: The Second Generation*, J. URB AND CONTEM. LAW 38 (1990); David A. Dana, *Land Use Regulation in an Age of Heightened Scrutiny*, 75 N.C. L. REV. 1243 (1997); Martin L. Leitner and Susan P. Schoettle, *A Survey of State Impact Fee Enabling Legislation*, 25 URB. LAW. 491 (1993); James C. Nicholas, *Impact Exactions: Economic Theory, Practice, and Incidence*, 50 LAW & CONTEMP. PROB. 85 (1987).

27. The legislation on impact fees, facility fees, capacity charges, and project fees varies in terms of what they may be used to fund and the procedures for calculation and collection. The most common authorization is for impact fees for streets and roads, parks and open space, and stormwater management facilities. Other authorizations allow funding for schools, fire stations, emergency medical facilities, solid waste facilities, city administrative buildings, storm refuge centers, cultural facilities, and libraries. 1991 N.C. SESS. LAWS ch. 324 (Orange County amendments), ch. 660 (Dunn); 1989 N.C. SESS. LAWS ch. 430 (Knightdale), ch. 476 (Durham amendments), ch. 502 (Wake Forest), ch. 606 (Zebulon), ch. 607 (Southern Pines); 1988 N.C. SESS. LAWS ch. 986–88 (Dare County municipalities amendments), ch. 996 (Rolesville), ch. 1021 (Catawba County); 1987 N.C. SESS. LAWS ch. 68 (Wendell), ch. 460 (Chatham and Orange Counties, Pittsboro), ch. 514 (Raleigh amendments), ch. 668 (Knightdale, Zebulon), ch. 705 (Hickory), ch. 801 (Cary), ch. 802 (Durham); 1986 N.C. SESS. LAWS ch. 936 (Chapel Hill, Hillsborough); 1985 N.C. SESS. LAWS ch. 357 (Carrboro), ch. 498 (Raleigh), ch. 536 (Dare County municipalities).

28. The program is described in William R. Breazeale, *Raleigh's Facility-Fee Program*, POPULAR GOV'T, Fall 1989, at 2.

29. The implementation of this authority is discussed in Richard D. Ducker, *Using Impact Fees for Public Schools: The Orange County Experiment*, 25 SCHOOL LAW BULLETIN, Spring 1994, at 1.

The exactions required are limited to those rationally related to impacts or needs generated by the proposed development.[30] The mandatory exaction must not be any greater than that which is roughly proportional to address the impacts of the permitted development.[31] The proportionality standard only applies in cases involving exactions, not to regulatory takings claims.[32]

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30. Nollan v. California Coastal Comm'n, 483 U.S. 825 (1987). States have traditionally imposed several different standards for how close the relationship between the exactions and the impacts of the proposed development must be. The strictest test is that the impacts be uniquely and specifically attributable to the development. Pioneer Trust and Savings Bank v. Village of Mount Prospect, 176 N.E.2d 799 (Ill. 1961); Frank Ansuini, Inc. v. City of Cranston, 264 A.2d 910 (R.I. 1970). On the other end of the spectrum, some courts held that any reasonable relationship would suffice. Others have used a rational nexus test. Franklin Road Properties v. City of Raleigh, 94 N.C. App. 731, 381 S.E.2d 487 (1989); Contractor and Builders Ass'n. v. City of Dunedin, 329 So.2d 314 (Fla. 1976), *cert. denied*, 444 U.S. 867 (1979); Jenad, Inc. v. Village of Scarsdale, 218 N.E.2d 673 (N.Y. 1966); Jordan v. Village of Menomonee Falls, 137 N.W.2d 442 (Wis. 1965).

31. Dolan v. City of Tigard, 512 U.S. 374 (1994). *See also* Pennell v. San Jose, 485 U.S. 1, 19–20 (1988). The North Carolina Court of Appeals relied on a similar test to hold that the exaction of land for a major road through a small subdivision was a taking, but the state supreme court reversed on other than constitutional grounds. Batch v. Town of Chapel Hill, 326 N.C. 1, 387 S.E.2d 655 (1989), *cert. denied*, 496 U.S. 931 (1990).

32. City of Monterey v. Del Monte Dunes at Monterey, Ltd., 526 U.S. 687 (1999). State courts have likewise limited the applicability of the nexus and rough proportionality standards to exaction cases. *See, e.g.*, City of Annapolis v. Waterman, 745 A.2d 1000 (Md. 2000) (*Nollan* and *Dolan* inapplicable to subdivision approval conditions); Bonnie Brair Syndicate, Inc. v. Town of Mamaroneck, 721 N.E.2d 971 (N.Y. 1999), *cert. denied*, 529 U.S. 1094 (2000) (rejecting allegation that rezoning of private golf course to open space zone must meet *Nollan* test). See Chapter 24 for further discussion of the takings issue.

tive date of the state rules prohibiting wetland fill did not automatically prevent him from having a reasonable investment-backed expectation regarding use of the property (though the existence of the regulations at the time of acquisition is one factor to consider in determining the reasonableness of development expectations).[15] The Court held that since the owner had the right to build at least one residence on the upland portion of the property and this had an undisputed value of at least $200,000, there was no total deprivation of the economic value of the property and thus no automatic taking under the *Lucas* test. The court remanded the case for further proceedings as to whether the case might be considered a taking under the balancing test of *Penn Central.*

Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency[16] involved development moratoria imposed on sensitive lands adjacent to Lake Tahoe while studies, planning, and development regulations were being prepared. There were two moratoria challenged in this suit, which together prevented development in the most sensitive portions of the Lake Tahoe watershed for thirty-two months (other moratoria not involved in this litigation effectively extended the moratoria to six years). The plaintiff urged the Court to hold that all moratoria, no matter how short or long, violated the constitutional prohibition on taking private property without just compensation. The Court refused to do so. The Court held that the *Penn Central* balancing test should be applied in virtually all cases contending that a regulation is a taking. The Court held that the *Lucas* "valueless" test cannot be applied to the period of the moratorium alone, further limiting the attempt of property owners to segment property interests when making a taking analysis.[17] Consideration of "fairness and justice" is critical, and here a careful analysis of all the factors involved led to a conclusion that there was no taking. The Court noted that temporary moratoria allow time for necessary studies, public participation, and deliberation and that the complexity of the management issues involved with developing a complex bistate management plan justified this moratorium. While noting that moratoria lasting longer than a year may well warrant special skepticism, the Court concluded that the longer period was justified in this situation.

The takings issue also arises when landowners are required to dedicate a property interest to the government as a condition of development approval. To avoid being an unconstitutional taking, these requirements, termed development "exactions," must meet two tests. First, there must be a substantial connection between the dedication and the need for it created by the development.[18] Second, the size of the exaction must not exceed that which is "roughly proportional" to the impacts generated by the development being approved.[19] The proportionality standard only applies in cases involving exactions, not to regulatory takings claims.[20]

At one time the Court had also stated that a regulation that does not substantially advance a legitimate governmental objective gives rise to a takings as well as a due process claim.[21] However, in *Lingle v. Chevron U.S.A., Inc.*,[22] the Court held that this is not an appropriate test for a takings claim.

North Carolina Application

The taking issue has not been frequently litigated in North Carolina state courts. Only a handful of cases have addressed the issue to any substantial degree. Three early decisions illustrate that the court will

15. In a case involving denial of bulkhead and fill permits for lots along a man-made canal, the South Carolina court held that long-standing preexisting permit requirements, coupled with a failure to seek permits in the face of ever more stringent regulatory requirements, indicated a lack of investment-backed development expectations. McQueen v. South Carolina Coastal Council, 580 S.E.2d 116 (S.C. 2000), *cert. denied*, 540 U.S. 982 (2003). The lots had eroded and reverted to wetlands. *See also* Rith Energy, Inc. v. United States, 247 F.3d 1355 (Fed. Cir. 2001), *cert. denied*, 536 U.S. 958 (2002) (regulatory regime considered in determining reasonable investment-backed expectations).

16. 535 U.S. 302 (2002).

17. When undertaking a taking analysis, the property as a whole, not just the regulated portion or the time period of the regulation, must be considered. Concrete Pipe & Products v. Construction Laborers Pension Trust, 508 U.S. 602 (1993); Machipongo Land & Coal Co. v. Commonwealth, 799 A.2d 751 (Pa. 2002).

18. Nollan v. California Coastal Comm'n, 483 U.S. 825 (1987).

19. Dolan v. City of Tigard, 512 U.S. 374 (1994). The Court noted that this is a special application of the doctrine of unconstitutional conditions, holding that "the government may not require a person to give up a constitutional right—here the right to receive just compensation when property is taken for a public use—in exchange for a discretionary benefit conferred by the government where the benefit has little or no relationship to the property. *See also* Pennell v. San Jose, 485 U.S. 1, 19–20. The North Carolina Court of Appeals relied on a similar test to hold that the exaction of land for a major road through a small subdivision was a taking, but the state supreme court reversed on other than constitutional grounds. Batch v. Town of Chapel Hill, 326 N.C. 1, 387 S.E.2d 655 (1989), *cert. denied*, 496 U.S. 931 (1990).

20. City of Monterey v. Del Monte Dunes at Monterey, Ltd., 526 U.S. 687 (1999). See also Yee v. City of Escondido, 503 U.S. 519, 529–32 (1992) (rent control ordinance not a taking); Pennell v. City of San Jose, 485 U.S. 1 (1988). State courts have likewise limited the applicability of the nexus and rough proportionality standards to exaction cases. *See, e.g.,* Greater Atlanta Homebuilders Ass'n v. Dekalb County, 588 S.E.2d 694 (Ga. 2003) (*Dolan* inapplicable to facial challenge of tree protection ordinance); City of Annapolis v. Waterman, 745 A.2d 1000 (Md. 2000) (*Nollan* and *Dolan* inapplicable to subdivision approval conditions); Bonnie Brair Syndicate, Inc. v. Town of Mamaroneck, 721 N.E.2d 971 (N.Y. 1999), *cert. denied*, 529 U.S. 1094 (2000) (rejecting allegation that rezoning of private golf course to open space zone must meet *Nollan* test).

21. Agins v. City of Tiburon, 447 U.S. 255 (1980). In a claim for monetary damages as a result of an alleged unconstitutional taking, a jury trial may be had on the mixed law and fact question of whether the permit denial was reasonably related to the justification offered by the government. City of Monterey v. Del Monte Dunes at Monterey, Ltd., 526 U.S. 687 (1999). The issue of whether the governmental objectives involved are legitimate and substantial is a legal question to be determined without a jury. Buckles v. King County, 191 F.3d 1127, 1141–42 (9th Cir. 1999). See Chapter 25 for additional discussion of due process issues.

22. 544 U.S. 528 (2005) (case involved challenge to Hawaii law limiting the rent that oil companies could charge dealers leasing company-owned service stations). The decision provides a helpful overview of takings case law in the zoning area.

POINT	COUNTERPOINT
The University is not required by law to participate in or pay fees associated with a local stormwater management utility.	In Grayson Kelly's (Special Deputy Attorney General) letter dated March 27, 1996 to Robert Hagemann (Office of the City Attorney Charlotte, NC), Mr. Kelly's opinion notes that "state agencies are obligated to pay for such city or county services rendered to the agency." The runoff from the University leaves the University's property and enters the Town's stormwater system. It places a burden on the Town's system, both in terms of water quantity (volume) and water quality (pollution). Unless or until the University can keep 100% of its runoff on its property, the University is being provided a service, even if it did not explicitly request such service.
The University already manages the stormwater runoff generated on its properties.	The University's stormwater management efforts are directed toward new construction and do not relieve the burden on the Town's stormwater system from existing development that was constructed with minimal or no stormwater controls for volume and quality.
The University spends significant amounts of money each year for stormwater management on its properties. These expenditures are in effect "funds-in-lieu" of stormwater management fees charged by the Town.	The University's stormwater management efforts are directed toward new construction and do not relieve the burden on the Town's stormwater system from existing development that was constructed with minimal or no stormwater controls for volume and quality.
The University received an individual NPDES Phase II MS4 permit. University compliance with the requirements of its permit will offset service demand that University properties place on the Town's stormwater management system(s).	The NPDES permit is specific to stormwater quality activities only. NPDES stormwater quality activities are but one component that comprises the Town's stormwater fee. A credit system, if approved by Council, could potentially recognize the University's NPDES permit activities.
University compliance with OI-4 zoning regulations and the Town's Land Use Management Ordinance offset service demand that University properties place on the Town's stormwater management system(s).	The University's stormwater management efforts are directed toward new construction and do not relieve the burden on the Town's stormwater system from existing development that was constructed with minimal or no stormwater controls for volume and quality. A credit system, if approved by Council, could potentially recognize the University's stormwater management practices for new development.
There are no valid precedents for University participation in the Town's Stormwater Management Utility.	State agencies, including UNC system campuses, are paying the stormwater fee in various municipalities statewide.

There are valid precedents for non-participation by the University in the Town's Stormwater Management Utility.	The NC DOT has applied for and received a NPDES permit. The permit coverage includes state roads and maintenance facilities. For all other properties such as its residency and districts offices, NC DOT is being charged a stormwater fee.
The University has developed and is implementing a master plan that will manage stormwater on its properties.	The University owns properties throughout the Town, ranging from single buildings to the main campus. It is unlikely that the University intends to retrofit individual properties, constructed with minimal or no stormwater management, with stormwater controls. A credit system, if approved by Council, could potentially recognize the University's stormwater activities.

MEMORANDUM

TO: Mayor and Town Council

FROM: Greenways Commission
Glenn Parks, Chair BW for GP

SUBJECT: Development Application: UNC Innovation Center

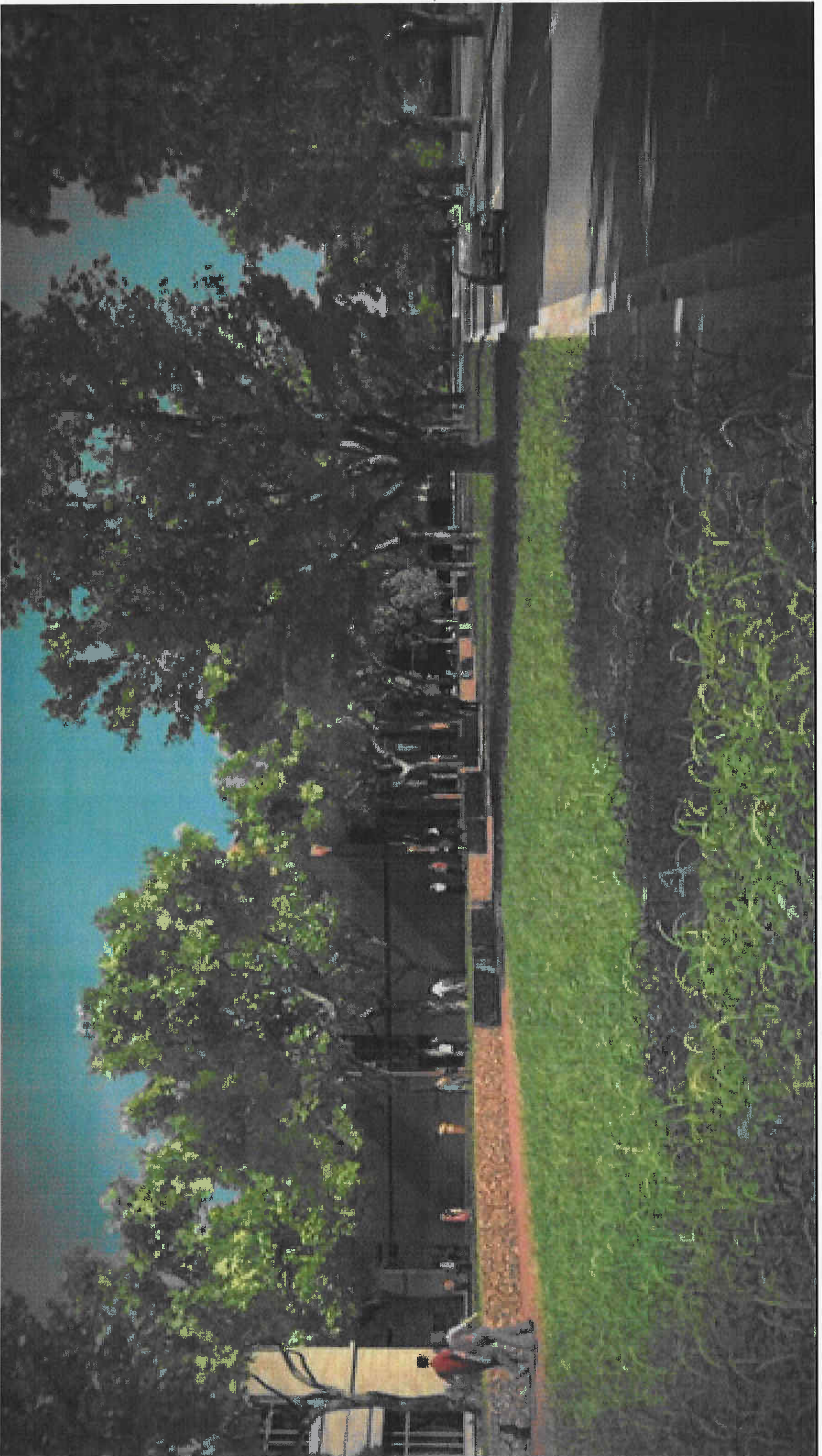
DATE: September 24, 2008

The Commission voted unanimously (5-0) to forward to the Council these comments concerning the Innovation Center and greenway development at Carolina North.

The Commission desires to work on a revised, more detailed Greenways Master Plan for the Carolina North property. The Commission believes that it could not address potential greenway links to the new Innovation Center building without such a master plan. The Commission requests that it be an early part of the Carolina North master plan discussions so that trails, greenways, and open spaces can be planned in a manner that would benefit the entire community.

Commission members voting yes were: Glenn Parks (Chair), Jim Earnhardt (Vice Chair) Christine Berndt, Mary Ann Freedman, and Reed Huegerich. Absent: Mary Blake and Gary Galloway

A quorum was present.



Revised 7-24-08

STATEMENT OF JUSTIFICATION (SPECIAL USE) FOR THE INNOVATION CENTER AT CAROLINA NORTH

In order to grant a Special Use Permit, the Town Council must make the required four findings contained in Section 4.5 of the Land Use Management Ordinance. The applicant shall submit a statement titled Statement of Justification prepared by the applicant, presenting factual information supporting each of the four required findings.

The four required findings and suggested considerations to be addressed (as per the Town's Description of Required Information) are listed below, along with the applicant's detailed responses:

Finding #1: That the use and development is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare.

a. Traffic conditions in the vicinity, including the effect of additional traffic on streets, street intersections, and sight line at street intersections and driveways.

The existing signalized Municipal Drive/Martin Luther King Jr. Boulevard intersection will continue to serve as the primary access for the Innovation Center employees and guests. According to the Traffic Impact Analysis produced for this project by the town-selected traffic engineer, RS&H, the Innovation Center will not have a significant impact on the roadway network or require any mitigation measures. Furthermore, this 85,000 square-foot building is estimated to generate fewer vehicle trips than previously generated at the site by the Town of Chapel Hill municipal yard and transit operations.

b. Provision for services and utilities, including sewer, water, electric, garbage collection, and fire protection.

Water and sewer will be provided by OWASA. Energy will be provided by UNC-Chapel Hill. Recycling and waste management will also be administered by UNC Chapel Hill. Police protection will be provided by UNC Chapel Hill and fire protection will be provided by the Town of Chapel Hill.

c. Drainage plans.

The Innovation Center improvements are designed to reduce the amount of impervious surface already existing on the site. Furthermore, the plans include the reestablishment of natural systems to handle stormwater and site drainage. The existing natural vegetation on the site is limited and working landscapes and other plantings during development will improve surface drainage patterns for the site while enhancing the overall general appearance of the area.

d. **Relationship of the site to the Chapel Hill Floodway/Floodplain/Resource Conversation District.**

The Innovation Center is not within a Resource Conservation District overlay zone.

Other considerations relevant to the proposed use.

The Innovation Center will redevelop a portion of the former Town of Chapel Hill municipal yard with a new entry-drive configuration, green areas and landscaped parking adjacent to the new building.

Finding #2: **That the use or development complies with all required regulations and standards of this chapter, including all applicable provisions of Articles 3, 4, and 5 and the applicable specific standards contained in Section 6, and with all other applicable regulations.**

a. **Compliance with Development Ordinance and land development regulations and standards, including street improvements, screening and landscape buffer requirements, setbacks, height, parking and intensity regulations.**

All applicable requirements for driveway access, setbacks, building heights and other zoning regulations will be met in development of the site, with the exception of landscape buffer requirements. Additional improvements that are not required by the zone but that have been discussed during concept plan will improve pedestrian and transit access to the site with new sidewalks and crosswalks on Martin Luther King Jr., Boulevard. The opacity standards for the type "D" buffer normally required along Martin Luther King Jr. Boulevard would not allow for a transit-oriented streetscape to develop along this important corridor. Since the Town and the University are both interested in pursuing a mixed-use, transit-oriented development in this location, the applicant proposes a landscape and pedestrian area along the street front that supports these goals. The applicant requests a modification to the regulations for this requirement to permit the proposed landscape as shown on the plans. The plan also includes bicycle parking spaces at the building and shower facilities in the building in order to encourage alternate transportation to the facility. While there is no required number of bicycle spaces for this type of use in the ordinance, the project includes 10 secure bicycle racks and 2 shower / changing facilities as required by LEED Silver Core and Shell version 2.0 10 to earn Sustainable Sites credit 4.2. The number of bicycle spaces required for this credit is based on .5% of the anticipated Full-Time Equivalent occupant count of 402 (calculated on building gross square footage and the Default LEED Occupancy Counts.)

b. **Provision of recreation and open space.**

There is an outdoor gathering space included in the building design to provide

building occupants and visitors with a place to transition between the building and the street front.

c. Other considerations relevant to the proposed use.

The Innovation Center, which is proposed to be an 85-000-square-foot, three-story building, meets the current zoning requirements and provides a unique set of resources to accelerate select technology-based business development opportunities based on research carried out at UNC-Chapel Hill. By providing a facility in Chapel Hill to lease space to these companies, the University is contributing to the local economy. The Innovation Center design also includes a small café and a common meeting space.

<u>Finding #3:</u> That the use of development is located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or that the use or development is a public necessity.

a. Relationship of the proposed use and the character of development to surrounding uses, including possible conflicts between uses and how conflicts will be handled.

The Innovation Center is located on the west side of Martin Luther King Jr. Blvd, a significant vehicular access road into Chapel Hill. The building is situated at the existing intersection of Municipal Drive and Martin Luther King Jr. Blvd. The site of the Innovation Center was formerly occupied by the Town of Chapel Hill's municipal operations yard and transit operations. On the east side of Martin Luther King Jr. Blvd are two apartment developments, Shadow Woods (south of Piney Mountain Road) and Timber Hollow (north of Piney Mountain Road). The Glen Heights Subdivision is north of the site, on the opposite side of Crow Branch Creek.

The proposed Innovation Center is scaled in keeping with the surrounding apartment complexes and other non-residential developments along the entire length of Martin Luther King Jr. Boulevard and it is well separated from the nearby Glen Heights residential area by natural areas thus reducing potential conflicts between uses.

The building site accommodates current and future transit use. Sidewalks and crosswalks are included in the design to facilitate the use of current transit routes by occupants and guests of the Innovation Center and surrounding neighborhoods. The setback along Martin Luther King Jr. Blvd. will also allow for future transit corridor development, when appropriate.

b. Conformance of the proposed use with the Zoning Atlas and the Comprehensive Plan for development of Chapel Hill and its environs.

The Innovation Center is located in an OI-2 zone and is permitted with a Special Use Permit. The office building is, therefore, in conformance with the general plans for the physical development of the Town and it has been designed in conformance with the current zoning district. The proposed improvements improve the character of the site and are in keeping with the goals of the Comprehensive Plan. The site is identified for institutional and University use in the Land Use Plan of the Town of Chapel Hill's Comprehensive plan. Furthermore, it is one of the selected sites along Martin Luther King Jr. Blvd. identified as a development opportunity in the goals and objectives of the Town's Comprehensive Plan (section 8.3. 8A-1).

c. Effect on the value of surrounding properties.

The surrounding property is owned by the State of North Carolina/UNC. The new building on this site is designed to complement nearby buildings and natural areas through the use of material, color and scale. Furthermore, the new building and associated site improvements will improve the appearance and functioning of the former municipal yard. It is not expected that the Innovation Center to have a negative effect on the value of surrounding properties.

d. If the use is a public necessity, state the reasons for this designation.

N/A

e. Other considerations relevant to the proposed use.

The building and site development for the Innovation Center are in compliance with the current regulations and will provide a new, complementary use on a main thoroughfare of Chapel Hill.

<u>Finding #4:</u> That the use or development conforms to the general plans for the physical development of the Town as embodied in this chapter and in the Comprehensive Plan.

a. Conformance of the proposed development with the Zoning Atlas and the Comprehensive Plan for development of Chapel Hill and its environs.

The Innovation Center is located in an OI-2 zone and is permitted with a Special Use Permit. The office building is, therefore, in conformance with the general plans for the physical development of the Town and it has been designed in conformance with the current zoning district. The proposed improvements improve the character of the site and are in keeping with the goals of the Comprehensive Plan. The site is identified for institutional and University use in the Land Use Plan of the Town of Chapel Hill's Comprehensive plan. Furthermore, it is one of the selected sites along Martin Luther King Jr. Blvd. identified as a development opportunity in the goals and objectives of the Town's Comprehensive Plan (section 8.3. 8A-1).

The Comprehensive Plan identifies this site in several sections as an area where mission fulfillment will be accompanied by growth of the University (2.2 Major Themes), where the town and the University will cooperatively plan for this growth (2.2, 3A-3, 4.1) and where the town and UNC will work to "identify opportunities for private entrepreneurial activity related to University research" (6C-1). The Innovation Center is the first effort in fulfilling these goals.

b. Relationship of the site to the Chapel Hill Resource Conservation District, the Chapel Hill Thoroughfare Plan, the Greenways Plan, the Land Use Plan, and the Urban Services Area.

The Innovation Center is not located in the Resource Conservation District. As a part of the University's ongoing commitment to alternative transportation, pedestrian, bike and transit connections will be included with this project. The use is in conformance with the land use plan, as described above, and is located within the urban services area.

Other considerations relevant to the proposed use.

The Innovation Center building will be owned by Alexandria Real Estate Equities Inc. and will be a taxable property contributing directly to the local economy. In addition, the goal of the Innovation Center will be to streamline the development and to accelerate the commercialization of novel technologies by companies that can then become independent entities. The Center will have a management team, along with facilities, amenities, and technical and business development resources needed. The Center will be a place to successfully identify, evaluate, launch, capitalize and manage emerging companies across many different areas of technology represented within the University's research programs. In addition to research and office space for emerging companies, it is anticipated that the Innovation Center will also provide office space for the University.

The Innovation Center is currently being designed to a LEED Silver Core and Shell standard.