

MINUTES OF A MEETING OF
MAYOR AND BOARD OF ALDERMEN
TOWN OF CHAPEL HILL, MUNICIPAL BUILDING
MARCH 19, 1979
7:30 P.M.

Mayor Pro Tem Epting called the meeting to order. Present were:

Marilyn Boulton
Jonathan Howes
Beverly Kawalec
R. D. Smith
Bill Thorpe

Also present were Town Manager E. Shipman and Town Attorney E. Denny. A quorum of the Planning Board was present. Mayor Wallace had indicated he would be attending the County Commissioners hearing on the southern by-pass. Alderman Vickery was excused.

Before beginning the public hearings, Mr. Denny explained the four findings the Board of Aldermen must make with regard to a special use permit.

Drive-in Business Special Use Permit for Wendy's--Public Hearing

Persons wishing to speak on the project were sworn. Mr. Jennings presented the proposal for a special use permit for a drive-in window for Wendy's, to be located on Henderson Street and 15-501. The building would have access from Henderson Street, with both parking and a drive-up lane. The traffic lanes would be one-way. At the Planning Board discussion, questions had arisen on the right-of-way across the edge of the property.

Mr. Limbo submitted the statement of justification for the record.

STATEMENT OF JUSTIFICATION

The following outlined response coincides with the outline of Item 2(g) of "Procedures for Special Use Permits," Town of Chapel Hill, North Carolina.

- I. The use of the property and proposed take-out window shown on the attached plans will not materially endanger the public health or safety.
 - a. At the present time, the traffic load on Henderson Street is moderate. Refer to the traffic count included in this application. It stands to reason that the traffic load will increase as a result of the realization of the project, but this should not be detrimental to Henderson Street. The project proposes only two (2) curb cuts on Henderson Street as shown on site plan. These cuts will not endanger the public health in the area.
 - b. Provisions will be made for all services and utilities including sewer, water, electric, telephone, garbage collection, and Chapel Hill fire protection.
 - c. The project will comply with all ~~soil~~ erosion and sedimentation control requirements during site grading and construction as set forth by the State of North Carolina and Orange County.
 - d. The site is not located in the Chapel Hill Flood Plain of Way.
- II. This project intends to comply with all applicable ordinances relating to the development of this project. The attached drawings, to the best of our knowledge, comply with all of the Town's requirements.
 - a. The project will be in compliance with the Zoning Ordinances and the land use development regulations and standards. This project is located in the Regional Commercial Zone.
 - b. The project does not require open space or recreational facilities.

- III. The drive-in, take-out window will not injure the value of adjoining or abutting property.
- a. There is no conflict between the proposed use and surrounding uses. On the east side of the project is a nursery and Hardee's restaurant; on the south side is residential, and on the west side is a garden and seed store; on the north is U.S. Highway #15-501.
 - b. The proposed use is in conformance with Regional Commercial Uses and as shown on Town's Zoning Map.
 - c. The proposed use is not a public necessity.
- IV. If the proposed plan is approved, it will be in harmony with the area in which it is located and will be in general conformance with the plan and development of Chapel Hill and its Land Use Plan.
- a. See III(b) above.
 - b. The site has no relationship to the Greenway and Flood Plain, however, it may have some relation to the Old Chapel Hill Thoroughfare Plan.

Mr. Denny asked if there was a separation of the traffic going to the window and that parking. Mr. Anderson answered that these would be separate lanes, and ingress and egress would be separate. Alderman Epting asked for an explanation of the problem with the right-of-way. Mr. Alexander stated his client owned a lot next to the proposed project. There was an easement across the developer's lot to that of his client Mr. Wilson. Mr. Wilson had no objection to the proposed business. Mr. Anderson explained that there was a legal question as to whether an easement existed; however, Wendy's had no intention of closing the access to Mr. Wilson's property. (Alderman Cohen came in.) Mr. Limbo stated there was a 25' strip recorded on an old plat. There was no indication on the plat whether the strip was a lot or an alley. The strip could be paved, but would not be used for parking if this would block the access.

Alderman Smith asked who owned the property. Mr. Limbo answered that Wendy's Inc. had a quitclaim deed to the property.

Alderman Cohen asked why the developer wanted a drive-in window. Mr. Anderson responded that the drive-in window was a key architectural and merchandising feature of Wendy's International. All of their facilities had one. They had found that it reduced weaving and traffic congestion on the site as well as allowing better service for the public. Alderman Howes asked what the Town's policy was on drive-in windows. Mr. Jennings did not have the policy with him, but the policy generally encouraged businesses with drive-in windows to serve pedestrian traffic as well and not to encourage traffic. Alderman Smith asked that when the Planning Board considered this project, it be given a copy of the policy to consider as well. He requested that any agreement reached with Mr. Wilson be in writing.

Alderman Smith asked if Wendy's had any restrictions which would interfere with the regulations set by the Board. Mr. Anderson responded that he had met with the Appearance Commission. The developer would have different signage and logo for this building. The exterior would be different, stained wood, not plastic. It would not have the usual pink, black and white brick; it would have solid color brick. The landscape plan called for \$5,600 in plantings.

Alderman Kawalec asked how many cars could be accommodated in the service lane. Seven cars could be stacked but these were constantly moving. With heavy traffic, an attendant is assigned to direct traffic to the parking lot.

Mr. Francisco asked Mr. Anderson to comment on the potential conflict between drive-up traffic and pedestrian traffic. Mr. Anderson answered that the conflict was the same as at every other restaurant in town. Pedestrians always had to walk across a lane of traffic to reach the restaurant. Wendy's had not experienced any problems with pedestrians being in danger at other locations.

Mr. Alexander stated he believed the access problem could be resolved. However his other client, Hubert White, asked that the sewer line for Wendy's be located down the access road instead of through the yard for Mr. White's store and home. He thought this problem could also be resolved. ALDERMAN SMITH MOVED, SECONDED BY ALDERMAN BOULTON, THAT THE MATTER BE REFERRED TO THE PLANNING BOARD FOR CONSIDERATION AND RECOMMENDATION. THE MOTION WAS CARRIED UNANIMOUSLY.

Unified Housing Development Special Use Permit for Laurel Hill, Section 5--Public Hearing

Persons giving evidence were sworn. Mr. Jennings stated the request for a special use permit to construct 24 units on approximately 30.45 acres of land off Parker Road. The housing would be in five clusters with two tennis courts. Each unit would have two parking spaces. Rhododendron Drive would be 70' right-of-way with curb and gutter. At the public discussion, there had been questions on the effect of the storm water detention on the spring across the property. Although the applicant had originally proposed septic tanks, he had changed to sewer.

Mr. Ballentine showed the location for the sewer lines and water lines. The Department of Transportation had requested the developer show a potential intersection of Rhododendron Drive with Bayberry Drive. Bayberry was not yet extended this far. The Hunt Arboretum was to the west of the project. The pond was developed at the recommendation of the soil erosion officer to aid in containing construction sedimentation on site and as a long term storm water detention basin. The applicant was proposed Rhododendron without curb and gutter.

Alderman Howes asked about additional units. Mr. Ballentine explained that if he decided to add the 6 units, a modification to the special use permit would be necessary. They would be added by rearranging some of the clusters. Alderman Kawalec asked about the potential for development of the Pardue property next to this development. Mr. Ballentine did not know of any plans for development; however, the Pardue property was 45 to 50 acres and could be developed in a unified housing development. Alderman Epting asked what portion of the property would belong to the Homeowners Association. Mr. Ballentine answered that all common property would be under the control of the Homeowners Association. The units would be individually owned. The drives around each cluster would be private. Alderman Epting asked if future owners of the project would be advised of the possible extension of Rhododendron Drive. Alderman Cohen suggested a sign be put at the end of Rhododendron Drive advising everyone of its possible extension. Alderman Kawalec asked how Bayberry was labeled on the comprehensive plan. Mr. Jennings answered that Bayberry was designated as a collector. The staff did not believe Parker would be extended as a thoroughfare. It would probably be no more than a collector.

Ms. Gordon asked if more than 6 units could be added. Mr. Ballentine said they could with another modification, until the zoning density was reached. Parker Road would be paved to state standards to the end of the property line. In response to another question, Mr. Messr stated the traffic count on the statement of justification as taken at Farrington and Parker Road intersection. Mr. Messr submitted the statement of justification for the record.

STATEMENT OF JUSTIFICATION

- I. It is the opinion of the developer that this proposed land use will not endanger the public health or safety, if developed according to submitted plans.

CONSIDERATIONS:

- A. While traffic will be increased the over all traffic flow will not be cumbersome. Intersections are far enough away from each other so as not to cause congestion. Careful attention will be taken so as to make certain that all sight lines at street intersections will not be hazardous. Also, upon completion of construction all streets will be paved thereby elimination of a major problem at present . . . dust from unpaved streets. All town conditions and specifications will be followed.
- B. The provision of all services and utilities, including sewer, water, electric, garbage collection and fire protection have been carefully planned for in layout. Water pressure will be at a maximum, all electric utilities will be underground thus maintaining the aesthetic of the property. Garbage collection was considered in layout of streets, you will notice that all driveways are circular thereby eliminating the need for town vehicles to back up. Fire protection is at a maximum also because fire hydrants are installed at all appropriate locations throughout Laurel Hill subdivision and that will be continued in Section V as well. Also Passive Solar Landscaping and Construction techniques will be employed in an attempt to conserve energy consumption. Sewer will be disposed of by on-site septic tank installation.

- C. Much thought was given to the control of soil erosion and other sedimentation problems of development.

After consultation with the Soil and Erosion Control Division, an erosion control pond was conceived and will be installed for that purpose which later will be used for a reflecting pond and landscaped accordingly.

- D. The site of development is not located in the Chapel Hill Flood Plain.

II. The developer intends to meet all required conditions and specifications.

CONSIDERATIONS:

- A. The developer intends to be in complete compliance with all Zoning Ordinances and land development regulations and standards.
- B. Recreational area will be at a maximum also through the construction of two (2) tennis courts, landscaped areas and a reflecting pond. Also approximately $\frac{1}{2}$ of the land will be open space.

III. The developer is not of the opinion that the proposed use will injure the value of adjoining or abutting property in the least, but is in fact of the exact opposite opinion. It is the opinion of the developer that this use is the best and highest use for this land.

CONSIDERATIONS:

- A. The developer does not believe that the proposed use and character of development produces any conflict to surrounding uses. It should be remembered that the entire several hundred acres is either residential or open space (state land and/or recreational) and this development will help solidify that entire area of town.
- B. The developer believes that the proposed use is consistent with the plan of development of Chapel Hill and its environs.
- C. The developer is not contending that the proposed use is of a public necessity.

IV. The developer believes the location and character of the use, if developed according to the plan submitted and approved, will be in harmony with the area in which it is to be located. The developer intends to be in general conformance with the plan of development of Chapel Hill and its environs.

CONSIDERATIONS:

- A. The developer will be in conformance with the Zoning Map and the plan of development of Chapel Hill and its environs.
- B. The site relationship to the Chapel Hill Flood Plain is of no relevance to this project. The site relationship to the Chapel Hill Thoroughfare Plan is important and deserves staff input, however, the submitted plans are in compliance. The site relationship to the Greenway Plan is one of compliance.

Mr. Ripley asked about the memorial at the end of the property. Mr. Messr explained that there was about three acres of marshland around the stream on the property. Mr. Hunt had asked that this land be donated to protect the stream. The developers had agreed to this. Mr. Messr understood there were negotiations with Mr. Hunt to see if the condominium project could be extended through his property, and Mr. Hunt had also received cost estimates on developing his property in 1/2 acre lots as zoned. Mr. Messr felt this would create a high density.

Mr. Ballentine stated the units would cost between \$100,000 and \$130,000 and would vary in size from 1,500 sq. ft. to over 2,300 sq. ft. The only impact the development would have on the arboretum would be from erosion which would be addressed for the soil erosion control ordinance. There was a buffer zone from the development on Poinsett Drive.

The pond drained an area of approximately 30 acres, more than 1/2 the site and a portion of the adjacent property. It would be a permanent body of water.

Alderman Kawalec said the intersection of Parker Road and Farrington Road was dangerous. She asked if there would be any improvement. Mr. Messr had discussed this

with State DOT. They had indicated this would be high on their list of priorities.

Mr. Helms stated that a lot of residents near the project were at the meeting on the proposed by-pass. He thought they would object to the proposed project because the condominiums were out of character with the neighborhood. There had not been any evidence presented that the project would not devalue adjoining property. Mr. Helms did not think this project a better use of the property than single-family housing. Traffic would be increased on country roads. This use was not in harmony with the area.

Mr. Jennings pointed out that the comprehensive plan encouraged a mix of housing types. Alderman Epting suggested that as many people were not at this meeting because of the public hearing on the southern by-pass the hearing be continued to a later date. Mr. Denny cautioned the developer that there were areas in which his evidence was weak. If the hearing was continued, he should review his evidentiary material. ALDERMAN COHEN MOVED, SECONDED BY ALDERMAN SMITH, THAT THE HEARING BE CONTINUED TO APRIL 9, 1979, at 7:30 P.M. Ms. Gordon contended that the proposed development was not in harmony with surrounding areas, which were developed in single-family units. It would be injurious to the neighboring properties. Alderman Epting stated that a condominium was a unit usually owned and occupied by a single family. Mr. Messer stated the land would be developed in 1/2 acre single family units, almost tripling the density. THE MOTION WAS CARRIED UNANIMOUSLY. Alderman Kawalec asked for a map showing the area under discussion in relation to surrounding properties.

Portable Building Special Use Permit Request for the Chapel Hill Flying Club--
Public Hearing

Mr. Jennings presented the request for a portable building to be located at the airport. The use would be temporary until January 1984. There would be no water or sewer to the building; the flying club would use the facilities of the administration building at the airport. Mr. McClure submitted the statement of justification for the record. He explained that the Chapel Hill Flying Club was a non-profit organization existing since 1961. The 100 members had shared space in the administration building. However, the airport manager had now requested that they find other office space as the administration building was too crowded. Investigation had shown the only economically viable alternative to be use of a portable building. There would be no increase in traffic.

STATEMENT OF JUSTIFICATION

- I. The proposed special use permit will not materially endanger the public health or safety.
 - A. The special use permit will not impair traffic conditions in the area due to the small size of the club which is already located at the airport in the terminal building. A 1975 N.C.D.O.T. traffic count on Estes Drive was 5,200 according to Planning Department records. A 1977 traffic count recorded just north and south of the intersection of Estes Drive and Airport Road registered 11,600 and 10,400 vehicles respectively.
 - B. No water or sewer connection is anticipated. Electricity, trash collection and fire protection is to be shared with the same provider of these services to the airport terminal building.
 - C. Erosion and sedimentation plans are not called for in this instance. Soil erosion and sedimentation should be at a bare minimum due to the small site which sends runoff into a wide band of thick woods which has well established ground cover to handle any soil erosion and resultant sedimentation coming from the site.
 - D. The site is not in the Chapel Hill flood plain. Thus, there is no need to take measures against flooding.
- II. The proposed special use permit will meet all required conditions and specifications of the Town of Chapel Hill.
 - A. The proposed special use permit will comply with the procedures and standards of the Chapel Hill Zoning Ordinance. It will comply with all land development regulations and standards set forth by Chapel Hill.
 - B. Since the proposed special use permit is located at the airport, no provisions for open space are needed.

III. The proposed special use permit will not injure in any way the value of surrounding property.

- A. The proposed use fits in well with the character of the airport. No conflicts between the uses are anticipated. One compliments the other.
- B. The proposed use will conform to the Official Zoning Map as well as to the Chapel Hill Land Development Plan.

IV. The location and character of the use, if approved, will be in harmony with the area in which it is located. The proposed special use permit will be in conformance with the Chapel Hill Zoning Ordinance and Official Zoning Map which in turn are based upon conformance with the Chapel Hill Land Development Plan. Thus, the permit request is in conformance with the policies and statutory regulations set forth by the Town of Chapel Hill for land development.

- A. The proposed special use permit will conform to the Land Development Plan for Chapel Hill Zoning Ordinance. The Official Zoning Map shows the area in which the permit is requested for as the "University A" Zoning District. The request fits into that district.
- B. The site is not located in the Chapel Hill flood plain. The site is located at the airport and presents no problem with conforming to the Thoroughfare Plan. The site does not impair the Greenway Plan.

Alderman Howes asked about membership of the club. Mr. McClure explained that membership was open. There was, however, a restriction on the use of the airport by the university. No non-university affiliated persons could use the airport to learn to fly. This rule had been imposed at the request of the town to limit activity at the airport. Alderman Boulton asked if the administration building would be open in the evenings. Mr. McClure responded that the administration building was open 24 hours a day. Mr. Farr, the airport manager, said the administration building was never locked. He explained that the airport was self-supporting. Therefore, funds were not available from the state or federal government to construct a new building. He had asked the flying club to make other arrangements because the lounge was too crowded. He did not believe the portable building would be visible from Airport Road. The airport was restricted on the number of planes which could be based there. As this number had already been reached, the flying club could not add to it.

ALDERMAN BOULTON MOVED, SECONDED BY ALDERMAN HOWES, TO REFER THE MATTER TO THE PLANNING BOARD FOR CONSIDERATION AND RECOMMENDATION. THE MOTION WAS CARRIED UNANIMOUSLY.

Residential Parking Lot Special Use Permit Request for the Police Building Parking Lot--Public Hearing

Mr. Jennings stated the special use permit was for the parking lot not the police building. The proposal was to build a 127 space parking lot with two accesses off Airport Road. One lot would be for security parking and the other would be for visitor and employee parking. Mr. Anderson submitted the statement of justification for the record. The 10 acre site was zoned R-15. He did not believe the parking lot would materially increase traffic over that of a residential development. The parking arrangement would meet projections through the year 2000. Mr. Anderson pointed out the location of the parking lot in relation to the building. The site allowed room for expansion. The parking would be screened by planting. Ms. Parker asked if the lots could be constructed with only one curb cut on Airport Road. Mr. Anderson stated the functions of the two lots were different. Also the topography would necessitate a steep ramp for one curb cut. Ms. Parker asked the distance between the curb cut and Sparrow Trail. Mr. Anderson estimated 70 to 80 ft. ALDERMAN SMITH MOVED, SECONDED BY ALDERMAN THORPE, TO REFER THE MATTER TO THE PLANNING BOARD FOR CONSIDERATION AND RECOMMENDATION. THE MOTION WAS CARRIED UNANIMOUSLY.

STATEMENT OF JUSTIFICATION

The following material is submitted in support of the Police Facility special use request proposed on property identified as Chapel Hill Township Tax Map 82, Block A, Lot 1. This material addresses the four required findings of fact defined in Section 4-B of the Zoning Ordinance. It is the opinion of the applicant that the following material permits a positive finding on each of these considerations.

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted and approved.

The proposed parking serving the police facility is located on Airport Road which is designated as a major thoroughfare street. Airport Road has a 100 foot wide right-of-way width and a paved cross-section of approximately 64 feet. The paved cross-section consists of five lanes, one of which is a center turning lane which can accommodate left hand turns into the proposed driveways. Airport Road has a 1977 average daily traffic count of 10,400 vehicles per day. This count is less than the present road capacity of 14,800 vehicles per day listed in the 1976 Thoroughfare Plan report. Paved sidewalks exist along the frontage of the subject property with Airport Road. Sight lines at the intersection of the proposed driveways are excellent.

The proposed parking areas are not located within the Chapel Hill flood plain. A soil erosion and sedimentation control plan will be filed with the Orange County Erosion Control Officer.

2. That the use meets all required conditions and specifications.

The proposed parking area complies with all applicable land development regulations and standards.

3. That the use will not substantially injure the value of the adjoining property, or that the use is a public necessity.

The proposed parking area is a permitted use within the R-15 zoning district. The parking area is separated from adjoining properties by deep open space buffers. Screening from adjoining residentially zoned properties will be provided as required by Section 4-C-5 of the Zoning Ordinance. The landscape plan will be submitted to the Community Appearance Commission for review and approval.

The proposed police facility and related parking are a public necessity.

4. That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Chapel Hill and its environs.

The police facility and the related parking area permitted uses within the subject R-15 zoning district. Parking lots holding six or more automobiles require a special use permit in order to ensure that any adverse effects upon adjoining residential areas are minimized. Deep buffers and landscaping will be provided to separate and screen the proposed parking areas from adjoining properties.

Preliminary Assessment Roll for Sewer Improvements Serving Portions of Wesley Drive--Public Hearing

Mr. Harris stated the project had begun in 1976. At the meeting in which the Board had authorized the work to proceed on the project, they had also authorized the manager to apply for clean water bond funds. Residents had been notified of this hearing on March 16, and had been given the amount of assessment at that time. With the clean water bond grant, the assessment was under estimates. Mr. Denny asked if residents had also been notified of OWASA's charges for tap-on fees. Mr. Harris answered that they had been.

ALDERMAN SMITH MOVED, SECONDED BY ALDERMAN THORPE, THAT THE PUBLIC HEARING ON THIS PROJECT BE ADJOURNED. THE MOTION WAS CARRIED UNANIMOUSLY.

Preliminary Assessment Roll for Street Improvements to Chase Avenue--Public Hearing

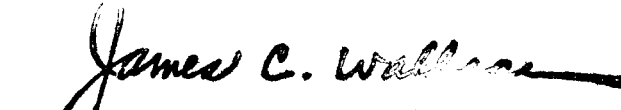
Mr. Harris stated that on August 9, 1976, the Board had received a petition to pave Chase Avenue with curb and gutter. After a public hearing, the Board had authorized the paving. Work was completed in February 1979, and residents were notified of this hearing and the amount of assessment.

Mr. Olsen stated he had two lots, one of which he had not been assessed for sewer because the lot was unbuildable. He had signed a covenant agreeing not to build on the lot. Assessments on these lots, property across the street, and sewer assessment would be approximately \$8,000. He had opposed both paving and sewer. Mr. Olsen said


the previous Board had indicated he would not have to pay the total assessment for paving.

Mr. Denny explained the assessment procedure as controlled by state law. The Board could give relief in certain cases provided it could establish a classification for which everyone in that classification would be granted relief. The Board had adopted a policy with respect to sewer assessments in which an owner with two lots, one of which was unbuildable, would be assessed only for that lot which was buildable. This did not apply to paving. The problem here was how to define a class. Most communities had resolved this problem by taking title to the property in lieu of the assessment. If it had no use for the property, the property would be sold at public auction, frequently being bought by the original owner. Alderman Epting suggested Mr. Olsen consider deeding the land to the University and taking a tax deduction. Mr. Olsen had not qualified as the executor of his mother's estate yet, and did not believe the land could be given to the University before the assessment was confirmed. Mr. Harris pointed out that if the University did not own the adjoining property, Mr. Olsen could sell this lot to the owner of the adjoining property giving access to a road. This could be applicable to other property in the future. A portion of the property might also be needed when widening Pittsboro Road. Mr. Denny agreed with Mr. Harris. Mr. Olsen agreed to consider giving the property to the university.

There being no further business to come before the Board, the meeting was adjourned.



Mayor James C. Wallace



Town Clerk David B. Roberts