

Excerpts from

SUMMARY MINUTES OF A BUSINESS MEETING

OF THE CHAPEL HILL TOWN COUNCIL

MONDAY, JULY 2, 2001, AT 7:00 P.M.

Mayor Rosemary Waldorf called the meeting to order at 7:00 p.m.

Council members present were Flicka Bateman, Joyce Brown, Pat Evans, Kevin Foy, Lee Pavão, Bill Strom, Jim Ward, and Edith Wiggins.

Staff members present were Town Manager Cal Horton, Assistant Town Manager Florentine Miller, Town Attorney Ralph Karpinos, Assistant to the Manager Bill Stockard, Planning Director Roger Waldon, Urban Forester Curtis Brooks, Stormwater Engineer Fred Royal, Engineering Director George Small, Assistant to the Mayor Alice Joyce, and Town Clerk Joyce Smith.

Item 6 - University Development Issues

6a. Overview of Office/Institutional-4 and Rezoning Applications.

Planning Director Roger Waldon explained that the topics resulting from the previous month's public hearing fall into two categories: drafting a new OI-4 zoning district; and an application to rezone UNC's main campus to that district. He said that item #6a was the staff's attempt to summarize the current status of this issue. Regarding #6b, Mr. Waldon explained that the staff had done its best to respond to comments and questions from the public hearing.

6b. Consideration of ordinance and resolutions regarding Office/Institutional-4 Zoning.

Mr. Waldon pointed out that the staff had revised its recommendation for the OI-4 district. He explained that they were still recommending approval but were suggesting seven changes to the draft OI-4 district. Mr. Waldon said that these were not substantive changes but clarifications of questions that were raised at the hearing. They were as follows:

- Adjust the "Intent" section to refer to close neighborhoods and the larger community.
- Change "add" to "or" in Section 16.7.3.
- Add language prescribing the nature of public hearings on Development Plans.
- Add language acknowledging process related to Historic Districts.

- Add language to Section 16.9 clarifying: "5% of new or existing?"
- Add references to guidelines in Sections 16.3.1 and 16.7.1.
- Add language about effective date and transition to Development Plan coverage.

Regarding the last change, Mr. Waldon explained that if property is zoned OI-4, then nothing could be done on that property except by a special use permit (SUP) or by approval of the development plan. He said that the previous zoning would apply in the interim period before the development plan is approved.

Mr. Waldon noted that two additional resolutions were included in #6b. He recommended that the Council formally adopt Resolution A, endorsing the use of the guidelines, and Resolution B, which would make an adjustment adding the development plan to the fee schedule. Mr. Waldon said that there also was a recommended fee for the building-by-building site development permit, but suggested eliminating the line that says "OI-4 site development plan \$125" and waiting until later to decide about that.

Regarding the rezoning, Mr. Waldon noted the revised recommendation. He pointed out a letter from UNC Chancellor Moeser suggesting the University's willingness to pull some areas back from rezoning. In accordance with that, Mr. Waldon said, the Manager's revised recommendation is that areas be rezoned—with the deletion of a triangle of land bordered by Columbia Street and Old Pittsboro Road, as well as areas five, six and eight. He noted that there was a valid protest petition on file, which meant that approval to rezone the property would require seven affirmative Council votes.

Nancy Suttentfield, representing UNC, stated that the Town Council's votes would solidify the planning partnership that the Town and University had worked so hard on over the past year. She said that the University had tried to be responsive to community concerns by making the changes in their rezoning request that Mr. Waldon had outlined. Ms. Suttentfield noted that the University also had agreed not to develop on the property east of the Wolfenden's until they acquire the property or until July 1, 2009, whichever comes first. She pledged that the University would work with the Mason Farm Road neighborhood to address their concerns prior to and during designing construction of the new student family housing units in that area. Ms. Suttentfield added that subsequent to the last Town-Gown meeting, the University had learned that neighbors in sub-areas two and three west of Pittsboro Street had objected to the rezoning of those areas. She noted that the University had no plan to develop in those areas and would withdraw the request to rezone those. Ms. Suttentfield commented that the University urgently needed to move ahead with submission, review and approval of the development plan for facilities that will be constructed over the next eight years.

Diana Steele commented that the University had made no effort to find another place to put four buildings that will create a problem for her and her neighbors and her preschool. She stressed that people would be much happier if the University would only develop the bond-funded projects.

Ruby Sinreich expressed disagreement with a recent editorial in *The Chapel Hill News* which stated that the Council had no option but to rezone. She also disagreed with the editorial's assessment that UNC had negotiated with the Town in good faith. Ms. Sinreich stated that there had been several incidents where the Town had negotiated in good faith only to have the University pull the rug out from under them. For that reason, she said, she was uncomfortable with the amount of flexibility in the OI-4 zone. She also expressed concern about the recommendation to build only the bond projects because UNC does need housing. Ms. Sinreich argued that the summer was the wrong time for the Town Council to make such a huge decision and reminded Council members to keep the Town's best interests in mind.

Aaron Nelson, Executive Director of the Chapel Hill-Carrboro Chamber of Commerce, praised the University and Town for working hard to reach this compromise. He said that the Chamber supported the creation of an OI-4 district as a responsible way to bring University properties together in one zoning district with a uniform approach to managing growth. The Chamber believes that a responsible, well-planned, well-sited, and well-designed growth for the University will benefit Chapel Hill, Mr. Nelson said. Noting that the University's success is important to the success of the community, he asked the Town Council to approve the OI-4 zoning district and to zone the areas as the University has asked so that it can realize the growth and improvements it has been instructed to do by the bonds and as contemplated in its master plan.

Kathy Wilber, a Mason Farm road homeowner, commented on sub-area seven. She said that the University once had the opportunity to house all of its students without interfering with the buffer. She asked Council members to ask themselves why the University had not done so, and asserted that the only way to hold UNC to its agreement to observe the buffer is to deny the rezoning of sub-area seven.

Bob Durovich, a resident of Westwood Hills, said that one should not bargain one piece of land for another. Commenting that his children had attended Ms. Steele's preschool, he said that the University was encroaching without caring about people, whom it treats as impediments to its plan. Mr. Durovich asked if someone could explain why tract nine was being recommended for rezoning to OI-4, which he said was a change in direction, and why there is no alternative to rezoning that tract. He also asked how the Town Council would assure that the University considers the concerns of homeowners as it moves forward with development.

Ken Broun said that he was not satisfied with the compromises because the neighborhood is only slightly better off than it was. He pointed out that a University building will abut Diana Steele's preschool playground and that there would be student housing going in across the street from others without any guarantee of a buffer and a traffic plan.

Mr. Broun remarked that his neighborhood does not object to student family housing but only to having it supplant them and intrude into the neighborhood in an unnecessary way. He requested that those with houses north of Mason Farm Road be permitted to live in peace until, at least, the University "boots them out." Mr. Broun also asked for

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assurances that there would be adequate buffers and that traffic patterns during construction and after will not disrupt the neighborhood. He asked for assurances that the development will not adversely affect the neighborhoods west and south of campus and that those assurances be monitored and enforced through processes that involve both Town government and citizens. Mr. Broun said that he understood how, with the General Assembly hanging over it, the Town Council might feel that it must approve the rezoning. He suggested that Council members provide the necessary protection for the community during the development stage of these proceedings.

Roy Fauber, who lives in the Cameron-McCauley Historic District, thanked the University, the Planning Board, and the Town Council for listening to citizens' concerns, especially regarding areas two and three. He asked them to make sure to remove those areas from the plan. Mayor Waldorf assured Mr. Fauber that she had talked to every Council member about that and it had been worked out.

Stephen Bond, a professional painter working on Diana Steele's property, spoke in favor of Ms. Steele's preschool and of the children there who, he pointed out, had learned to respect adults.

Peg Rees, president of the Mason Farm/Whitehead Neighborhood Association, said that her neighborhood had been presented with a construction timetable that was much earlier than they had previously been told. She also pointed out that there would be about 500 Odum Village replacement units rather than the 306 they had been told. Ms. Rees added that traffic would use Mason Farm Road for many years until the new access road is built, and noted that a unit near the Wolfenden's will be constructed earlier than the University had previously said. She commented that this makes people in her neighborhood wary of the University as it builds its projects. Regarding the review consideration of maintaining property values on adjacent properties, Ms. Rees stressed that "next to" and "adjoining" should include properties that have a road running between them and the University. Otherwise, she said, only properties on the north side of Mason Farm Road—and none on the west side—would be considered adjacent.

Elaine Barney, chair of the Greater Westwood Neighborhood Association, stated that University concessions to Mason Farm fall far short of what it could and should have done, which was to concede the area to its rightful owners who have lived there for many years. She asked that the Comprehensive Plan become a power tool for protecting neighborhoods. Ms. Barney expressed support for the points made by Joe Capowski in *The Chapel Hill News*, and asked the Council to consider the following points as well:

- OI-4 needs provisions requiring the University to direct its impact away from perimeter neighborhoods.
- OI-4 should require wooded buffers and low building height in transitional areas where feasible.

- OI-4 needs standards regarding height and types of buildings near perimeter neighborhoods.
- The buffer protecting Mason Farm residents from the Smith Center must be kept in tact.
- The development plan and individual site plans must comply with the Comprehensive Plan.
- Given the large scale of the proposed addition to the Ambulatory Care Center and other proposed medical research buildings, there should be a wooded buffer and a transitional height of buildings in this southernmost part of campus.

Joe Capowski, a resident of the Westwood neighborhood, noted that when the late Chancellor Hooker pledged that the University would build "a bed for every undergraduate head" he did not say that those beds would be in the Mason Farm neighborhood. He asserted that this was about University preferences, not needs. Mr. Capowski said that the University owns enough land in Town to grow without taking homes and destroying neighborhoods. He noted that the Town Council's task was to find a balance between the University's preference to grow into neighborhoods and the need to protect the homes and the lives of the people in those neighborhoods. Mr. Capowski suggested that the Council turn to its just-adopted Comprehensive Plan for guidance in determining that balance. He added that the Comprehensive Plan clearly states that neighborhood protection is paramount and that the scales will tilt in favor of neighborhood protection.

Kimberly Brewer, who resides on Purefoy Road, argued that neighborhoods and the Town as a whole need more protection and certainty than is provided by the revised OI-4 district and rezoning, which is being called the compromise solution. She said that UNC's expected development, which will have five million square feet of new buildings, is not a phased approach and is twice the amount that the Town had been told would be submitted. Ms. Brewer said that she and others had suggested that the new OI-4 district cap the amount that could be submitted in a development plan. She noted that the existing O&I-3 zone has such a cap. Ms. Brewer said that the development proposal will be too much for the staff to review in such a short time, and noted that it was citizens who had found errors in the rezoning request last month. She asked the Council to be careful not to approve a development that exceeds what the community can digest.

Council Member Foy explained that he thought the new zone would give the Town certain protections that it has not had in the past, such as minimizing traffic impacts with alternatives to automobiles, widening roads, and improving water quality through managing and monitoring the effects of stormwater runoff. He pointed out that none of that had been in place for the Town to monitor with the old zone and said that this is a better system. During discussions of the actual development plan, Council Member Foy said, is where the Council and citizens will address specific issues. He added that he was

not expressing support for rezoning as a result of undue political pressure and that it was insulting to the Council to imply that they would bow to that.

COUNCIL MEMBER FOY MOVED O-7, SECONDED BY COUNCIL MEMBER EVANS.

Council Member Brown asked to add, "a development plan shall project... including pollutants and greenhouse gasses" to the last sentence in 16.3 on page eight. Council Member Foy and Mayor Waldorf noted that this referred to the power plant, which was not in the area in question. Council Member Foy asked if Council Member Brown was saying that the development plan had to project anticipated impacts on the power plant. Council Member Brown read, "power plant capacity and emissions including pollutants and greenhouse gases." Mayor Waldorf asked how the Town would measure the greenhouse gases. Council Member Brown replied that the Town would have to determine how to do that. Mayor Waldorf asked Council Member Brown to restate the amendment. Council Member Brown read, "noise, lighting, and power plant capacity and emissions." Council Member Foy said that he would accept that as a friendly amendment, except for the emissions part, then asked Council Member Brown to state all of her amendments so that he could consider them as a group.

Council Member Brown proposed adding "not within the boundaries of an O&I zoning district and not within any Chapel Hill residential neighborhood" to the end of the next to the last sentence on 16.3.2 on page nine. She explained that she was trying to make sure that nothing, such as a parking deck, would be in any residential neighborhood. Council Member Brown asked to delete the first paragraph in 16.4 and to add, "development plan shall address mitigation measures for pollutants and greenhouse gases from the University's power plant" under B in 16.5. Under C at the top of page ten, she suggested including "an implementation of these measures to be in place before completion of buildings," explaining that she wanted to make sure that there was a schedule of implementation.

Under E, Council Member Brown proposed adding "and that water and sewer capabilities are developed within a framework of overall Town development and other UNC development including Horace Williams and including a worst case drought scenario." Under 16.6, she asked to add "(5) appropriate wooded buffers." In the last paragraph on 16.7.2 on page 11, Council Member Brown suggested including, "the Council will deal with only one development plan at a time and restrict each plan to three million square feet." Under 16.7.3, she asked to add "(3) achieve the purposes of the Comprehensive Plan" and "(4) adhere to the Council approved performance standards."

Mayor Waldorf asked if this referred to the standards that the Council had not adopted yet, and Council Member Brown replied that it refers to when they are adopted.

Regarding 16.8.2, Council Member Brown asked to add "noncompliance with the approved performance standards trigger a halt to further building under the development plan" under the last sentence. Mayor Waldorf asked Mr. Karpinos if this is covered by

broader provisions of the Development Ordinance. Mr. Karpinos replied that there are enforcement provisions in the Development Ordinance, but they do not go quite as far as Council Member Brown was suggesting.

Under 16.9 on page 18, Council Member Brown noted that B and C had general rules. She asked what the general rule was for D. Mr. Waldon replied that there had been discussion with the Council about that. He said that since the determination would be made on a case-by-case basis the staff did not think it was possible to preordain a standard about what is a significant change. Mr. Waldon said the general guide that they had discussed using was to first determine how close the requested change was to the edge of an area. If it is on the edge then everything needs to be looked at carefully, he explained, and if the open area is larger than proposed then no one would mind, but if it is smaller it would have to be looked at carefully. Mr. Waldon noted that in such sensitive situations a minor change can be approved by the Town Manager but a major change would require Council approval. He pointed out that the Manager had traditionally discussed "gray area" changes with the Town Council as he makes his determination.

Under Purpose and Intent, Council Member Brown asked to add a paragraph regarding the limits of growth from the Council's April 9th unanimously adopted resolution. She explained that the resolution recognizes that there could be a point where the cumulative impacts of University and Town growth would be such that no amount of mitigation would be possible.

Council Member Foy said that he agreed with the sentiments of Council Member Brown's suggestion regarding parking decks, but was not sure how to define what constitutes a residential neighborhood. Mayor Waldorf pointed out that all the Town Council was doing tonight by approving the ordinance and resolution was enabling the University to file a development plan.

Council Member Bateman asked for clarification on how Council Member Brown's suggestion to add buffers in the perimeter transition area was different from landscaping. Council Member Brown said that she sees buffers and landscaping as being different. Council Member Bateman and others noted that such distinctions would be made clear in the development plan.

Mayor Waldorf asked Council Member Foy if any of Council Member Brown's amendments were friendly. He replied that they were not.

Council Member Brown asked if anyone would second any of them.

Council Member Ward said that he favored monitoring and having a mechanism for enforcing standards.

Mayor Waldorf said that it had been her understanding that the performance standards had been structured in a way to achieve that. Mr. Waldon stated that the staff had worked

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to build in monitoring and were updating the data on traffic and water quality to see if adjustments were necessary.

Regarding enforcement, Mr. Karpinos explained that, considering that standards have been met, there is not much the Town can do if the impact turns out to be greater than anticipated—short of considering that to be the starting point for considering future development. He said that as long as the applicant complies with the standards that were part of the permit then they would be entitled to operate.

Engineering Director George Small noted that in the transportation impact analysis guidelines each of the standards has performance levels that must be achieved. He stated that the Town would ask the University to submit data convincing the Town that they were reaching those goals. Regarding transportation, Mr. Small explained that the Town was asking the University to show what the impacts are and what they will do to mitigate those impacts, and were doing the same with stormwater and light. He said that the Town intended to have performance standards that are measurable and against which they will be able to evaluate mitigation measures once impacts are identified. If the University does not meet the standards that were agreed upon, Mr. Small said, it would be treated like any other project and the application would not get approved.

Mr. Horton added that there would be no basis for approving a site permit if the University did not meet the standards that it told the Council it would meet. He added that if the University did not like that answer then it would have to sue the Town.

Council Member Strom said that the benefit of having a development plan and OI-4 is that the Town does not have to look at piecemeal projects but can evaluate system-wide impacts. He said that the Town will be able to regularly monitor impacts on stormwater and so forth in a systematic way and will have more leverage to request changes. Council Member Strom also said that, unlike Council Member Foy, he had felt pressure from the General Assembly regarding this issue.

Mayor Waldorf agreed that if the Town follows through with this package then it would have an opportunity to review and approve or refrain from approving buildings because of their system-wide impacts. She added that the scope of the project before the Council calls for something beyond what they have had in the past. Mayor Waldorf expressed appreciation that the University had agreed to actually measuring transportation impacts and mitigating stormwater impacts.

Council Member Foy noted that all of Council Member Brown's ideas were good ones, but suggested that she bring them forward again during discussion of the development plan. He added that there were specific measures for monitoring already in this ordinance. Council Member Brown pointed out that everything she had included in her suggestions had come from comments by citizens.

Mayor Waldorf explained that O-7 was to amend the Development Ordinance to create an OI-4 zoning district.

THE MOTION WAS ADOPTED (8-1), WITH COUNCIL MEMBER BROWN VOTING NAY.

AN ORDINANCE AMENDING THE CHAPEL HILL DEVELOPMENT ORDINANCE TO CREATE A NEW, OFFICE/INSTITUTIONAL ZONING DISTRICT (2001-07-02/O-7)

WHEREAS, the Council of the Town of Chapel Hill has considered the proposed amendments to the Chapel Hill Development Ordinance creating a new office/institutional zoning district, and finds that the amendments are appropriate due to changed or changing conditions in a particular area or in the jurisdiction generally and achieve the purposes of the Comprehensive Plan;

NOW, THEREFORE, BE IT ORDAINED as follows:

SECTION I

AMEND Subsection 3.1.4 of the Chapel Hill Development Ordinance to read as follows:

3.1.4 Office/Institutional - 3 District (OI-3) and Office/Institutional-4 (OI-4)

The Office/Institutional - 3 (OI-3) and Office/Institutional-4 districts are intended to provide for major educational, research, public service, and office uses, and their necessary support functions, while minimizing conflicts with adjacent land uses.

SECTION II

AMEND Subsection 11.2.2 of the Chapel Hill Development Ordinance to read as follows:

11.2.2 Applicability

The provisions of this Article shall not apply to:

- (a) trees, vegetation and land disturbing activity normally associated with the landscaping, construction or modification, or occupancy of any existing or proposed single-family or two-family dwelling on an individual lot smaller than 5 acres, unless the property owner voluntarily registers a rare or specimen tree as described in 11.6.4, provided, however, that Section 11.5 of this Article shall apply to all public and private lands within the Town and its extraterritorial jurisdiction;
- (b) land in the Town's Office/Institutional-3 or Office/Institutional-4 zoning districts, provided, however, that Section 11.5 of this Article shall apply to all public and private lands within the Town and its extraterritorial jurisdiction;

- (c) routine maintenance of existing vegetation outside the public right-of-way, such as pruning, watering and fertilizing;
- (d) the removal of dead trees and shrubs, or trees and shrubs that have been diagnosed and determined to be diseased beyond treatment, the burden of proof being placed on the remover;
- (e) the removal of soil or vegetation from undeveloped land to allow for noncommercial open space no greater than 1/4 acre, providing this activity does not take place within the critical root zone of any rare or specimen tree.

SECTION III

ADD a new Article 16 of the Chapel Hill Development Ordinance to read as follows:

ARTICLE 16: OFFICE/INSTITUTIONAL-4 ZONING DISTRICT

16.1 Purpose and Intent

The purpose and intent of the Office/Institutional-4 District (OI-4) is to establish procedural and substantive standards for the Town Council's review and approval of development on large tracts of land where the predominant use is to be college, university, hospital, clinics, public cultural facilities, and related functions.

The objective of this Article and the OI-4 district is to allow for growth and development while protecting the larger community, nearby neighborhoods, and the environment from impacts accompanying major new development. A key feature of this district is the preparation of a Development Plan that would allow the property owner, immediate neighbors, and the larger community to understand specifically what levels of development are being proposed, and what impacts would likely accompany the development, so that mitigation measures can be designed and implemented.

16.2 Overview of Development Review Procedure

Procedures in this zoning district are designed to facilitate:

- Articulation of development plans that involve multiple buildings in multiple locations over an extended time period on a given tract of land, as defined in a Development Plan;

- Identification of total infrastructure needs for such proposed development as specified in a Development Plan and cumulative impacts resulting from full development as specified in a Development Plan; and
- Provision of measures to mitigate the negative impacts, including off-site construction of parking decks as described in Section 16.3.2, phased in a manner appropriate with the pace of construction.

To this end, owners of property zoned OI-4 are encouraged to prepare detailed Development Plans, as described below, for review and approval by the Town Council. For buildings that are included in an approved Development Plan, Site Development Permits for individual buildings are to be issued by the Town Manager, following a determination by the Manager that such individual building plans are generally consistent with the Council-approved Development Plan.

For development proposed within an OI-4 zoning district that is not included in a Council-approved Development Plan, but is a minor change according to the provisions of Section 16.9, the Town Manager may approve a change to the Development Plan and issue a Site Development Permit. For development proposed within an OI-4 zoning district that is not included in a Council-approved Development Plan and that cannot be considered a minor change to the Plan according to Section 16.9, such development shall be considered to be a Special Use, and subject to the Special Use Permit procedural requirements of Article 18. In the alternative, the applicant may apply to the Town Council for an amendment to the Development Plan.

Once a property is zoned Office/Institutional-4, all regulations, standards, and procedures prescribed for the previously-applicable zoning district shall apply until (1) a Development Plan is approved; or (2) six months has elapsed, whichever comes first.

16.3 Development Plan

A Development Plan shall address issues such as general location and size of new facilities, parking, utilities, stormwater management, impervious surface, and access/circulation. A Development Plan shall identify the general location, size, and proposed uses of buildings. A Development Plan shall project anticipated impacts on streets, water and sewer facilities, stormwater runoff, air quality, noise, and lighting.

16.3.1 Submittal Requirements

Application submittal requirements shall include the following:

- (a) Specific descriptions of proposed development with building locations, building sizes, parking arrangements, and description of building heights with consideration of impact on adjacent areas.

(b) Analysis of impacts resulting from proposed development, along with options to mitigate impacts relating to:

- (i) Transportation Management (traffic, transit, parking, bikes, pedestrians, air quality);
- (ii) Stormwater Management Analysis (quantity and quality); and
- (iii) Noise and Lighting Analysis.

Individual effects must be evaluated in the context of the whole development plan and not in isolation. Impacts shall be evaluated in accordance with guidelines endorsed for use by the Town Council.

(c) Preliminary timetable and sequencing schedule for building construction and for related mitigation measures.

16.3.2 Off-site Components

Mitigation measures involving construction of parking decks may need to be developed outside the boundaries of the Development Plan. Notwithstanding any other provision of this Development Ordinance, a parking deck proposed to mitigate impacts of a Development Plan, and approved by the Town Council as part of a Development Plan, may be located on a site not within the boundaries of an OI-4 zoning district. Any such facility shall be reviewed as a Site Development Permit according to the provisions of Section 16.8.2.

16.4 Permitted Uses and Development Intensities

Permitted uses shall be identical with uses listed in the “Schedule of Use Regulations” (Section 12.3) as being permitted in OI-3, except that Place of Assembly shall be considered to be a permitted use and not a special use. The maximum floor area allowed shall be as provided in a Development Plan that is approved by the Town Council. Special restrictions apply in Perimeter Transition Areas (see Section 16.6).

For purposes of calculating compliance with a specified maximum floor area, the following land uses shall not be counted as floor area: new residential development (including Dwellings and Residence Halls), and new Public Cultural Facilities.

16.5 Standards

Development in the OI-4 zoning district shall be designed in a manner that provides a mix of uses, which are integrated, interrelated and linked by pedestrian ways, bikeways, and other transportation systems. Development Plans shall, as practical and consistent with applicable laws and regulations, include measures to encourage reduction of

automobile use and promote alternative modes of transportation; to mitigate adverse environmental impacts; to promote conservation of non-renewable energy resources; and to achieve visual continuity in the siting and scale of buildings. Specifically, a Development Plan shall address the following:

(a) Noise: Noise levels from development proposed in the Development Plan shall not exceed those allowed by the Town of Chapel Hill Noise Ordinance.

(b) Environment: Development proposed in the Development Plan shall minimize impacts on natural site features, and be accompanied by measures to mitigate those impacts.

(c) Transportation: Development proposed in the Development Plan shall be accompanied by measures to mitigate transportation impacts that are caused by the development.

(d) Stormwater Management: Development proposed in the Development Plan shall be accompanied by measures to mitigate stormwater impacts (quantity and quality) that are caused by the development.

(e) Public Utilities: There shall be a general demonstration that water, sewer, and other needed utilities can be made available to accommodate development proposed in the Development Plan.

(f) Historic Districts: Provisions of Article 6 of this Chapter shall apply to any development proposed within one of Chapel Hill's Historic Districts.

16.6 Perimeter Transition Areas

A Development Plan shall designate a Perimeter Transition Area establishing appropriate standards at borders of the Development Plan, necessary to minimize impacts of development proposed in the Development Plan on adjacent property, to be approved by the Town Council as part of the Development Plan. Standards shall address:

- (i) Screening mechanical equipment
- (ii) Exterior lighting
- (iii) Height limits
- (iv) Landscaping

16.7 Procedures for Approval of Development Plans

Applications for a Development Plan, Special Use Permit, or Site Development Permit shall be filed with the Town Manager.

16.7.1 Application Submittal Requirements

The Town Manager shall prescribe the form(s) of applications as well as any other material he may reasonably require to determine compliance with this article. Applications shall include information described in Section 16.3.1.

16.7.2 Process for Review

Applications for Development Plan approval shall be reviewed by the Planning Board and forwarded to the Town Council for consideration at a public hearing.

Notice of the date, time, and place of the public hearing shall be published in a newspaper of general circulation in the planning jurisdiction once a week for two (2) successive weeks, with the first notice to be published not less than ten (10) nor more than twenty-five (25) days prior to the date of the hearing.

The Public Hearing shall be open to the public and all interested persons shall be given the opportunity to present evidence and arguments and to ask questions of persons who testify. The Council may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses to avoid undue delay. All persons who intend to present evidence at the public hearing shall be sworn.

The applicant shall bear the burden of presenting evidence sufficient to establish persuasively that the proposed development will comply with the determinations required in Section 16.7.3.

A record of the proceedings of the hearing shall be made and shall include all documentary evidence presented at the hearing.

Town Council action on an application for Development Plan approval shall occur within 90 days of the date of submittal of a complete application.

16.7.3 Council Action

The Town Council shall approve a Development Plan unless it finds that the proposed development would not:

- (i) Maintain the public health, safety, and general welfare; or
- (ii) Maintain the value of adjacent property.

Town Council action shall be to:

- (a) Approve;
- (b) Approve with conditions; or
- (c) Deny.

16.8 Actions After Decision on Development Plan

16.8.1 Recording Approval

If the application for approval of a Development Plan is approved or approved with conditions, the Town Manager shall issue the approval in accord with the action of the Council. The applicant shall record such approval in the office of the County Register of Deeds. The Development Plan, including all conditions attached thereto, shall run with the land and shall be binding on the original applicant as well as all successors, assigns, and heirs.

16.8.2 Individual Site Development Permits

If the Development Plan is approved, or approved with conditions, the Town Manager may then accept applications for individual Site Development Permits for specific buildings that are described in the Development Plan. No work on a building identified on the Development Plan may begin until a Site Development Permit has been issued. The Town Manager shall prescribe the form(s) of applications as well as any other material he may reasonably require to determine compliance with the Development Plan. If the Manager finds that the application is consistent with the Development Plan, he shall approve the application and issue the Site Development Permit within 15 working days of the submittal of a complete application. If the Manager finds that the application

is not consistent with the Development Plan he shall deny the application within 15 working days of the acceptance of the application and refer the applicant to the Special Use Permit process described in Article 18. Alternatively, the applicant may apply for an amendment to the Development Plan.

16.8.3 Expiration, Abandonment, Revocation of Development Plan

If an application for a Site Development Permit pursuant to an approved Development Plan has not been submitted to the Town Manager within two (2) years of the date of approval of the Development Plan, the approval shall automatically expire. On request by the holder of an approved Development Plan, the Council shall approve the abandonment of the Plan if it determines that no subsequent development approvals have been granted and no construction activity has taken place pursuant to the Development Plan. If material conditions of a Development Plan are violated, and remain in violation after giving the property owner a reasonable amount of time to correct such violation, the Council may revoke the Plan after notification to the property owner and opportunity for property owner response at a public meeting of the Town Council.

16.9 Process for Amending Development Plan

The Town Manager is authorized to approve minor changes and changes in the ordering of phases in an approved Development Plan, as long as such changes continue to be in compliance with the approving action of the Council and all other applicable requirements, and result in a configuration of buildings that is generally consistent with the approved Development Plan. The Town Manager shall not have the authority to approve changes that constitute a modification of the Development Plan.

Before making a determination as to whether a proposed action is a minor change or a modification, the Town Manager shall review the record of the proceedings on the original application for the Development Plan and any subsequent applications for modifications of the Development Plan, and shall use the following criteria in making a determination:

- (a) A change in the boundaries of the Development Plan approved by the Council shall constitute a modification;
- (b) A substantial change in the floor area or number of parking spaces approved by the Council shall constitute a modification. (General rule: more than a 5% increase in overall net new floor area or parking in a Development Plan approved by the Council would be considered substantial.);
- (c) Substantial changes in pedestrian or vehicular access or circulation approved by the Council shall constitute a modification. (General rule: changes that would affect access or circulation beyond the boundaries of a Development Plan would be considered substantial.); and
- (d) Substantial change in the amount or location of open areas approved by the Council shall constitute a modification.

If the proposed action is determined to be a modification, the Town Manager shall require the filing of an application for approval of the modification, following procedures outlined in this Article for initial approval of a Development Plan.

SECTION IV

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

SECTION V

That these amendments shall become effective upon adoption.

This the 2nd day of July, 2001.

Mayor Waldorf explained that R-9a endorses the detailed reports on transportation, stormwater, noise, and lighting standards. She noted that since they had approved the ordinance the Council had to approve these accompanying standards.

MAYOR PRO TEM PAVÃO MOVED R-9A, AND COUNCIL MEMBER EVANS SECONDED.

Council Member Ward asked for a friendly amendment to include "visual inspections will occur quarterly within the flood plane..." on 4.Ia, on page 39. Mr. Small agreed that this change was appropriate, and Mayor pro tem Pavão accepted it as a friendly amendment.

THE MOTION AS AMENDED WAS ADOPTED UNANIMOUSLY (9-0).

A RESOLUTION ENDORSING GUIDELINES FOR USE BY THE TOWN COUNCIL WITH CONSIDERATION OF A DEVELOPMENT PLAN IN THE OFFICE/ INSTITUTIONAL-4 ZONING DISTRICT (2001-07-02/R-9a)

WHEREAS, the Town Council has adopted a Development Ordinance text amendment which creates a new zoning district: Office/Instititonal-4; and

WHEREAS, the Office/Institutional-4 zoning district includes application submittal requirements that include provision of analysis of impacts resulting from proposed development, along with options to mitigate impacts relating to:

- Transportation Management
- Stormwater Management
- Noise and Lighting

WHEREAS, the Town Council has reviewed final drafts of the following documents prepared by Town and University staff:

- Transportation Impact Analysis Guidelines dated June 26, 2001,
- Stormwater Management Performance Standards dated June 26, 2001, and
- Noise and Light Performance Standards dated May 23, 2001.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that these guidelines are hereby endorsed as amended by the Council on July 2, 2001 for use in evaluating impacts resulting from proposed development identified on a Development Plan in the Office/Institutional-4 zoning district.

This the 2nd day of July, 2001.

Regarding R-9b, Mayor Waldorf explained that the Manager had recommended setting the acreage fee but would withhold setting a particular fee for site plan review until they get a better Understanding of the cost of reviewing everything.

COUNCIL MEMBER EVANS MOVED, SECONDED BY COUNCIL MEMBER WARD, TO ADOPT R-9B WITH SITE DEVELOPMENT PERMIT DELETED. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

A RESOLUTION AMENDING THE FEE SCHEDULE FOR DEVELOPMENT REVIEW FEES TO ADD A DEVELOPMENT PLAN REVIEW FEE AND SITE DEVELOPMENT PERMIT FEE (2001-07-02/R-9b)

WHEREAS, the Town Council has adopted a Development Ordinance text amendment which creates a new zoning district: Office/Instititonal-4; and

WHEREAS, the Town Council has, with the establishment of the Office/Institutional-4 zoning district, created two new types of development applications:

- Development Plan, and
- Site Development Permit.

WHEREAS, the Town Council has determined that application of a development review fee would be appropriate for these types of new applications;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Fee Schedule for Development Review (current copy attached) is hereby amended to add the following new fees:

OI-4 Development Plan\$800 + \$40/acre

This the 2nd day of July, 2001.

6c. Consideration of ordinance and resolution regarding Zoning Atlas Amendment.

Mayor Waldorf explained that the ordinance in the Council's packet would approve the rezoning without the triangular lot at Columbia Street and Pittsboro Road and two, three, five, six, and eight.

COUNCIL MEMBER EVANS MOVED O-8A, SECONDED BY COUNCIL MEMBER FOY.

Council Member Brown offered a friendly amendment to include removal of areas seven and nine, adding that these families deserved the Town Council's protection. The mover and seconder did not accept that as a friendly amendment. Council Member Brown then offered it as a motion, but it failed for lack of a second.

7.19

Council Member Bateman said that she would support the ordinance, but without joy and enthusiasm. She read a statement in which she commended citizens for standing up for their neighborhoods, for conveying their understandable anxiety, and for defining their disappointment in an institution where they have made their careers and developed strong loyalties. Council Member Bateman praised the strong communication and process through which the University and Town had worked together, as opposed to the actions of the General Assembly, which she described as "slamming the door shut."

Mayor Waldorf concurred with Council Member Bateman's comments, adding that she believed passing the ordinance would make this a much better project. Pointing out that she wished the University had developed a master plan that did not intrude into a neighborhood, Mayor Waldorf said that the Council tried to accommodate the best that they could.

Council Member Wiggins agreed with those sentiments and said that she felt no joy in supporting the motion. She thanked Mayor Waldorf, Mayor pro tem Pavão, and Council Members Foy and Strom for the hard work that they had done to get the Town to this point. Council Member Wiggins also thanked members of the University and Town staff who had worked so hard on this.

THE MOTION TO ADOPT O-8A WITH AREAS 2 & 3 INCLUDED WAS ADOPTED (8-1) WITH COUNCIL MEMBER BROWN VOTING NAY.

AN ORDINANCE AMENDING THE CHAPEL HILL ZONING ATLAS FOR THE UNIVERSITY OF NORTH CAROLINA CENTRAL CAMPUS AREA (2001-07-02/O-8a)

WHEREAS, the Council of the Town of Chapel Hill has considered the application of the University of North Carolina to amend the Zoning Atlas to rezone property described below to Office/Institutional-4 zoning, and finds that the amendment is warranted due to changing conditions in the area, and in order to achieve the purposes of the Comprehensive Plan;

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

SECTION I

That the areas shown on the attached map labeled 1-9, described and discussed at the June 18, 2001 Public Hearing of the Town Council, with the exceptions noted below, shall be rezoned to Office/Institutional-4 zoning.

The exceptions are the following parcels, shown on the attached map, that are to be removed from this rezoning action, thereby retaining their existing zoning. Those removed parcels are:

7-20

- The triangular lot at the intersection of South Columbia Street and Old Pittsboro Road, identified as Chapel Hill Township Tax Map number 7.88.H.1, currently shown on the attached map as being within Area 1.
- The area identified on the attached map as Area 2.
- The area identified on the attached map as Area 3.
- The area identified on the attached map as Area 5.
- The area identified on the attached map as Area 6.
- The area identified on the attached map as Area 8.

SECTION II

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

This the 2nd day of July, 2001.