

MINUTES OF A PUBLIC HEARING OF THE COUNCIL OF THE TOWN OF CHAPEL HILL,  
MUNICIPAL BUILDING, MONDAY, SEPTEMBER 21, 1981, 7:30 P.M.

Mayor Nassif called the meeting to order. Present were:

- Marilyn Boulton
- Joe Herzenberg
- Jonathan Howes
- Beverly Kawalec
- R.D. Smith
- Joe Straley
- Bill Thorpe
- Jim Wallace

Also present were Interim Town Manager, Mr. Ron Secrist; Assistant Town Manager, Ms. Sonna Loewenthal; and Town Attorney, Mr. Emery Denny.

Mayor Nassif outlined procedures for the public hearing. The Zoning Ordinance, and the standards set forth therein, would be the governing document.

There were no questions with respect to the procedures as outlined.

Proposed Private Sale of Community Development Lot to Mrs. Stella Gattis

Ms. Sonna Loewenthal, Assistant Town Manager, pointed out the property on the map. The proposed sale would provide Ms. Gattis, a homeowner to be relocated in the Community Development Program, with a site to build a replacement house.

Mrs. Gattis was in agreement with all terms.

Mayor Nassif opened the floor to anyone who wished to make a statement.

Mrs. Susan Cobb, a resident, expressed concern for neighboring property owners who had expressed their anxieties to her regarding apparent lack of understanding/communication between property owners and Town administration.

Mr. Denny stated that the hearing was on the proposed private sale of property to Mrs. Gattis, not the acquisition of any property by the Town.

There were no further questions.

COUNCILMEMBER HERZENBERG MOVED, SECONDED BY COUNCILMEMBER BOULTON, TO REFER THE MATTER TO THE MANAGER.

THE MOTION CARRIED UNANIMOUSLY.

Renaming of a Portion of Weaver Road (Near Greenwood Road)

Ms. Loewenthal stated that staff considered it improbable that the two sections of Weaver Road would ever be connected since the terrain was steep and there was a creek that lay between the two roads. In addition, such a connection would carry traffic through a neighborhood, which would be against the policy of the Comprehensive Plan.

The name proposed by the residents, "Prince Place" was not satisfactory as it was a near duplication with the name "Prince Street" in Carrboro. Ms. Loewenthal stated that Council's policy was to avoid duplication or near duplication of street names.

Mr. Denny stated that another hearing was not necessary unless the residents proposed a name that would be of some great significance to Chapel Hill.

Councilmember Smith proposed to continue the name of "Old Mill Road" as the roads were so near. Ms. Loewenthal, however, felt that the intersection crossing Old Mill Road would cause confusion in the numbering of residences along Old Mill Road.

Councilmember Howes suggested that the Manager not bring the issue back before the Council until the residents and staff concurred with a suggested name.

COUNCILMEMBER THORPE MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, TO REFER THE MATTER TO THE MANAGER.

THE MOTION CARRIED UNANIMOUSLY.

Annexation Petitions

Ms. Loewenthal stated that there were three petitions for annexation. All three petitions conformed to state statutes.

Annexation petitions were as follows:

Mason Farm Wastewater Treatment Plant--included 23.5 acres; zoned OI-2 and Industrial; it was adjacent to the Town limits.

Mr. Everett Billingsley, Executive Director of Orange Water and Sewer Authority, formally delivered the petition from the Orange Water and Sewer Authority for the annexation of the property and a copy of the resolution from the Board of Directors dated June 18, 1981 and gave a brief background. (This document is filed in the permanent files of the Clerk's Office.)

No citizens requested to make a statement regarding this issue.

There were no questions from Council.

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER HOWES, TO REFER THIS MATTER TO THE MANAGER AND THE PLANNING BOARD.

THE MOTION CARRIED UNANIMOUSLY.

UNC Wastewater Research Facility--about 1/2 acre in size; zoned Industrial; completely surrounded by the Wastewater Treatment Plant land.

Ms. Grace Wagoner, University Property Officer, stated that the University supported OWASA's petition for annexation of the Mason Farm Wastewater Treatment Plant and petitioned annexation of the UNC Wastewater Research Center, located in the northwest corner of the same tract.

There were no questions from citizens or Council.

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER KAWALEC, TO REFER THIS MATTER TO THE MANAGER AND PLANNING STAFF.

THE MOTION CARRIED UNANIMOUSLY.

Gatewood Townhouse Development--5.8 acres; located on Weaver Dairy Road; not presently in the Chapel Hill Planning area, or under the Chapel Hill Zoning Ordinance.

Mr. Don Higgs, representative for Gatewood, stated that the subdivision was previously approved by the County Board of Adjustment. Subsequently, the County had passed a new zoning ordinance which had a condition which they did not meet, that being the distance between units. Therefore, they were requesting annexation to Chapel Hill so they could proceed with development under Chapel Hill's new Zoning Ordinance.

Councilmember Smith suggested that, since this was in the Joint Planning area, it would be wise to consult with the County. Councilmember Wallace concurred.

Mr. Higgs stated that a request had been sent to the County regarding rezoning, but he had heard nothing.

Mr. Denny did not foresee any problems with this annexation.

There were no further questions.

COUNCILMEMBER HERZENBERG MOVED, SECONDED BY COUNCILMEMBER WALLACE, TO REFER THIS MATTER TO THE MANAGER. THE MOTION CARRIED UNANIMOUSLY.

Howell Terrace Apartments--Modification of Special Use Permit

All speakers were sworn.

Mr. Jennings described the property. The request was to divide the development into two parcels with the 12 existing apartment units on one and the 12 approved units on the other. This would allow separate ownership of each half. Planning Board and Manager recommended adoption.

Mr. Page, representative for Earl and Margaret Chesson (the petitioners), stated that 1.23 acres would remain in the name of J. Lowell Williams; 1.53 acres would be put in the name of Earl and Margaret Chesson. Mr. Page requested that the Statement of Justification be submitted into evidence. Mr. Denny stated that since the Statement of Justification had been prepared by Mr. Page and the facts stated therein were with his knowledge, and he had been sworn, that it could be admitted without being read. (Please refer to the permanent files in the Planning Department.)

Mr. Jennings stated that the only concern of the Planning staff was maintenance of the joint driveway and dumpster. Therefore, the Planning Board incorporated stipulation #1 into the final resolution.

There were no questions from citizens or Council.

COUNCILMEMBER KAWALEC MOVED, SECONDED BY COUNCILMEMBER HOWES, TO REFER THIS MATTER TO THE MANAGER.

THE MOTION CARRIED UNANIMOUSLY.

North Carolina National Bank (Branch on Durham Boulevard)--Request for Modification of Special Use Permit

All speakers were sworn.

Mr. Jennings described the property and presented the background on the project. The request was to modify the original Unified Business Development SUP to a Planned Development--Office and Institutional Special Use Permit to allow demolition of a building which was on the site when this permit was issued.

Mr. Jim Walter, of North Carolina National Bank in Chapel Hill, requested to submit a Statement of Justification. Upon inquiry from Mr. Denny, Mr. Walter stated that he was familiar with the document and knew the facts contained therein to be true. Mr. Denny stated that the Statement of Justification could be received as evidence. (Please refer to permanent files in the Planning Department.)

Staff recommended approval. The second building did not conform with the setback requirements and had a different architectural style that was believed to be incongruous with the development of the site.

Mr. Roscoe Reeve, Chairman of the Planning Board, stated that the Planning Board found that with the deletion of the building, the site would be in compliance with the present ordinance and would meet the four findings of the Comprehensive Plan, if all stipulations were maintained.

There were no further questions or statements from Council or citizens.

COUNCILMEMBER STRALEY MOVED, SECONDED BY COUNCILMEMBER WALLACE, TO REFER THE REQUEST TO THE MANAGER.

THE MOTION CARRIED UNANIMOUSLY.

Public Housing on Piney Mountain Road--Request for Planned Development--Housing (PD-H) Special Use Permit

All speakers were sworn except Mr. Barbarelli.

Mr. Jennings described the proposed development: 16 duplex units (32 dwelling units); total floor area of 26,814 sq.ft. on 7.12 acres of gross land area; zoned R-1; to be located at the northeast corner of the intersection of Piney Mountain Road and Eastwood Road.

Ms. Shirley Marshall, Chairman of the Chapel Hill Housing Authority, presented a background on the establishment of the Housing Authority, referencing the original petition of December 14, 1961 as the initiating document. (Please refer to the permanent files in the Clerk's Office.) She also referenced Chapter 157 of the North Carolina General Statutes as the authority under which the Housing Authority was created. She stressed that the Housing Authority had been established to "work with the federal government for the municipality" and that the Housing Authority "works to meet the goals set by the Council."

Ms. Marshall felt that citizens opposing this project were reacting to "change forces," wanting "the past recreated." She talked about past "predictions of doom--none of which . . . have come to pass." She stated that residents housed in low to moderate income developments were often life-long or long-time residents of Chapel Hill.

Ms. Marshall referenced Sections 4.3 through 5.2 of the Chapel Hill Zoning Ordinance. (Please refer to the permanent files in the Planning Department.)

Mr. Alvin Stevenson, Executive Director of the Chapel Hill Housing Authority, presented the Statement of Justification (please refer to permanent files in the Planning Department) for the proposed housing project. Mr. Stevenson requested that the following documents be submitted into the permanent files in the Clerk's Office: "Transportation Impact Report," "Narrative--Property Values--Ridgefield Neighborhood," "Narrative--Racial Characteristics by Census Data--Piney Mountain Road Area," and "Racial Characteristics by Household--Piney Mountain Road Area." Mr. Denny questioned Mr. Stevenson regarding if these facts had been prepared under his supervision and if the facts contained therein were true to his knowledge. Mr. Stevenson responded affirmatively. The documents were accepted.

Mr. James Webb, Architect for the proposed development, described the design for the project as an "open type" of development that "turned in" and was subdivided into two subareas of housing.

Staff recommended approval of the request, as they felt all requirements contained in the four findings were met.

Mr. Jennings described the public transportation services provided for this area.

Staff felt that there were two issues of concern: (1) would the proposal result in undue concentration of a racial group; and (2) would the proposal violate the policy of locating assistant housing throughout the community.

Regarding the first issue, staff believed the area was not an area of minority concentration, but was a once-rural area which was now urbanizing and changing very rapidly.

Regarding the second issue of concern, staff used the Land Use Plan in evaluating the conformity of the proposed development with the Comprehensive Plan. The Land Use Plan sought to insure that assistant housing was located throughout residential areas by establishing a standard that "3% of the housing units in each subcommunity should be subsidized for low and moderate income persons." Therefore, staff felt it necessary to use the 20-year time frame of the Land Use Plan. The proposed project would be located 2/3 mile from the nearest assistant housing; therefore, staff felt it was clear that the proposal complied with the dispersal policy for assistant housing.

Staff recommended that Council make the four findings and approve the Planned Development Housing Special Use Permit.

Mr. Roscoe Reeve stated that the Planning Board received the same analysis and recommendation from the staff. He stated that the majority vote of the Planning Board was to recommend to Council that the Special Use Permit for this project be denied. Several members of the Planning Board who voted in support of the motion (the motion to deny the request based on the fact of failure to make finding #1 and #4) also felt that the Board could not make finding #3. The Board had expressed concerns of safety and traffic conditions that would be created on Piney Mountain Road and on Eastwood Road. Another area of concern was in regards to concentration of minorities according to the Comprehensive Plan.

The Mayor and Councilmembers and Clerk received a copy of the statement that the Chapel Hill Tenants' Organization had wished to make. (A copy is filed in the Clerk's Office.) Statements contained therein were in support of the public housing project, feeling that housing was insufficient in Chapel Hill for low to moderate income families and future economic times were not promising.

All persons supporting the project were sworn except Mr. Perry.

Mr. Al Dawson, Co-Chairman of the Steering Committee of the Community Services Division of the Inter-Faith Council (IFC), stated that the IFC supported public housing in Chapel, as it always had, and asked for Council support. He expressed concern that a negative decision on these issues might jeopardize the funding of future housing projects.

Mr. Tony Whitehead, a resident of North Forest Hills area, referenced a recent editorial in the Chapel Hill Newspaper which dealt with the location of the project. In light of this article, and being concerned about the problem of transportation for this area, Mr. Whitehead questioned if a location closer to Airport Road had been considered. In terms of transportation, he felt another location would have made more sense.

Mr. Ted Parrish stated that tremendous federal cutbacks in all the human service areas had caused a reduction in subsidized units from 300,000 units last year to less than 200,000 units this year. He felt if this opportunity were denied, "we could kiss-off assistant housing for some time to come." He concurred with the Planning staff recommendation, but expressed surprise with the recommendation of the Planning Board, stating that he hoped that the same outcome did not occur with the Town Council.

Mr. George Neely, a Chapel Hill resident, stated that he felt that the issue of public housing presented some unique opportunities for problem solving in Chapel Hill regarding access to services; community support; and low, moderate, and high income people working together. He felt that by bringing petitions to elected officials to resolve these issues, Chapel Hill could be a model for problem-solving for other places. He stated that he felt this would be the last opportunity of the Town to receive this type of assistance.

Mr. Moses Carey, a longer-than-10-year resident of Chapel Hill, and former member of the Inter-Faith Council and its Board of Directors, spoke of the unique opportunity the Town of Chapel Hill had to cooperate with the local School Board. He felt that the location that was being considered would go a long way in assisting the School Board in solving some of their long-range problems of redistricting in the local school system.

Mr. Jerry Caldwell, Secretary of the South Orange Black Caucus, stated that the Caucus voted to go on record in support of the Housing Authority's request for Special Use Permit for both the Piney Mountain Road project and the Church Street project. This motion was based on their understanding of the tremendous need in Chapel Hill for housing for low-income families.

Ms. Ruth L. Mace, a citizen, felt that with her background as a planner and a housing expert, she could not see how the Council could vote negatively. She felt that it was a good site, there was a great need, and there was not much more money that could be expected.

Regarding devaluation of adjacent or nearby properties, she stated that studies had shown that there were effects only in neighborhoods where the property values were already weak. She stated that there could be a temporary slowing down because of "scare," (i.e., not knowing what would/could happen) but over time, there would not be an adverse effect, except where the neighborhood was otherwise weak.

Mr. Frederick Hunt, a Chapel Hill resident and a member of the Pine Knolls Community Center, stated that a waiting list of over 380 families indicated that there was a need for the Council to approve it. He felt future funding would not be forthcoming.

Mr. Perry (not sworn), a resident of Chapel Hill for more than 40 years, wished to represent some of the people on Piney Mountain Road, to show that "not all blacks in the area were against the project." He stated that the land on Piney Mountain Road belonged to the blacks at one time. Now that land was gone/sold/developed. He further stated that in the past, there were people who were willing to stand up and support the blacks, but he felt that now the blacks did not have this kind of support.

Councilmember Boulton asked Mr. Jennings if the "capacity" for a road meant the maximum capacity it would hold and asked for an example. Mr. Jennings responded affirmatively, but could not give a correct estimate of what road would be comparable. He offered to submit a report on the following Monday.

Mr. Denny stated that he felt it necessary to make a brief point from a legal standpoint, with respect to three specific points which had been raised in the meeting thus far. He felt this was an appropriate time, so as to not appear to be biased.

He reminded both Council and citizens that the standards under the Zoning Ordinance were to be followed in order to make all four findings. The suggestion that the Town

of Chapel Hill may or may not receive future funding for any project was totally irrelevant (in his opinion) to the merits of the application before the Council, and should be considered irrelevant.

The second aspect was that, although both the applicant and the staff referred to the public necessity of public housing in connection with finding #3, Council should be aware that that particular statement must be considered in a certain context: Council should take judicial notice of the fact that "public housing in Chapel Hill is a public necessity and you have so found on numerous occasions in the past." However, that did not mean that public housing on this particular site of this particular project was a public necessity. "It may or may not be a necessity, depending upon what you find to be the facts from the evidence that you receive."

The last area of concern was regarding the question of racial composition. Mr. Denny stated that nowhere in the four findings of fact was Council required to consider (including specifically finding #3 about public necessity or finding #4 about conformity) the question of racial composition--nor should it be. He called particular attention to finding #4, stating that this referred specifically to conformity to the physical development of the Town of Chapel Hill. It did not (in his opinion), refer to the racial composition of any proposed occupants of the site.

Mayor Nassif responded to Mr. Montgomery's question, that the Planning Board had voted 5 to 2 to deny the request.

Mr. William Potter, of the Parker, Sink, and Powers Attorneys at Law and representative of the Piney Mountain Neighborhood Association, wished to submit formal notarized copies of various appeals and documents to the Mayor and Clerk. (Please consult the permanent files in the Clerk's Office.) Mr. Potter stated that there were numerous disqualifying factors present in the proposed project; therefore, this Special Use Permit should be denied. He felt that these laws made a very clear reference to the fact that the Town Council sat as a Board of Adjustment, that the procedural matters that would apply to the Board of Adjustment did apply here and felt that the Town Attorney would differ with him on this statement.

Mr. Potter read his letter to the Mayor and Council (please refer to the permanent files in the Clerk's Office), dated September 21, 1981, injecting the following additional points as he read:

Referring to finding #1, Mr. Potter stated that the words "public" and "general," should be interpreted to read that all of the needs of all of the citizens of the Town must be taken into account in this connection.

Regarding the wording in finding #2 ("all other applicable regulations"), Mr. Potter wished to enter formal objection and exception to the Town Attorney's characterization that the racial composition of the neighborhood was not significant in this area. He submitted that "all other applicable regulations" most certainly included the Housing Application Plan and various other regulations that talked about why public housing should avoid concentrations of racial majority. He also felt that the Comprehensive Plan very clearly dealt with the ethnic makeup of the neighborhood and he requested that that be applied.

In addition, he wished to enter formal objection and take exception to the Town Attorney's suggestion that Council take judicial notice of public necessity.

Finding #3 was that the project be located so as to maintain or enhance the value of the property. He felt that public necessity did not mean desirable, laudible, important, or any of these things--it meant (in his opinion) that it was a necessity.

Mr. Potter felt that surveys taken on the roads were taken during a month that was traditionally very light. This was a university community and he asked that a more realistic assessment be made during a time when other residents of the area were in Town.

Mr. Potter wished to enter a formal objection to the suggestion that the Town use a 20-year plan. He did not consider use of this plan to be "planning," but rather speculation. He supported this statement by saying that one could not use 3% of what the population might be in 20 years and impose that 3% on people today.

Mr. Potter took strong issue to the suggestion by one of the witnesses that there was always objection to public housing in Chapel Hill. He submitted that there had been numerous instances in Chapel Hill where there had not been significant objection to the location of public housing.

Mayor Nassif stated to the Council that although persons were duly sworn when coming before the Council, their statements were not necessarily true; i.e., just because someone declared that the Council was the Board of Adjustment, did not mean that they were the Board of Adjustment.

Dr. James Haar, a resident of the Piney Mountain area and President of the Piney Mountain Neighborhood Association, asked Council to seriously consider this matter: if Council voted in favor of this site for public housing, they would be changing the neighborhood in which these residents lived permanently--not just for a time, but permanently.

He regarded the development as incongruous and not likely to add to its attractiveness: it would only get worse. He further stated that he had received no proof or statements to the contrary. He asked what would be gained by it, other than the fact that one could "salve one's conscience" by voting for public housing. He felt that the bus service was designed for 8:00 AM to 5:00 PM commuters, not for the majority of the residents of a low-income public housing project. He felt that the location was in no way suitable or convenient for its future residents and was inconvenient, remote, and over 2 miles to the nearest facilities of any kind.

He, speaking on behalf of the Association, with all due respect to the person and the office of the Mayor, asked that the Mayor, on account of his close association with the Housing Authority--in fact, his presence on the payroll of that Authority--remove himself from the discussion and from the voting of the Special Use Permit for this project.

Mr. Robert Geer, a resident of 65 Shady Lawn Road, lived opposite the end of Eastwood Drive. He stated that there had been a lot of conjecture that the housing project would not have any affect on the property values of the surrounding area. One of his main concerns when buying his property had been what was being developed on the vacant adjacent land. His own realtor had assured him that the proposed housing project had been completely eliminated. So he made the purchase with that in mind. Since then, he had found that that was strictly not true, and was taking legal action. He felt that most people within the Chapel Hill area were very transient and were looking for good investments.

Mr. Bailin, a resident of the Piney Mountain area, stated that at the time he was negotiating for his home, he was unaware of the proposed housing project which was to be built right around the corner from his home. None of the realtors, nor the seller, made any effort to bring this matter to his attention. It was only after they had "extracted a rather larger deposit" from him that he became aware of this proposed housing project. By the time that he found out about the proposed project, his options were limited: conclude the sale or forego the deposit. The latter he could not afford to do. He felt that if he had been aware of these circumstances, he would not have paid the full market value for his home. He felt that this proposed housing project had already had an adverse effect on the property values of the surrounding areas.

Mr. Barbarelli (not sworn) spoke as a proponent of public housing. He stated that he thought the Councilmembers, as well as himself, would have a somewhat disquieting sense if this permit were granted; at the same time, he felt that a needless and gross injustice would be perpetrated upon a large number of his fellow citizens in Chapel Hill. He felt that any development proposed on this site would radically alter the character and values of the existing neighborhood. Mr. Barbarelli clarified this statement by stating that he would say the same thing about any construction "not typical of the neighborhood."

"Housing" had been clearly defined by the government as "investments." He felt that should Council grant this permit, it would not only be meddling unfairly, and unreasonably in the investments of others, but would--in effect--be committing legal larceny... with the noblist of motives." He concluded that for the Council to take somebody's investment and cut its value in half would be, essentially, a "flagrant disregard of the 8th Commandment."

Mr. David Reed, a resident, disagreed with earlier statements that the future of all public housing in Chapel Hill was inextricably tied to the approval of this particular site on the basis that a vote for or against this public housing would be an all-time vote against all public housing in Chapel Hill. He felt that to place public housing on this particular site, which was an unsuitable location, would be to confine those who might live in it to an impossibly restricted existence with little chance, if any, to change it.

Mr. Potter requested that Mr. Reed's statement be submitted for the public record (in rough copy). (Please refer to the permanent files in the Clerk's Office.) Mr. Reed affirmed that he had prepared the text. Mr. Denny was in agreement with this submittal.

Mr. Tom Dean, a resident of 836 Shady Lawn Road, stated that he had been a former resident of 433 Ridgefield. Directly behind his former house was the Ridgefield project. While living there he stated that he was subject to "trespassing, constant noise, and verbal abuse in his backyard..." It did no good to call the police: after they left, the disturbances recurred for the duration of the night. He stated that he had bought the house because the realtor had not told him about the nearby project. When he sold the house, he did not tell the buyer about the project either. He felt that this was why the real estate values did not drop.

Mr. Jim Huegerich wished to speak regarding the impact of traffic that he foresaw as a result of the proposed development. He felt any high density housing would add to the traffic in this area because it was the shortest distance to Airport Road and to other locations and the most logical route. Mr. Huegerich stated that 23 children under the age of 12 lived on Taylor Street and Ellen Court at this time and expressed concern for the safety of these children. He stated that he was not taking a stand for or against public housing, he was merely requesting that Council make sure that such issues as increased traffic flow be taken into serious consideration first. He proposed minimizing the traffic along these roads or blocking off private portions.

Ms. Thompson lived in the vicinity of Chapel Hill. Her own experience made her aware of the mobility problems of working parents with teenage children. She did not feel the present transit schedule sufficient to accommodate such family needs in that area.

Mr. Montgomery, a citizen, spoke regarding mobility in the community: the site was 2 1/2 miles from the nearest shopping facility and the bus service in that area was admittedly poor. He felt that the people in Chapel Hill who cared about quality of life and quality existence for all of the citizens would have reason to ask why this particular site was considered and what alternatives had been considered.

Mr. Michael Gage, a resident of Lake Ellen Drive, hoped that one outcome of this hearing would be improved transit services in this area. Another issue of concern was that the last time there was an opportunity to elect a representative to the Town government, this area had not been annexed; therefore, a large number of people in this neighborhood did not have a chance to elect a representative to this Council.

The floor was opened to questions directed to opponents or proponents of the proposed development.

Mr. Parrish asked the Chairman of the Piney Mountain Road Association, Mr. Haar, if he had had the opportunity to drive by some of the other housing projects and observe the cars parked there, since he felt that an "awful lot" had been said regarding the ability of these families to afford alternate means of transportation (other than public transit).

Mr. Haar responded that he had counted cars on Airport Road housing development "with mixed sensations--that perhaps there might be too many cars for the size of that development." He, therefore, inquired of Mr. Parrish, "How accurate and thorough is the income check done by the Housing Authority and, in fact, how thorough is the check on their eligibility to live there in the development."

A citizen inquired of Mr. Potter about his objection to Mr. Denny's suggestion to the Town Council that ethnic makeup, regardless of how speculative it might be, should not be taken into consideration in the decision because of the type of decision that the Town Council was about to make. Mr. Potter responded that he felt that some regulations indicated that the Town Council should take ethnic makeup into consideration in making the decision. The citizen wanted to know what specific legislation he was referring to in his statements.

Mr. Potter responded: The Comprehensive Plan and the Housing Authority Plan.

Mr. Potter felt that these standards were adopted through the proper legislative procedure and they were binding on this body for all of us to live with.

Mr. Denny concurred, but asked if there were indeed statements in the Zoning Ordinance regarding special use application, whether it said racial consideration should be considered. Mr. Potter felt it was clearly laid out in the Comprehensive



Plan, feeling that Mr. Denny was relying mainly on physical development. He further stated that he felt race was just as much a physical characteristic, and that Mr. Denny was talking about bricks and mortar only. Mr. Potter suggested that these standards had been based on racial considerations, referring to concentrations of racial minorities.

Mr. Neely asked the Chairperson of the Piney Mountain Association to respond to the issue that since there were 380 families on the waiting list, did he not consider this a necessity for low-income families to have houses.

Mr. Haar stated that neither he nor his associates had ever said that they opposed public housing--only the site.

To an inquiry from Mr. Parrish, Mr. Potter responded that he felt that the applicable standards in this instance would disqualify a project if it would significantly increase the percentage of racial minority residents in an area of racial concentration. He asserted that this was unquestionable proof that this was an area of racial concentration. He stated that the standards stated that an increase in an area of racial concentration was not allowed. However, the waiting list was overwhelmingly made up of a majority of racial minority families.

Mr. Jennings responded to a question from Mr. Montgomery that the Zoning Ordinance required recreation space in Planned Developments. One area would be located centrally for the unit--a basketball half-court space. There would also be a tot lot and a volleyball court with grass surface.

Mr. Jennings responded affirmatively to an inquiry from Mr. Haar, regarding if the 20-Year Comprehensive Plan were part of the original Comprehensive Plan.

A citizen asked if a traffic count had been done for Shady Lawn, and if so, what were the results.

Mr. Jennings stated that the Housing Authority had given an estimate (which staff concurred with) that the Piney Mountain Road Project would generate approximately 180 trips/day. Of these figures, it was his estimate that approximately 5% of the traffic would head east onto Eastwood Drive and Shady Lawn Road. The impact of this project on Shady Lawn Road would be about 9 or 10 vehicles per day. Mr. Jennings further stated that if 9 or 10 or the entire 180 trips were made, it would not overload Shady Lawn Road. He pointed out, also, that Council had before it a request to consider closing the Lake Ellen Dam to traffic, and that request would be heard at the November 16 public hearing.

Mr. Jennings stated that the analysis of traffic was done on the basis of origin and destination (i.e., what shopping attractions and employment centers were nearest to the area).

In response to an inquiry about available recreational facilities for children in the surrounding neighborhoods, Mr. Jennings stated that the Town (in compliance with that plan), had the developer of North Forest Hills dedicate as permanent open space approximately 3 acres on his property; the Town had considered the possibility of adding the property that was directly to the north of that. There were also the nearby Cedar Falls Park (about 1.6 miles away) and the recreational facilities at Estes Hills and Phillips (approximately 1.2 miles away). In addition, the Town did have plans for providing additional open spaces as contained in the Community Facilities Plan and as implemented through the Capital Improvement Program and the Annual Budget.

Regarding any provisions for enhancing the street facilities in the area, Mr. Jennings responded, "No."

Councilmember Herzenberg expressed interest in the decision made by the Planning Board. Since there was no explanation of their reasoning behind their decision (regarding failure to make the fourth finding--public health and safety), he wondered if members of the Planning Board who might be present would explain their thinking.

Councilmember Herzenberg asked Ms. Diane Day (Planning Board member and maker of the motion) to explain what problem she felt existed in failure to make this finding. Ms. Day stated that she had based her decision on problems created by transportation needs, isolation, and difficulties with teens who would not have ways to get places, etc.

Councilmember Herzenberg asked if she disagreed with the zoning for this area, and Ms. Day responded negatively. She explained that she felt that when a family's income fell below a "certain level," there were certain restrictions and restraints on one's freedom to do things that other people referred to as a "quality of life."

Councilmember Herzenberg questioned Ms. Day further: did it have to do with the kind of people who would be living at this project or the number of housing units proposed for this project? He further questioned her response, asking that if the situation had been condominiums rather than public housing, would her decision have been different. Ms. Day responded that she was only dealing with the situation at hand. If the question of condominiums on this site were raised, then she would deal with that issue at that time.

Councilmember Boulton wished to know what guidelines HUD set in locating a place. Mr. Stevenson stated that there were no specifications; the guidelines ran along the lines of facilities available and how close these facilities were to this project compared with other locations.

Councilmember Boulton felt that a similar question had been raised in the past regarding the site for a condominium. The issue centered around density. She felt that if this were the case here, it would seem that the question of higher density would carry with it the question of accessibility (more so than for a single-family residence).

Councilmember Smith asked Mr. Potter about his statement that there had never been any objection to public housing in Chapel Hill. Mr. Potter stated that he had suggested to Council that there had been other public housing site decisions made with a minimum of objection and the evidence presented by the proponents at this meeting had suggested that every public housing project had been met with vigorous objection. If there was evidence of that, Mr. Potter continued, he wanted to see it in the records, but he did not feel this to be the case.

Councilmember Smith wanted to "put it in the records for Mr. Potter": He stated that he had been on this Council for 16 years and had served 6 years on the Planning Board and he had been on the Council during every single proposed public housing unit in Chapel Hill and he guaranteed that there had been strenuous objection to every one, without exception.

Councilmember Smith asked Mr. Potter if he had any substantial proof of any case in Chapel Hill where the value of adjacent properties had been affected, or if this was a conjecture on his part. Mr. Potter responded that the testimony given earlier in the evening from personal experiences where values had been diminished, was enough evidence. He continued: an earlier witness had made the statement, based on her own personal experience and having reviewed studies on this subject, that devaluation occurred when property weaknesses were already present.

Councilmember Straley asked the Housing Authority how many families were living on lots that were contiguous with this property. The response was three (3).

In response to further inquiries from Councilmember Herzenberg to various Planning Board members (regarding their questioning the Board's ability to make finding #3) Mayor Nassif asked if there had been any indication in the motion that Board members felt a devaluation on surrounding properties would occur as a result of this project at this site. Mr. Reeve stated that the Planning Board recommendation was for denial on their failure to make findings #1 and #4.

Mr. Reeve further stated that persons on the Board were always given opportunity to state their reasons for support or opposition.

Councilmember Thorpe stated, concerning previous statements, that any number of realtors might not view a nearby project as a devaluation factor. Mr. Denny, in response to Councilmember Thorpe's statement, stated that the issue regarding whether or not a realtor did or did not inform any property owner about surrounding properties was totally irrelevant.

Councilmember Herzenberg persisted in questioning of Planning Board members, asking about members' inability to make finding #4. Ms. Day responded that her failure to make finding #4 was based on her interpretation of the Comprehensive Plan concerning racial balance quotas.

Councilmember Wallace felt that this line of questioning of Planning Board members was not adequate, as it was based on members' memories and was less adequate than

minutes. Councilmember Herzenberg explained that he was interested in the reasoning behind various votes. Mayor Nassif supported the line of questioning by Councilmember Herzenberg.

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER BOULTON, TO REFER THE ITEM TO THE MANAGER.

Councilmember Howes felt that Mr. Potter had prepared a memorandum which contained a number of statute and case law references which none of the Council were qualified to interpret. He, therefore, requested that Mr. Denny respond to the document.

THE MOTION CARRIED UNANIMOUSLY.

Due to the lateness of the evening and the inability to complete this public hearing on this date, Councilmembers consented to adjourn the Public Hearing after completion of the next agenda item.

Public Housing on Church Street (20 Units)--Request for Planned Development-Housing (PD-H) Special Use Permit

All witnesses were sworn.

Mr. Jennings stated that the proposal was to construct 20 dwelling units for elderly and handicapped persons, and described the property: floor area--14,813 sq.ft.; zoned R-3 (residential); located on the east side of Church Street between Caldwell Street and McMasters Street.

Mr. Stevenson reviewed and supported the four findings for the proposed development. He submitted the Statement of Justification for the public records (please refer to permanent files in the Planning Department). Mr. Webb and Mr. Kolodij, architects for this project, further identified the property in relationship to the surrounding areas. The project was being designed for occupancy by elderly and handicapped persons. All aspects met Town standards.

Staff recommended approval of the request with the 9 stipulations.

Mr. Reeve stated that the Planning Board concurred with staff recommendations.

All witnesses were sworn.

Mr. Edward Caldwell, Sr., speaking on behalf of his sister, Mrs. Stanback, requested that the Planning Board consider leaving at least 150 ft. for her property located at the end of that property. Councilmember Smith asked the architects to consider giving all or a portion of the property to Ms. Caldwell by altering the proposed units.

Mr. Kolodij noted the property that Mr. Caldwell referred to and felt that he would need to review possible revisions in considering this.

Ms. Eva Caldwell was concerned about driving on the hill on Church Street, feeling that the sight-line was poor.

Mr. Ted Parrish felt that this development would be a positive contribution to the area.

Mr. Lee Culpepper, representing Ms. Lucille Caldwell (property owner), expressed Ms. Caldwell's opposition to the taking of her property. She was concerned that this property had been owned by herself for a number of years and she had planned to use this for her retirement. She did not feel that she had been adequately compensated for that.

Mr. Pendergraph felt that past personal difficulties with the Housing Authority prevented his support for this project, although he did not object to the project itself.

Ms. Marjorie Foushee, a property owner, was concerned about the traffic problems at the end of Church Street and Caldwell.

Ms. Elaine Norwood, a resident on McMasters Street, expressed concern for the safety of the Senior Citizens who walked on Church Street. She felt that a traffic signal would be needed on Caldwell Street Extension (if the proposed development were approved).

Councilmember Smith expressed concern about persons taking short cuts via other people's properties to get to another location. He wondered what plans might be for blocking short-cuts with fencing--would the Housing Authority be required to do this or would property owners be required to put up a block to trespassers.

Mr. Kolodij stated that no such plans had been considered as the steep terrain would be sufficient deterrent.

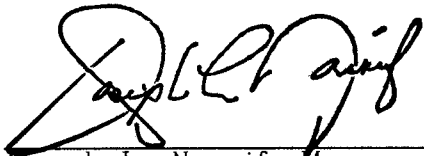
Councilmember Smith requested that this be considered in the form of a stipulation.

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER WALLACE, TO REFER THIS ITEM TO THE MANAGER.

THE MOTION CARRIED UNANIMOUSLY.

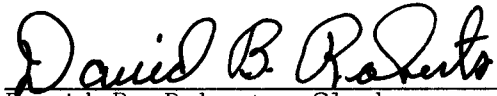
Mayor Nassif recessed the public hearing until September 29, 1981 at 7:30 P.M.

The meeting adjourned at 12:15 A.M.



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Joseph L. Nassif, Mayor



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David B. Roberts, Clerk