

**SUMMARY MINUTES OF A PUBLIC HEARING
OF THE CHAPEL HILL TOWN COUNCIL
MONDAY, MARCH 17, 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, Planning Director Roger Waldon, Senior Development Coordinator J. B. Culpepper, Planner Than Austin, and Acting Town Clerk Sandy Cook.

Item 2 - Concept Plan Review: Wilson Assemblage

Ms. Culpepper explained this application proposed a mixed-use development on a 17.9-acre site northeast of the Erwin Road/Dobbins Drive intersection. The site consists of six lots, she said, which are occupied by several residential dwellings and accessory structures. Ms. Culpepper explained the concept plan proposed a mixed-use development consisting of a two-story 32,000 square-foot office building, 144 multi-family dwelling units, and 375 parking spaces. The applicant had indicated that 32 of the dwelling units would be designated as affordable, she said.

Ms. Culpepper explained that the site was located in the Residential-4 (R-4) zoning district. The applicant had indicated that the site must be rezoned to Residential-5-Conditional (R-5-C), she said. She pointed out that the Land Use Plan identifies the western portion of that property as Medium Density Residential (4-8 units per acre) and that the majority of the property is a mixed-use designation with an office commercial emphasis. Ms. Culpepper stated that the staff had recommended the Council review this concept plan, receive comments from the CDC, and transmit comments to the applicant.

Jack Smyre, of Design Response, Inc. and representing Crosland Development, Inc., explained that the Wilson Assemblage concept plan included all of the undeveloped pieces left in this area of Town. It is an infill piece, he said, and requires a comprehensive solution to the area. Mr. Smyre pointed out that Crosland Development, Inc. had also developed the affordable housing complex to the east. He said the applicant had taken the Land Use Plan to heart and was viewing this as an infill piece that should be mixed use in nature. There are transportation and traffic issues, Mr. Smyre said, and the non-residential component needs to be discussed. He explained that the plan is for home ownership, but some units might have to be rental while being absorbed into a marketing campaign.

Mr. Smyre indicated the frontage on Dobbins Drive and Erwin Road and showed how roads might be realigned. He mentioned manmade constraints, such as easements, sewer pipes and an overhead power line, and said there were no steep slopes. Much of the site

is a cleared field, Mr. Smyre said, except for a few stands of hardwoods, some spectacular clusters, and a few individual trees. He explained that the proposed mix included one-floor flats with two-car garages, a two-story area with parking, and an area with three-story townhomes.

Mr. Smyre stated that 22.5% of the units would be affordable, adding that Crosland Development had applied for a tax credit. Their first choice was to offer the Town a tax credit affordable housing program aimed at the 50% median income market, he said. Mr. Smyre explained that this second component of Dobbins Hill would be operated full time by the person who now runs the existing one on a part-time basis. The fifth component of the project would be a 32,000 square foot, vertically integrated, two-story office building facing Highway 15-501, he said.

Mr. Smyre demonstrated how buildings would face the road with parking behind, and described the internal layout of buildings and roads. He said the scale and massing was compatible with adjacent structures, and showed an artist's rendering of the townhome courtyard and the affordable apartments along Dobbins Drive. The plan was for Residential with a Planned Development Mixed Use SUP, Mr. Smyre said, so the applicant would not have to seek non-residential zoning for the Office/Commercial aspect. He stated that he expected there to be low-impact retail use, such as an art gallery or a small corner restaurant. Mr. Smyre pointed out that a project formerly considered for this location had been factored into the traffic analysis that the Council had seen during the Marriott application process. That traffic analysis had been included in this report, he said, adding that traffic impact would be less than that with his project.

Steve Turrell objected to the Town approving more projects when the roads cannot accommodate the traffic that already exists. He described Erwin Road and Sage Road as examples of how Chapel Hill's roads had been poorly designed and were unable to handle traffic. Mr. Turrell argued that those roads should be widened before any project begins. He noted that the proposal includes condemning land, and asked if that meant taking it from people who do not want to sell it. Mr. Turrell expressed opposition to condemning homes.

Richard Harris, explaining that he represents the "Erwin Village Homeowners Association contingent opposing the Wilson Assemblage," emphasized the serious safety issues due to chronic traffic problems and over-capacity of the roads. He predicted that developers would remove the trees that create a noise barrier between his community and Highway 15-501. Mr. Harris pointed out that several projects would impact his neighborhood at one time. He warned of an over-saturation of multi-family units in the area and noted the lack of adequate school facilities and the low demand of the current commercial real estate market. Mr. Harris showed photos of congested traffic on Erwin Road and across Highway 15-501 near Erwin Road by Sage Road.

Mac Clarke said Mr. Harris had covered most of what he had wanted to say about traffic. The proposed development would add 375 parking spaces, he said, adding that this plus Marriott parking would bring the total to more than 500. Mr. Clarke explained that

Erwin Road had the worst traffic problem, noting that the NCDOT had said the planned superstreet would not be completed until 2006 and had also stated that the intersection would return to today's conditions by 2009, even with the superstreet. He proposed that no exit be permitted from this development onto Erwin Road because such an exit would be relatively close to the one from the Marriott, he said, and would result in a confusing traffic hazard. Mr. Clark asked that a Certificate of Occupancy not be given until the superstreet has been completed.

Summerfield Crossing resident Harvey Krasny pointed out that the NCDOT had projected that traffic would triple on south Dobbins Drive and would more than double on north Dobbins Drive by 2025. He said traffic would be untenable for people who live in that area and that to think otherwise is to be in denial. Mr. Krasny reminded Council members that the schools would be over-capacity next year, and adding more students would do a real disservice to those students. Regarding the retail proposal, he noted that 17 storefronts were empty in downtown Chapel Hill, and said this retail building would sit virtually empty right at the entrance to the Town. Dr. Krasny commented that the Town does not need another retail/office building. He proposed that the Town not pretend things are okay and continue building more. Dr. Krasny concluded that the proposed development would not be consistent with the neighborhood, all of which was R-2 or R-3.

Meghan Agresto discussed a 1932 farmhouse located in the area. She argued that being able to turn one part-time person into a full-time employee was not a strong economic argument for this development. If the Town is worried about the water table, Ms. Agresto said, then building this right next to Booker Creek would be counter-indicated.

Old Oxford Road resident and landowner David McFarling said he has had trouble renting a house he owns in the area because of traffic problems on Erwin Road. If this project gets approved it will be completely untenable, he said. Mr. McFarling stated that "superstreet" was a misnomer because it really will be a "super intersection." He cautioned the Council that State administrators might change and the entire superstreet project could be thrown out or reconfigured. It is not a done deal, Mr. McFarling said, and implored Council members to consider the people who live there.

Law student Patima Mohamedy, a neighbor to the 1932 farmhouse, told Council members that Mr. Wilson had lived, raised a family, and died in that house. He had planted the trees himself, she said, and had expected that his home would stay in his family for a long time. Ms. Mohamedy described the area as a beautiful piece of land. She argued that development should be halted or at least slowed down. The people who live in those houses do not consider the area undeveloped, Ms. Mohamedy explained. She expressed resentment over the description of the place where she lives as "an attractive visual landmark for vehicles" and "an aesthetically pleasing pocket of passive open space." Ms. Mohamedy urged Council members to resist erecting more mundane houses for more people.

David King stated there should be single-family homes in the area, if anything. He noted the traffic already was too dense for the proposed assemblage and described the proposition as inconceivable.

Council Member Ward wondered about the number of affordable houses that would have to be demolished to create affordable houses. He suggested the applicant reconsider the Dobbins Drive Road frontage since many of those buildings seem usable in their current state. Council Member Ward commented that putting a dumpster at the base of a spectacular 90-inch oak tree did not seem like the right way to enhance it. He pointed out that there was a pond in the area and there would have to be RCD determinations about whether or not the application was workable.

Mr. Smyre replied this was a concept plan and field determinations had not yet been made. Field determinations had been done a few years ago, he said, with no RCD having been indicated, but there had been no determination with regard to ephemeral or intermittent streams. Mr. Smyre explained that the applicant would adjust the plan accordingly if necessary, but they did not believe there was any RCD on the property, and have no plans to cross any ephemeral stream. He said he did not know how many of the existing units were affordable, but the value of the land exceeds the value of its structures. Mr. Smyre pointed out that Wilson family members were present, adding that they had waited a long time to do more than preserve their land. He asked for feedback tonight on the larger issues before addressing the RCD.

Council Member Kleinschmidt pointed out that some of the buildings as drawn seemed to encroach on clusters of trees. Mr. Smyre agreed, adding that they might have to eliminate some, but would endeavor to preserve trees.

With regard to the connector to Sage Road and the stub-out to the right-of-way, Council Member Kleinschmidt asked how the applicant would address the fact that the last mile is not connected. Mr. Smyre indicated an intervening lot, which currently has an uninhabited single-story house on it, between the proposed development and the entrance to Lowe's. He acknowledged that they had not made much progress with the owner of that land, but said he was optimistic about doing so eventually.

Council Member Wiggins suggested having much wider buffers around the property, particularly between it and surrounding residential areas. She described the buffers on the plan as thin, even though they probably meet Town requirements. Council Member Wiggins explained that she would look at the application more favorably if the buffers were extremely wide. Mr. Smyre replied that these were the buffers required by the ordinance, but agreed to look at making them wider.

Council Member Harrison, replying to an earlier citizen comment, stated that a programmed State project such as the superstreet would happen at some point. The proposed section is one of what could be several segments along Highway 15-501, he said. Council Member Harrison explained that he had petitioned the Council to ask the Metropolitan Planning Organization (MPO) for a Highway 15-501 study because of the

kinds of issues raised tonight. He said a traffic signal could help with turning movements at the Erwin/Windover/Oxford intersection, for example. Council Member Harrison suggested the applicant deal with signals in its transportation plan adding that the Town probably would request other signals as well.

Council Member Harrison said he thought one CDC member had suggested condemning the last piece of land toward Sage Road to preserve right-of-way. He pointed out that the application seemed to be below the LUMO guidelines for a 90-foot deep root zone for a 90-inch tree. Mr. Smyre replied that he had actually measured the 90-foot spread. Council Member Harrison said he agreed with Council Member Ward regarding the RCD determination. Trees do not offer much noise buffer, he said, but losing them has a psychological effect on neighbors.

Mayor pro tem Evans clarified that there would be 32 affordable units, and commented that the swimming pool seemed unrelated to anything. Mr. Smyre replied that this was a conceptual plan with land use elements still to be discussed. He explained that the pool had been included only to let Council members know that a pool was being considered.

Mayor pro tem Evans asked where the parking associated with flats would be. Mr. Smyre explained that garages would be located under the units. Mayor pro tem Evans said she hoped they would not be paved from flat to flat. Mr. Smyre replied that the applicant was discussing a variety of options.

Mayor pro tem Evans established that there would be two garages per townhome and visitor parking was yet to be located. She established there would be a sidewalk along Dobbins Drive even though it was not yet indicated on the plan. Mayor pro tem Evans asked Mr. Smyre to evaluate whether all of the parking behind the office building was necessary. He agreed, adding that he had agreed with a previous suggestion that placing the dumpster next to the 90-foot oak was not a good idea. Mayor pro tem Evans asked Mr. Smyre to work harder at pursuing the connection to Sage Road and to make road improvements on Erwin Road and Dobbins Drive as well. She also recommended pedestrian connections between neighborhoods.

Council Member Strom said he was pleased that the developer was thinking about expanding Dobbins Hill, which had been a successful project. He described that as the one element of the plan that he could accept. Council Member Strom described citizens' arguments about traffic and congestion as compelling. He urged Mr. Smyre to start over with a plan that was less formulaic and traditional which would justify rezoning and adding 60,000 feet to the underlying zoning. Council Member Strom said the combination of apartments spread out over the property was compelling, but its impact on the surrounding neighbors meant that it would not satisfy the findings that the Council has to make for approval.

Council Member Verkerk described the 1932 farmhouse as a very distinctive feature when you drive into Town. It reminds her of Merritt Pasture, she said, noting that the Town had preserved that farmhouse. Council Member Verkerk wondered if the house

was a candidate for historic preservation and commented that the entire site might be a candidate for purchasing of open space. She wondered what could go on the property that would not have a negative impact on the area, and suggested that Council members think about whether they feel comfortable with any development there, noting that the Town has money to purchase open space. Council Member Verkerk said she had not felt good about her positive vote for a Residence Inn in the area. She described this proposal as the straw that would “break the camel's back.”

Council Member Bateman ascertained that Council Member Verkerk was talking about preserving the farmhouse area at the minimum. She agreed the plan was too intense for this property and said she would not support a request for rezoning at this point.

Mayor Foy asked the staff what the existing R-4 zoning would permit. Ms. Culpepper replied that R-4 permits 10 units per acre and allows a mixed-use planned development, but the floor-area ratio is lower than R-5, and reduces it from .303 to .23. Mayor Foy noted that the different floor area ratio would mean a difference of about 56,000 square feet for this application. Ms. Culpepper pointed out that both would require an SUP. Mayor Foy asked why R-4 would require one, and she replied that the planned development concept is an SUP and the mixed-use planned development is a type of SUP. Mayor Foy asked if it was the case that nothing could be done on that parcel without an SUP. Ms. Culpepper replied that with the 20/40 rule any application involving more than 40,000 square feet of land disturbance, or 20,000 square feet in floor area, would require an SUP. Someone could come in with a proposal for a subdivision, she said, adding that duplexes would be allowed.

Council Member Wiggins ascertained from Mr. Smyre that the Council was looking at the same plans the CDC had commented on. She remarked that some Council members' comments had been similar to those from CDC members. Council Member Wiggins urged the applicant to give much more attention to CDC comment G, which asks for deep buffers and an interesting vista that preserves much of the land. She said she was not ready for the Town to buy this property, thereby taking it off the tax rolls. Council Member Wiggins agreed, though, that the proposed development was not interesting and merely attempts to build as much as it can. It does not address the CDC's and Council members' concerns, she said.

Mayor Foy asked Mr. Horton how the Council might approach having the staff work with the applicant regarding preservation of the vista. Mr. Horton replied that Council members' comments were instructive to the applicant. The applicant would have to decide whether the Council's desires allow them to meet their interests, he said.

Mayor Foy asked how Town involvement in the process would come about. Mr. Horton explained that if preservation means having the applicant set aside that portion of the property, that could be done as part of their development proposal. If it means the Town would purchase some or all of the property, he said, the Town would instruct the staff in that regard. Mr. Horton explained that the staff could not undertake such a conversation with the applicant without the Council's instruction.

Council Member Harrison pointed out that this land is expensive and the Town should be careful about what it wants to preserve on this tract. He described the concept plan as a blunt use of the land and said the Council was asking that it be a lot more imaginative. Council Member Harrison described the current traffic situation as a puzzle in itself, adding that this development would create even more impact.

Mayor pro tem Evans noted that the Comprehensive Plan discusses development at entryway corridors as a way of having neighborhoods that are served by public transportation. She said she would oppose spending public money on purchasing the land. Mayor pro tem Evans agreed that the application might propose too much for this site and the applicant might want to propose one under the existing zoning. She asked how many of the eight property owners were Wilsons. Mayor pro tem Evans stated that the only fair thing the Town could do to preserve the land would be to pay its fair market value.

Council Member Ward replied that no one had suggested that the Wilson family not develop their land. He added that nobody was trying to cheat anybody out of anything either, but that part of the Comprehensive Plan indicates preserving vistas.

COUNCIL MEMBER VERKERK MOVED THAT THE MANAGER ENGAGE IN CONVERSATIONS WITH THE DEVELOPER TO SEE IF IT WOULD BE POSSIBLE TO PRESERVE PART OF THE TRACT FOR HISTORIC PURPOSES. COUNCIL MEMBER STROM SECONDED.

Council Member Wiggins ascertained that the intent of the motion was to get as much as possible out of the development.

Council Member Bateman suggested the developer come up with a plan that would include preserving that land, thereby meeting one of the goals of the Comprehensive Plan.

Mayor Foy said he understood the motion to be that the Manager would be empowered to have a dialogue to see what could be arranged and would have a lot of leeway with that dialogue.

Council Member Verkerk verified that she was not releasing any Town funds by this motion.

Council Member Bateman said she wanted the developer to come back with this area designated as open space, green space, or vista space; something that meets the Comprehensive Plan nomenclature for entranceways.

Council Member Verkerk accepted that as amenable to the motion and Council Member Strom said that he thought the motion already incorporated that.

Council Member Kleinschmidt expressed concern about the traffic and safety implications of the density for the rest of the acreage. He asked the applicant to refine the conversation to eliminate that possibility and to preserve affordable housing components.

Council Member Verkerk restated the motion, adding the clause, "to include conversations with the developer to see what they would provide."

Council Member Bateman suggested not adding a clause about engaging in a conversation about public funds.

Council Member Wiggins said the developer should explain what it could do to improve the vista at his own expense.

Council Member Verkerk suggested deleting her proposed additional clause.

Council Member Bateman stated this development needed to give something back to the community because it would extract a terrible toll on this part of the Town. Council members know these roads will not take this, she said, and they have questions about whether the schools can take it.

COUNCIL MEMBER VERKERK AMENDED HER MOTION, STATING THAT THE COUNCIL DIRECT THE MANAGER TO ENGAGE IN CONVERSATIONS TO PRESERVE SOME PART OF THE LAND TO PROTECT THE VISTA, AS AMENDED TO INCORPORATE COUNCIL MEMBERS' COMMENTS. COUNCIL MEMBER STROM SECONDED. THE MOTION WAS ADOPTED (8-1) WITH COUNCIL MEMBER EVANS VOTING NAY.

COUNCIL MEMBER STROM MOVED, SECONDED BY COUNCIL MEMBER WARD, TO ADOPT R-2. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

A RESOLUTION TRANSMITTING COUNCIL COMMENTS ON A CONCEPT PLAN FOR THE WILSON ASSEMBLAGE PROPOSAL (2003-03-17/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 near the intersection of Erwin Road and Dobbins Drive, called The Wilson Assemblage; 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

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expressed by Council members during discussion on March 17, 2003, and reflected in minutes of this meeting.

This the 17th day of March, 2003.