

**SUMMARY MINUTES OF A PUBLIC HEARING
OF THE CHAPEL HILL TOWN COUNCIL
MONDAY, MAY 19, 2003 AT 7:00 P.M.**

Mayor Kevin Foy called the meeting to order at 7:00 p.m.

Council members present were Flicka Bateman, Pat Evans, Ed Harrison, Mark Kleinschmidt, Bill Strom, Dorothy Verkerk, Jim Ward, and Edith Wiggins.

Staff members present were Town Manager Cal Horton, Assistant Town Managers Sonna Loewenthal and Florentine Miller, Town Attorney Ralph Karpinos, Assistant to the Manager Bill Stockard, Principal Planner Gene Poveromo, Town Planning Director Roger Waldon, and Acting Town Clerk Sandy Cook.

Item 3 - Concept Plan Review: Montclair Estates

Mr. Poveromo described the proposed 16-lot development on 12 acres that are zoned R-~~Z~~. He showed the surrounding neighborhoods on the map and stated that the CDC had reviewed the proposal on October 29, 2002. Mr. Poveromo explained that the concept plan before the Council was different from that which the CDC had reviewed and that those differences were noted on page three. He recommended that the Council review the proposal, receive the attached comments from the CDC, and adopt the resolution transmitting comments to the applicant.

Consultant Phil Post, representing Cazco, Inc., explained that the plan being presented was slightly different from that which had been seen by the CDC. The roads were in the same place, he said, and the lot configurations and connectivity were the same as before, noting that some of the most important aspects that the CDC had reviewed had been preserved. He explained that the proposed changes were the result of new LUMO requirements regarding floor area size restrictions for some of the units.

Mr. Post proposed a density of 1.65 units per acre, noting that the LUMO allows up to 3 units per acre. He pointed out that the plan was for 1.26 acres of open space even though the LUMO requirement is for .8 acres.

Mr. Post described this as a standard subdivision application with no request for rezoning and no exception to LUMO regulations. He stated that the applicant had met or exceeded all LUMO requirements.

Mr. Post described the property as notable for its wonderful hardwoods, which the applicant intends to preserve. He stated that the site would provide a pedestrian-oriented community that would be connected to other communities, schools, and buses to the downtown. Mr. Post noted that the property slopes down to Morgan Creek and that there is an Resource Conservation District (RCD) associated with that. But the closest RCD is

450 to 500 feet from the nearest point on this property, he said. Mr. Post indicated the location of a proposed stub-out to the conservation area.

Mr. Post said that the applicant was in conformance with the approved street plan for the area. He showed areas of proposed open space and an easement on sloping land between two lots. Mr. Post indicated areas of steep slopes at the rear of lots and explained that there should not be a need for disturbance in any of those areas. He commented on a LUMO provision that 25% of the dwelling units be less than 1,350 square feet. This meant that the applicant would be required to have five size-restricted units, he said. In R-1 zoning, Mr. Post pointed out, a lot is eligible for a single-family dwelling and an accessory apartment if the size gets close to 28,000 square feet. So, Mr. Post said, this development proposes to meet that requirement by having five accessory apartments, on lots 4, 5, 9, 11 and 12.

Council Member Strom praised the applicant for being concerned about meeting the LUMO requirements. But he expressed surprise over the option the applicant was bringing forward, given the 15% affordable residences option that the same applicant had chosen for its Larkspur development. Council Member Strom added that the applicant's accessory apartments proposal also surprised him, since the Council had discussed that and had decided that it was not an acceptable affordable housing approach. Mr. Post replied that the applicant had made no claim that these were affordable units. He noted that the LUMO gives the option of either offering affordable housing or restricting size. Montclair Estates is a much smaller development than Larkspur, he said, and the developer had chosen the size restrictions instead.

Council Member Strom asked that the developer, Carol Ann Zinn, think about ownership as a possibility here. He also asked Town Attorney Ralph Karpinos for feedback at some point regarding the LUMO's intent versus the reading they were getting from this applicant regarding size restrictions. Ms. Zinn commented that she had been happy to build affordable housing at Larkspur, which has a total of 86 lots. She had provided 13 affordable lots at a cost of about \$1 million, she said. Ms. Zinn noted that her contribution to the community had been quite large, and that she had been willing to do that because it was reasonable. But this 11-lot proposal falls under a new ordinance, said Ms. Zinn. She told Council members that Montclair Estates neighbor, Morgan Estates, had made a payment-in-lieu of was \$55,000. But her payment-in-lieu under the new LUMO would be about \$330,000. Ms. Zinn argued that this would not be a reasonable alternative for Montclair Estates even though it has the same amount of land as Morgan Estates. Ms. Zinn explained that they hope to satisfy the restricted size ordinance with the apartments, adding that such apartments would contribute to the diversity of housing in this community.

Mayor pro tem Evans commented that Montclair Estates would be ideally suited for accessory apartments, noting that there is a school nearby and that it would be a great rental space for a teacher. She pointed out that nice accessory apartments were few and far between in Chapel Hill.

Council Member Bateman determined that these were attached basement apartments with two bedrooms. She commented that it seemed as though this would make the large main unit larger. Ms. Zinn replied that that total amount of square footage was allowed on that amount of acreage. So they were not altering the Town's requirements, she said. Ms. Zinn said that being located on a slope made these five lots ideal for basement apartments.

Council Member Bateman stated that this did not meet the Small House Ordinance, but Mr. Post replied that it did. The ordinance requires that 20 dwelling units include five that are small, he said, so there would be an accessory apartment underneath five of the houses.

Mayor Foy asked Mr. Horton if the staff thought this proposal fits the LUMO, but Mr. Horton replied that the staff had not yet reviewed it. He said that he would be very interested in hearing Mr. Post's explanation of how it does meet the LUMO because his own impression is that doing so would be quite challenging.

Council Member Verkerk requested information on whether or not having an accessory apartment would make the larger house more affordable since the rental income could be applied to the mortgage.

Council Member Kleinschmidt quipped that it might make it more affordable for those in the 125th percentile. Ms. Zinn replied that there is the potential for any home to be more affordable if it has a rental apartment. But these would primarily be custom houses, she said. Ms. Zinn asked her son, Adam Zinn, to explain why this is a reasonable approach. Mr. Zinn remarked that the R-1 guidelines state that a lot of a certain size can accommodate another dwelling unit.

Council Member Kleinschmidt commented that Council Member Verkerk had been creating an argument for how the Town could create affordable housing for extremely wealthy people, since these houses probably would cost more than \$450,000. These are not the people he thinks about when he thinks about the need for affordable housing, he said. Council Member Kleinschmidt added that he had seen a number of "mother-in-law" apartments become integrated into the house. There is no way to assure continued separation between the "now more affordable very large house" and the smaller housing unit, he said.

Council Member Kleinschmidt asked if it would be possible to separate the smaller units. Ms. Zinn replied that this terrain lends itself to basement apartments. Council Member Kleinschmidt asked how the 15% affordable units might work. Ms. Zinn replied that they would not do that in this situation because the loss could not be absorbed by the development. She added that she understood the Council's concerns and had known when she brought the proposal in that this idea was untested. Ms. Zinn asked Council members to consider that they cannot just go around Town rubber-stamping and trying to make all affordable housing alike.

Mayor Foy noted that Ms. Zinn had expressed frustration over not being able to make the same payment-in-lieu as her neighbor, Morgan Estates, had. He asked her what her desire would be for this development in a perfect world. Ms. Zinn replied that having the same payment-in-lieu as Morgan Estates probably would suffice, since the numbers had worked for them. She described the payment-in-lieu figure under the new LUMO as "undoable," and said that it was a discouragement rather than an encouragement. Mayor Foy verified that as far as Ms. Zinn was concerned nothing could be built there that would be affordable. "It would make the numbers outrageous," she replied.

Council Member Ward suggested that the open green space connect to the road stub-out. That way, there would be a public way for people to get from the stub-out to the existing open space at that property line to the north, he said. Council Member Ward pointed out that the proposed density seemed similar to Creekside. He said that some of the dimensions that had worked for Creekside might be applicable to this development as well. Ms. Zinn agreed to look into both of those issues.

Council Member Kleinschmidt remarked that the Small House Ordinance and the 15% provision are two different tools. They are both in the LUMO because he and other Council members believe that affordable units should be part of every neighborhood in Town, he said. Council Member Kleinschmidt added that affordable units should be included in ways that are accommodating to neighborhoods, but he emphasized that they should be a primary goal of every development. He described this concept plan as offensive to the intent of the LUMO even if it does comply with the letter of LUMO.

Council Member Wiggins stated that she understood that Ms. Zinn did not have a problem with the Town's desire to create affordable units. What the applicant was having difficulty with, she said, was the fact that the development next door was able to pay \$55,000 in lieu and that she must pay more than \$350,000. Council Member Wiggins suggested that the Council discuss how the Town could make this more equitable.

Council Member Harrison commented that, given the topography of this land, this proposal was a rational way to add affordable living space. But he wished the applicant would volunteer to do ten units rather than five, he said.

Council Member Strom praised Mr. Post's clear presentation and asked Mr. Horton if any offsite road improvements would be required at Culbreth. Mr. Horton replied that the staff had not looked at this concept plan because that would be premature in the process.

Council Member Harrison expressed interest in seeing how this would comply with the LUMO, noting that the LUMO does not contain much in terms of guidelines.

Dave Hibbard described the attempt to get higher density as an admirable effort. He noted, however, that doing so would result in lower cost housing that is wedged between developments with \$400,000 to \$500,000 homes. Mr. Hibbard proposed that separating those affordable units from the houses would increase density on this sliver of land. He

asked Council members to consider the market value of the entire area. This is what attracts people to Chapel Hill, and it's why people pay high taxes, he said.

MAYOR PRO TEM EVANS MOVED, SECONDED BY COUNCIL MEMBER KLEINSCHMIDT, TO ADOPT R-2 TRANSMITTING COMMENTS TO THE APPLICANT. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

A RESOLUTION TRANSMITTING COUNCIL COMMENTS ON A CONCEPT PLAN FOR THE MONTCLAIR ESTATES PROPOSAL (2003-05-19/R-2)

WHEREAS, a Concept Plan has been submitted for review by the Council of the Town of Chapel Hill, proposing general development plans for a project on Culbreth Road, called Montclair Estates; and

WHEREAS, the Council has heard presentations from the applicant, the Community Design Commission, 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 discussion on May 19, 2003, and reflected in minutes of that meeting.

This the 19th day of May, 2003.