

## PETITION FOR ACTION BY THE TOWN COUNCIL OF CHAPEL HILL

AGENDA #3a(2)

### **SUBJECT:**

REVIEW OF THE INTERPRETATION OF THE SPECIAL USE PERMIT (SUP) FOR 1162 AIRPORT ROAD (The Property); formerly the site for GROWIN' GREEN NURSERY, a nursery and landscape business).

### **SUBMITTED BY:**

Cordell Earthworks, Inc. (prospective tenant) and Kovens Construction Company (Owner)

### **BACKGROUND:**

The property's use is governed by a SUP (Attachment 1). The section titled "Special Terms and Conditions", Item 2 dictates, "That the owner will use this property only for a residence and operation of a landscape nursery business, primarily wholesale."

While there are a number of other terms and conditions, the above item forms the basis for our Companies' request that Cordell Earthworks, Inc., a landscape and nursery company, be allowed to occupy the site under the existing SUP, without the requirement that we apply for a Modification of a Special Use Permit (MSUP).

In an email (Attachment 2) dated 11/10/03 to David Fernandez, CEO of Cordell Earthworks, Roger Waldon, Planning Director, indicated his interpretation of the SUP and a review of the minutes from the 2/22/88 Council Public Hearing (Attachment 3) that approved the SUP, required that we submit a request for a MSUP.

**MSUP COST:** In an email dated 01/06/04 to Mr. Fernandez (Attachment 4) Mr. Than Austin, Senior Planner, outlined the fees and documentation associated with an MSUP. The approximate cost according to the formulas was over \$8000. A subsequent email to Mr. Fernandez dated 01/30/04 (Attachment 5) indicated probable requirement for other reports, including a Traffic Impact Analysis, Stormwater Impact Statement, a Stormwater Management Plan, Tree Survey, Fire Flow Report, and General Building and Site Plans. These additional reports would increase the total cost of the MSUP. Estimates run as high as \$25,000.

We respectfully disagree with Mr. Waldon's interpretation of the Council's original intent. There is nothing in the record of the minutes provided by Messrs. Austin/Waldon that speaks to a requirement that The Property be used as an "...owner-occupied dwelling with a primarily wholesale landscape/nursery business run by that owner-resident..." (See Attachment 2 – Mr. Waldon's email paragraph 5).

There are comments made by then Council Member Nancy Preston in the minutes (Attachment 3 - Minutes Page 16 paragraph 1) that raise the issue of the Baucom's intent to reside on the site. However, there is no mention that residency should be a requirement. Please refer to Ms. Preston's letter to Mr. Waldon dated 12/03/03 (Attachment 6) where she attempts to clarify this matter. Furthermore, discussions by Mr. Kovens with Mr. Levine of the Potted Plant, former employer of the Baucoms, and Mr. Gray Moody, owner of the trailer park where the Baucoms lived prior to moving to The Property, indicated that the Baucoms wished to live on the business site primarily to accommodate the special needs of their child. Thus, it appears that the intent of the Council was to protect the Baucoms by specifically allowing them to reside on The Property. Kovens Construction, current owners of The Property, request that the SUP provision for use as a residence be interpreted not as a requirement but simply as a permitted use. Furthermore, the owner requests that the Council interpret the SUP to mean that a landscape nursery operation is the permitted use of the site without the assumption that the business owner must be the property owner.

From 2000 – 2003 another business, Carolina Waterscapes, leased The Property from the Owner. In conversation with Mr. Fernandez, Mr. Ed Fitts, President, indicated that their company occupied The Property for three years with approval from Inspections and with no other requirement from the Town of Chapel Hill. They sold and installed waterscapes and equipment related to that business. Mr. Fitts did not own The Property during the time he held a lease, yet was permitted to operate there without being the "owner-operator" or "owner-resident".

As described above, Cordell Earthworks, Inc. is a landscape nursery business. It intends to use the property as a landscape nursery business engaged in design work, selling nursery products and a referral point to its new 9-acre Orange County location at the intersection of I85 & US70. Based on this proposed use the company should be permitted to occupy The Property under the existing terms of the SUP.

Currently, The Property is empty and the owners cannot monitor it to prevent what appears to be evidence of drug use, sexual activity and open fires. Unoccupied, The Property is unsafe, an eyesore and unproductive. It is the owner's and the prospective tenant's desire to return this property, located on a main thoroughfare of Chapel Hill, to productive use, while providing a valuable service to the community.

End

ATTACHMENT I  
3 pages  
1 of 3

ORANGE COUNTY

BOOK 724 PAGE 593  
SPECIAL USE PERMIT

NORTH CAROLINA

KNOW ALL MEN BY THESE PRESENTS, that the undersigned property owner(s)  
Robert and Debora Baucom  
having applied to the Town of Chapel Hill for a Special Use Permit for the  
use and development of the property hereinafter described, the same was  
granted by the Town of Chapel Hill on February 22, 1988; the terms of which  
are as follows:

NAME OF PROJECT: Growin' Green Nursery

TYPE OF SPECIAL USE: Special Use Zoning District

NAME OF DEVELOPER: Robert and Debora Baucom

DESCRIPTION OF PREMISES

LOCATION: East side of Airport Road opposite Critz Drive

TAX MAP REFERENCE: Chapel Hill Township Tax Map 29, Lot 2

DESCRIPTION OF DEVELOPMENT

GROSS LAND AREA: 54,986 sq.ft.

OPEN SPACE: 45,478 sq.ft.

NUMBER OF BUILDINGS: 4

LIVABILITY SPACE: 32,975 sq.ft.

NUMBER OF DWELLING UNITS: 1

RECREATION SPACE: n/a

FLOOR AREA: 9,466 sq.ft.

NUMBER OF PARKING SPACES: 14

SPECIAL TERMS AND CONDITIONS

Development according to the site plan dated October 24, 1986 and July 31, 1987 (revised) and the following conditions:

1. That construction begin by February 22, 1989 and be completed by February 22, 1990.
2. That the owner will use this property only for a residence and operation of a landscape nursery business, primarily wholesale.
3. That improvements be made to Airport Road along the site's frontage that are consistent with one-half of a principal arterial (1/2 of a 90-foot right-of-way; 1/2 of a 65-foot pavement with curb and gutter; and a sidewalk).
4. That final street plans, grading plans, utility and lighting plans, and stormwater management plans (with hydrologic calculations), be approved by the Town Manager before issuance of a Zoning Compliance Permit or application for final plat approval, and that such plans conform to plans approved by this application and demonstrate compliance with all applicable conditions and the design standards of the Development Ordinance and the Design Manual.
5. That sight triangle easements be provided on the final plat.
6. That the applicant take appropriate measures to prevent the deposit of wet or dry silt on adjacent paved roadways.
7. That final utility plans be approved by the Town Manager, OWASA, Duke Power, and Southern Bell, before issuance of a Zoning Compliance Permit.
8. That a detailed landscape plan including the fence design and landscape maintenance schedule, including the buffer planting and maintenance agreement with the Ashley Forest Homeowners' Association, be approved by the Appearance Commission prior to the issuance of a Zoning Compliance Permit.
9. That the landscape easement and maintenance agreement with the Ashley Forest Homeowners' Association be recorded prior to the issuance of a Zoning Compliance Permit.

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ORANGE CITY LAND RECORDS

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- 10. That storage of bulk containers of chemicals and fertilizers be located in one centralized location within the site, and the storage and inventory of chemicals and fertilizers be in accord with the N.C. Hazardous Chemicals Right-to-Know Act.
- 11. That the exterior of the existing house be maintained as residential in appearance and that the detailed building elevations of the greenhouse be approved by the Appearance Commission prior to issuance of the Zoning Compliance Permit.
- 12. That a soil erosion and sedimentation control plan be approved by the Orange County Erosion Control Officer before issuance of a Zoning Compliance Permit.
- 13. That any plans for improvements to State-maintained roads be approved by NCDOT prior to issuance of a Zoning Compliance Permit.
- 14. That continued validity and effectiveness of this approval is expressly conditioned on the continued compliance with the plans and conditions listed above.
- 15. If any of the above conditions is held invalid, this approval shall be void.

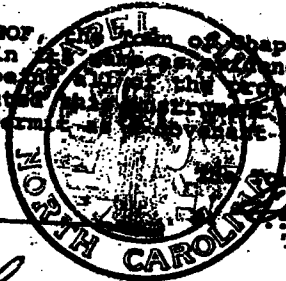
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3023  
Attachment 1

IN WITNESS WHEREOF, the Board of Chapel Hill has caused this instrument to be executed in the presence of the issuance of said permit, and the undersigned being the property owners of the property above described, have executed this instrument in evidence of their acceptance of said Special Use Permit and in agreement to the zoning with the land.



ATTEST

[Signature]  
Town Clerk

Town of Chapel Hill

[Signature]  
Town Manager

RDK

ACCEPTED

[Signature]  
Owner

[Signature]  
Owner

ATTEST

\_\_\_\_\_  
Secretary

BY \_\_\_\_\_  
Corporate Name  
Title

NORTH CAROLINA  
ORANGE COUNTY

I, Robin Rankin, a Notary Public in and for said County and State do hereby certify that David S. Taylor, Town Manager of the Town of Chapel Hill, and Nancy S. Taylor, Town Clerk, duly sworn says each for himself that he knows the corporate seal of the Town of Chapel Hill and that the seal affixed to the foregoing instrument is the corporate seal of the Town of Chapel Hill, that David S. Taylor, Town Manager of said Town of Chapel Hill, and Nancy S. Taylor, Town Clerk for the Town of Chapel Hill, subscribed their names thereto; that the corporate seal of the Town of Chapel Hill was affixed thereto, all by virtue of a resolution of the Board of Aldermen, and that said instrument is the act and deed of the Town of Chapel Hill.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal the 18<sup>th</sup> day of March, 1988.

[Signature]  
Notary Public  
My commission expires 01-23-89

NORTH CAROLINA  
ORANGE COUNTY  
Lee C.

I, Linda Crawford, a Notary Public in and for said State and County do hereby certify that Robert P. Bacon & Debra M. Bacon owners, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my Hand and Notarial Seal, this the 16<sup>th</sup> day of March, 1988.

[Signature]  
Notary Public  
My commission expires: 12-19-89

NORTH CAROLINA  
ORANGE COUNTY

NORTH CAROLINA - ORANGE COUNTY

The foregoing certificate(s) of Robin Rankin and Linda Crawford

Assistant Notaries) Public of the designated Governmental units (are) certified to be correct. Filed for registration this the 16th day of May, 1988, at 1:28 o'clock, P.M.

in Record Book 724 Page 593

Return: \_\_\_\_\_

Betty June Hayes, Register of Deeds  
By: [Signature]  
Assistant/Deputy  
Register of Deeds

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

(Not valid until fully executed and recorded)

## ATTACHMENT 2

-----Original Message-----

**From:** Roger Waldon [mailto:rwaldon@townofchapelhill.org]

**Sent:** Monday, November 10, 2003 6:59 PM

**To:** dfernandez@mindspring.com

**Cc:** Lance Norris

**Subject:** Your inquiries about 1162 Airport Road

Dear Mr. Fernandez:

We received two email messages from you last week (both copied below), both addressed to Kay Tapp here in the Planning Department. You also spoke with Than Austin, seeking forms to apply for a Zoning Compliance Permit. Please consider this message to be a reply to those inquiries.

Your first message asks us what information you might reasonably provide that would confirm that the use you propose for this subject property is consistent with the Special Use Permit that encumbers the property. You state that you have a copy of the Special Use Permit.

Your second message states, "Except perhaps for provision related to signage, I am unaware of other provisions which require the involvement of planning at this stage." I want to be sure that you are aware of restrictions in the Special Use Permit that was approved for and which encumbers this property. The Planning Department maintains land records files, and works with other departments to assure that property is used in a manner that complies with conditions of approval for use of property.

**Based on your inquiries, we pulled out the file on this property and reviewed the conditions of the Special Use Permit, and minutes from the Council meeting at which the Special Use Permit was approved. After reviewing the information, it appears to me that the Council, in approving the Special Use Permit, assigned a condition of approval that requires the owner of the property to live on the property, operating a primarily wholesale landscaping and nursery business.**

**If that is the intent of the current property owner, I do not believe that any further permit or review by the Planning Department is needed (other than approval for signage). It appeared from your email correspondence, however, that you intend use of the property under different circumstances. I believe that the Council Public Hearing and subsequent condition of the Special Use Permit were so specific as to not be changeable at an administrative level. Accordingly, it is my opinion that if you want to use the property for something other than an owner-occupied dwelling with a primarily wholesale landscape/nursery business run by that owner-resident, you would need to seek a modification of the Special Use Permit from the Town Council.**

**So - - I believe that the options here are either to use the property as it was represented to the Council (no further permit or approval needed by the Planning Department), or apply for a Modification of the Special Use Permit. If you intend the latter option, I suggest that you call Than and arrange a time to come in so that Than can go over the submittal requirements for that application (similar to the requirements for an initial Special Use Permit). Than can be reached at 968-2728.**

**Please let me know if you need an additional copy of the approved Special Use Permit or a copy of the minutes from the meeting at which the permit was approved by the Town Council.**

Sincerely,

Roger Waldon

Roger S. Waldon, AICP  
Planning Director  
Town of Chapel Hill  
306 N. Columbia Street  
Chapel Hill, NC 27516  
(919) 968-2731

-----Original Message-----

**From:** Than Austin [mailto:naustin@townofchapelhill.org]

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that the Chapel Hill Zoning Atlas be amended as indicated on the attached map labeled as Area 21, rezoning property from TC-2 to R-3; such amendment being necessary to achieve the purposes of the Comprehensive Plan.

This the 22nd day of February, 1988.

TC 2/22/88

Special Use Zoning - Growin' Green

COUNCIL MEMBER HERZENBERG MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT ORDINANCE 88-2-22/O-14.

Council Member Preston spoke in support of the motion, saying she felt the rezoning was appropriate in that area. She pointed out that many of the neighbors had spoke in support of the rezoning at the public hearing.

Council Member Pasquini spoke against the motion. He said he would prefer that all the litigation with regard to Special Use Zoning be completed before the Council rezoned any more property using the Special Use Zoning regulations.

Council Member Andresen said that she felt the proposal was a good use of conditional use zoning.

THE MOTION CARRIED, (8-1), WITH COUNCIL MEMBER PASQUINI VOTED AGAINST.

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING THE CHAPEL HILL ZONING ATLAS (88-2-22/O-14)

WHEREAS, the Council of the Town of Chapel Hill has considered the application of the Growin' Green landscape business, to amend the Zoning Atlas to rezone property described below from Residential<sup>4</sup> to Neighborhood Commercial-S (Special Use Zoning), and finds that the amendment achieves the purposes of the Comprehensive Plan; and

WHEREAS, the Council finds that any potential use under Neighborhood Commercial-Special Use Zoning (NC-S) would be suitable for the property proposed for zoning provided the findings required for a Special Use Permit can be made based on appropriate conditions attached to any Special Use Permit issued;

NOW, THEREFORE, BE IT ORDAINED by the Council that the Chapel Hill Zoning Atlas be amended as follows:

SECTION I

That the property identified as Chapel Hill Township Tax Map 29, Lot 2 located on the east side of Airport Road, opposite Critz Drive, plus one-half of the adjoining right-of-way of Airport Road, be rezoned from Residential-4 to Neighborhood Commercial-S (Special Use Zoning). The legal description of the property is as follows:

BEGINNING at an iron in the eastern margin of NC 86 (Airport Road) at the southwest corner of Lot 9 of North Forest Hills Subdivision, and running thence along and with the line of Lots 8 and 9 of North Forest Hills Subdivision South 83 degrees, 58 minutes, 41 seconds East 305.17 feet to an iron, the southeast corner of Lot 8 of North Forest Hills Subdivision; running thence South 10 degrees, 25 minutes, 49 seconds West 147.71 feet to an iron, the southeast corner of the lot herein conveyed; running thence along and with the line of Tract #2 of the A.W. Ray property, South 88 degrees, 09 minutes, 54 seconds West 273.65 feet to an iron in the eastern margin of NC 86 (Airport Road); and running thence along and with the eastern right-of-way of said NC 86 (Airport Road) North 00 degrees, 59 minutes, 45 seconds West 186.07 feet to the point and place of BEGINNING, containing 1.10 acres, more or less, and being same property as surveyed and platted by Freehold Land Surveys, Inc. dated April 12, 1984, entitled "PROPERTY OF ROBERT BAUCOM AND DEBORA BAUCOM" to which plat reference is hereby made for a more particular description of same.

SECTION II

That all ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 22nd day of February, 1988.

Growin' Green - Special Use Permit

Roger Waldon, Planning Director, said that the proposal was for a Special Use Permit to operate a landscape nursery business on the site. He said the staff felt the proposal achieved the purposes of the Comprehensive Plan. Mr. Waldon stated that the applicant proposed to meet the Town's buffer standards by providing a combination of permanent and "temporary" plantings and that a fence was proposed for the site. He stated that the buffer would be an alternative buffer and would have to be approved by the Appearance Commission.

Council Member Andresen said that the applicant had proposed a split rail fence as part of the buffer.

Council Member Preston asked if finding number two in the resolution regarding the use of the property should be modified to indicate that the property owner intended to reside on the site as well as conduct the landscape business. Mr. Waldon said amending the finding would be in order.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 88-2-22/R-15A WITH THE AMENDMENT THAT FINDING #2 INDICATE THAT THE PROPERTY WOULD BE USED ONLY FOR A RESIDENCE AND OPERATION OF A LANDSCAPE NURSERY. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION APPROVING AN APPLICATION FOR A SPECIAL USE PERMIT FOR THE GROWIN' GREEN LANDSCAPE BUSINESS (29-2) (88-2-22/R-15a)

BE IT RESOLVED by the Council of the Town of Chapel Hill that it finds that the Growin' Green Landscape Business proposed by Robert and Debora Baucom on property identified as Chapel Hill Township Tax Map 29, Lot 2, if developed according to the site plan dated October 24, 1986 and July 31, 1987 (revised) and the conditions listed below, would:

1. be located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
2. comply with all required regulations and standards of the Development Ordinance, including all applicable provisions of Articles 12, 13 and 14, and the applicable specific standards contained in Sections 18.7 and 18.7.2; and with all other applicable regulations;
3. be located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or be a public necessity; and
4. conform with the general plans for the physical development of the Town as embodied in the Development Ordinance and in the Comprehensive Plan.

These findings are conditioned on the following:

1. That construction begin by February 22, 1989 and be completed by February 22, 1990.
2. That the owner will use this property only for a residence and operation of a landscape nursery business, primarily wholesale.
3. That improvements be made to Airport Road along the site's frontage that are consistent with one-half of a principal arterial (1/2 of a 90-foot right-of-way; 1/2 of a 65-foot pavement with curb and gutter; and a sidewalk).



4. That final street plans, grading plans, utility plans, and stormwater management plans (with hydrologic calculations), be approved by the Town Manager before issuance of a Zoning Compliance Permit or application for final plat approval, and that such plans conform to plans approved by this application and demonstrate compliance with all applicable conditions and the design standards of the Development Ordinance and the Design Manual.
5. That sight triangle easements be provided on the final plat.
6. That the applicant take appropriate measures to prevent the deposit of wet or dry silt on adjacent paved roadways.
7. That final utility plans be approved by the Town Manager, OWASA, Duke Power, and Southern Bell, before issuance of a Zoning Compliance Permit.
8. That a detailed landscape plan including the fence design and landscape maintenance schedule, including the buffer planting and maintenance agreement with the Ashley Forest Homeowners' Association, be approved by the Appearance Commission prior to the issuance of a Zoning Compliance Permit.
9. That the landscape easement and maintenance agreement with the Ashley Forest Homeowners' Association be recorded prior to the issuance of a Zoning Compliance Permit.
10. That storage of bulk containers of chemicals and fertilizers be located in one centralized location within the site, and the storage and inventory of chemicals and fertilizers be in accord with the N. C. Hazardous Chemicals Right-to-Know Act.
11. That the exterior of the existing house be maintained as residential in appearance and that the detailed building elevations of the greenhouses be approved by the Appearance Commission prior to issuance of the Zoning Compliance Permit.
12. That a soil erosion and sedimentation control plan be approved by the Orange County Erosion Control officer before issuance of a Zoning Compliance Permit.
13. That any plans for improvements to State-maintained roads be approved by NCDOT prior to issuance of a Zoning Compliance Permit.
14. That continued validity and effectiveness of this approval is expressly conditioned on the continued compliance with the plans and conditions listed above.
15. That if any of the above conditions is held invalid, this approval shall be void.

BE IT FURTHER RESOLVED that the approval of this Special Use Permit is conditioned upon the owner of this property agreeing, in writing, to all of the above conditions.

BE IT FURTHER RESOLVED that the Council hereby approves the application for the Growin' Green Landscape Business Special Use Permit in accordance with the plans and conditions listed above.

This the 22nd day of February, 1988.

N.C. Medical Associates Building - Special Use Permit

Council Member Preston said that she would not vote on this issue since she had an interest in the proposal.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER WALLACE TO ADOPT RESOLUTION 88-2-22/R-16A. THE MOTION PASSED UNANIMOUSLY, (8-0), WITH ONE ABSTENTION.

The resolution, as adopted, reads as follows:

A RESOLUTION APPROVING AN APPLICATION FOR A SPECIAL USE PERMIT FOR NORTH CAROLINA MEDICAL BUILDING ASSOCIATES BUILDING (88-2-22/R-16a)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the North Carolina Medical Building Associates Building (office building for Lots 2 and 3, Eastowne) proposed by Medical Building Associates, on property identified as Chapel Hill Township Tax Map 26A, Lots 2 and 3, if developed according to the site grading and utility plan dated July 21, 1987 (8/21/87, 9/9/87, 11/13/87 revisions) and the conditions listed below would:

1. be located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
2. comply with all required regulations and standards of the Development Ordinance, including all applicable provisions of Articles 12, 13 and 14, and the applicable specific standards contained in Section 18.7 and 18.7.2, and with all other applicable regulations;
3. be located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or be a public necessity; and
4. conform with the general plans for the physical development of the Town as embodied in the Development Ordinance and in the Comprehensive Plan.

# ATTACHMENT 4

-----Original Message-----

**From:** Than Austin [mailto:naustin@townofchapelhill.org]

**Sent:** Tuesday, January 06, 2004 11:23 AM

**To:** dfernandez@mindspring.com

**Subject:** RE: Forms for SUP Modification

David,

The fees for filing a Special Use Permit Modification application are as follows (from the Development Review Fees handout):

Special Use Permit Modification: \$5,000 + \$20/100 square feet of floor area

Final Plans for Zoning Compliance Permit Issuance: ½ of original approval fee

Building Elevations (Community Design Commission): \$100

Lighting Plan (Community Design Commission): \$50

Sign Plan Review: \$50

As an example, if you have 10,000 square feet of floor area on site, you would pay approximately \$10,700 to process the SUP Modification and Final Plan applications.

Hope this helps.

Than

—Original Message—

From: Than Austin [mailto:naustin@townofchapelhill.org]  
Sent: Friday, January 30, 2004 2:24 PM  
To: dfernandez@mindspring.com  
Cc: JB Culpepper  
Subject: RE: 1162 Airport Road

David,

Sorry for the delay in responding. I've spoken to both Roger and JB about your questions.

The list of costs I previously sent you is correct, in terms of fees paid to the Town as part of the SUP Modification application. We note that you will possibly incur other costs to prepare and submit the application. Other costs could include, but are not limited to, preparation of a Traffic Impact Analysis, Stormwater Impact Statement and Stormwater Management Plan, tree survey, fire flow report, and general building and site plans. As these are costs not paid to the Town, we don't have an accurate estimate for costs for each. You may also incur building permit fees.

You asked about the possibility of being exempted from the requirements to prepare a Traffic Impact Analysis and Stormwater Impact Statement. We recommend you contact the following individuals directly to find out about possible exemptions:

Kumar Neppalli (Town Traffic Engineer): 968-2833,  
kneppalli@townofchapelhill.org  
Fred Royal (Town Stormwater Management Engineer): 968-2833,  
fredr@townofchapelhill.org

Kumar and Fred may also be able to give you a better idea of costs for these two reports, if you're required to prepare them.

You'd be responsible for providing each of the items listed on the Land Development Permit Application for Special Use Permits.

I'd be happy to sit down with you in person to review these submittal requirements, if you wish.

Than

—Original Message—

From: Nancy Preston [mailto:nspreston@earthlink.net]  
Sent: Wednesday, December 03, 2003 4:45 PM  
To: Roger Waldon  
Cc: sjkovens@bellsouth.net  
Subject: old Baucom property special use

Dear Roger,

Scott Kovens contacted me a week or more ago to discuss my memory of the proceedings and discussion surrounding the redistricting and special use of the property on Airport Road which Bob and Debra Baucom owned and wished to run as a nursery business. He was kind enough to supply me with the Council's minutes relating to this issue and the conditions of the rezoning from Residential 4 to Neighborhood Commercial-S that was approved at that time.

I certainly do remember the whole issue but definitely not the particulars of the discussion. It seems the sticking point now for future use of the property since the Baucoms no longer own it but it has the conditional use findings attached to it, is whether new owners must conform to the Baucom's pattern of being both the property and business owners and living in the residence.

Looking back 15 years and being sure of what your thoughts were may be a bit dicey but I imagine we were concerned for the wellbeing of the Baucoms and their ability to own and run a business that could afford them not only a livelihood but an easily accessible home given Debra Baucom's infirmities. Also I believe there was a desire to maintain a residential atmosphere by wanting the house to continue as a home and not a converted structure that merely accommodated the business. This may explain my question about whether the Baucoms would live in the house. All of these concerns were right and legitimate for the time and circumstances and it seemed appropriate to approve the permit that we did. It also seems that the circumstances were particularly unique and not widely applicable in the usual flow of things. Perhaps if we had been more wise we would have seen snags that this would create down the years.

It certainly seems to me at this juncture that if there is a nursery business that can lease the property from the present owner and have a principal in its business live in the house that is about as close to what had been as you might get. Better this than letting the property sit empty and attracting all kinds of mischief for want of an exact replication of what had been. It seems the town would want to see a vibrant business in that spot of the kind that had been there for so many years. The laws of the town are to serve the people of the town. When the spirit of a request for the use of a property and what had been set up for that property is the same, I believe that request should be honored.

Roger, I certainly don't sit where you do and am not charged with your duties so please, please don't feel I am telling you what to do. I am merely trying to clear up what may have been the unintended consequences of a situation that we were trying to work out years ago to help some of our citizens. What was good for them should not stand in the way of the better good today. I hope that makes some sense. And if there are more sides to this confusion than I know about do please let me know.

As you are aware I have not been functioning very well these last several months and continue to try merely to get through each day as best I can. I do read the papers and try to keep up with town issues which continue to be a fascination for me. So glad you and Cal and Ralph K. and a few of the others are still around to keep things going. Let me know how this issue with the old Baucom property gets resolved.

I hope your year ends happily and the next is even better.

Best regards always,  
Nancy Preston