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MINUTES OF A PUBLIC HEARING OF THE MAYOR AND COUNCIL
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING
MONDAY, MARCH 21, 1983, 7:30 P.M.

Mayor Joseph L. Nassif called the public hearing to order. Councilmembers present were:

Marilyn Boulton
Winston Broadfoot
Jonathan Howes
David Pasquini
R. D. Smith
Joe Straley
Jim Wallace

Councilmember Kawalec was absent, excused. Also present were Town Manager, David R. Taylor; Assistant Town Manager, Sonna Loewenthal; and Town Attorney, Grainger Barrett.

Mr. David B. Roberts, Town Clerk, swore persons wishing to speak on the first agenda item.

Laurel Hill V--Request to Modify the Planned Development-Housing Special Use Permit

MAYOR NASSIF: We will begin. The first item is a public hearing on a request to modify the Planned Development-Housing Special Use Permit for Laurel Hill V (increase from 42 to 51 multi family units). Mr. Manager.

TOWN MANAGER TAYLOR: Mr. Mayor, I'm going to ask Mr. Jennings to give the, ah, introduction.

PLANNING DIRECTOR, MIKE JENNINGS: First of all, I'd like to enter the memorandum...staff memorandum..., the resolution, vicinity maps, site plan, and an excerpt of the August 23rd Council minutes into the record. (please see attachments to this page.)

The property...the 30½-acre site outlined here is on the north side of Parker Road. This is Hunter's Ridge Road here. Parker Road is paved to this point. Tradescant Road over here. Poinsett Drive. A future extension of Bayberry Drive would go to the north of the project through a subdivision known as Laurel Hill IV.

The existing Special Use Permit was adop...was approved by Council on August 23rd in 1982 pursuant to a court order. The request is to modify that Special Use Permit from the approved 42 multi family dwelling units to 51 multi family dwelling units, plus 9 residential lots to be subdivided out of the property. The approved site plan is here. There are no lots on it. The applicant proposes to add units to the southern cluster here and subdivide lots out on the northern part of the property. As is shown on this site plan, the additional 9 dwelling units are here. The tennis court would be relocated over here. And then, the 9 lots are on both sides of...proposed on both sides of Rhododendron Drive on the north side of the property.

In evaluating the proposal, we offer the following points in your consideration of the four findings:

First of all, with respect of public health and safety, it is essentially the same road network which was approved under the last, ah, modification, pursuant to court order. Staff is recommending that Aster Place and Sylvan Lane be paved and stubbed out to the property line. The applicant...applicant

Memorandum

TO: Mayor and Council

FROM: David R. Taylor, Town Manager

SUBJECT: Laurel Hill V - Request for Modification of Planned Development-Housing Special Use Permit

DATE: March 21, 1983

Request: To modify the existing Special Use Permit to increase the number of multi-family dwelling units from 42 to 51 and to subdivide 9 residential building lots in the tract. The development is on approximately 30.5 acres zoned Residential-1 between an extension of Bayberry Drive proposed to be constructed as part of Laurel Hill IV subdivision and existing Parker Road. The property is Chapel Hill Township Tax Map 131, Lot 8.

A site plan and map showing surrounding properties are attached.

Background: The Special Use Permit for this project was issued on August 23, 1982 pursuant to court order. A copy of the Council resolution authorizing issuance of this permit is attached. Please refer to the attached Statement of Justification, Project Fact Sheet, and the Site Plan prepared by the applicant.

Evaluation: After due consideration as required by Article 8 of the Development Ordinance, we submit the following discussion as pertinent to your consideration of this request.

1. Effect on Public Health, Safety and Welfare

The proposed 9 residential building lots and the 9 additional multi-family units would be served by public water and sewer as would the 42 units included under the existing Special Use Permit.

The proposed access to the site is essentially the same as that shown in the plans for the existing Special Use Permit, i.e., construction of Rhododendron Drive as a public street connecting Parker Road and an extension of Bayberry Drive. The proposed residential building lots all front on Rhododendron Drive. We are concerned about the sharpness of proposed curves in Rhododendron Drive. We will work with the applicant during construction plan approval so this road will meet standards in the Town's Design Manual for horizontal alignment of a collector street.

The applicant proposes a paved sidewalk along Rhododendron from the southern edge of Lot "2" (as shown on the site plan) to Parker Road. We recommend that this sidewalk also be extended to the northern boundary of the development (an additional distance of approximately 250 feet).

The applicant also proposes to provide rights-of-way for two roads, Aster Place and Sylvan Lane, from Rhododendron Drive to his eastern property line. We recommend, in accord with Sections 7.7.1 and 8.8.5 of the Development Ordinance, that the applicant be required to build streets to Town standards within these rights-of-way. The attached Statement of Justification says that the property to the north and east of Laurel Hill V will be developed as residential in the future. The applicant objects to this recommendation. We recommend these streets be built 33 feet wide to back of curb with a paved sidewalk on one side.

We also suggest that, given the size of this development, the applicant consider making some provisions for a centralized collection point for school bus and future transit service. The applicant objects to providing such a facility.

2. Regulations and Standards

The applicant's plans are not detailed enough to indicate compliance with the following requirements of the Development Ordinance:

- a) provision of screening of the parking lots from adjacent streets (Sec. 6.6.6c of the Development Ordinance);
- b) provision of a shading plan (6.6.6d);
- c) provision of sight triangle easements (6.5.4);
- d) provision of dumpsters, or at a minimum, provision of dumpster pads to accommodate bulk containers if necessary in the future (6.11); and
- e) provision of a lighting plan (6.14).

The stipulations attached to the original Special Use Permit address items d) and e) above. There is sufficient land area available that items a), b) and c) could be addressed in additional stipulations attached to the modifications, if granted.

Section 8.4.14 of the Development Ordinance requires that detailed landscape plans and architectural elevations be approved by the Appearance Commission. We recommend that a stipulation be added to the Special Use Permit exempting the nine proposed residential building lots from these requirements.

3. Effect on Property Values

The applicant proposes to subdivide nine residential building lots along the north and east sides of his property. These lots range in size from 18,200 to 28,800 square feet and exceed the minimum lot size of 17,000 square feet required for an R-1 zoning district. The applicant also proposes to add 9 multi-family units in the southern portion of the site. The site plan indicates there is, at a minimum, approximately 100 feet between the multi-family units and any adjacent residential areas.

4. Relationship to General Plans for the Physical Development of the Town

The area in which this project is located is designated as low density residential (1-7 units per acre) on the Town's adopted Land Use Plan. The existing Special Use Permit has a density of 1.37 units per acre. The proposed modification would have a density of 1.96 units per acre.

Planning Board Recommendation: At its meeting on February 15, 1983, the Planning Board recommended approval of the modification with stipulations in the attached resolution. The Board unanimously adopted the following resolution:

WHEREAS, the Planning Board recognizes that the modification requested is a modification of a Special Use Permit issued by the Council pursuant to Court Order; and

WHEREAS, the Planning Board wishes to recognize that its action on this modification request does not waive the Town's position or rights in pending litigation relating to this development;

THEREFORE, BE IT RESOLVED that the Planning Board recommends that the Council grant the Modification of the Special Use Permit subject to stipulation numbers 1 - 8 listed in the attached resolution.

Appearance Commission Recommendation: At its meeting on February 17, 1983, the Appearance Commission concurred with the Manager's preliminary recommendation by a unanimous vote.

Manager's Preliminary Recommendation: In view of the prior Court order regarding this Special Use Permit, that the Council grant the modification of the Special Use Permit subject to the stipulations in the attached resolution.

A RESOLUTION GRANTING A MODIFICATION OF THE SPECIAL USE PERMIT FOR
LAUREL HILL V (83-R-)

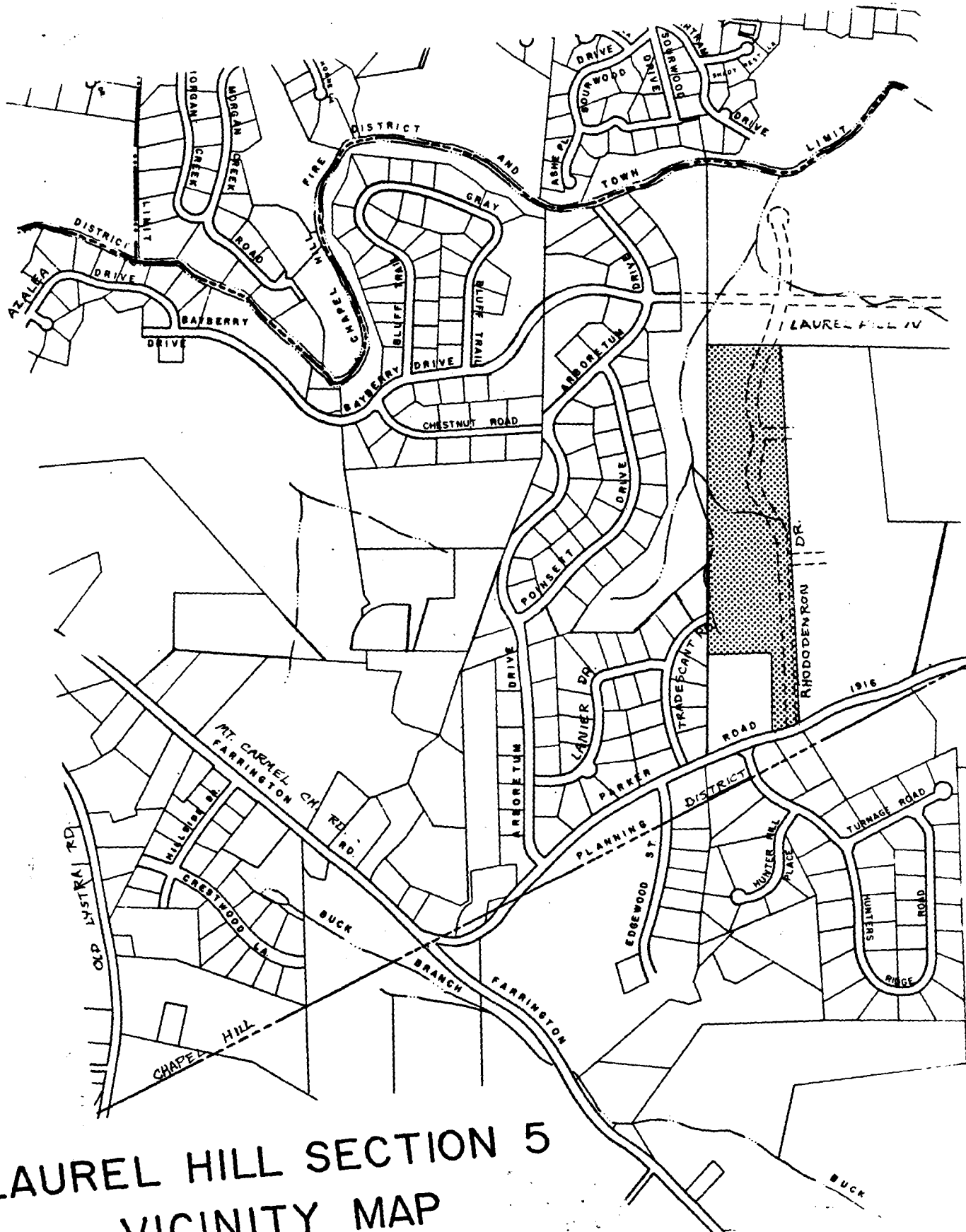
BE IT RESOLVED by the Council of the Town of Chapel Hill that the Planned Development-Housing Special Use Permit granted to William L. Hunt, owner and Roger D. Messer, Optionee on August 23, 1982 pursuant to Council Resolution 82-R-162.2 for Laurel Hill, Section V on Chapel Hill Township Tax Map 131, Lot 8 is hereby modified to allow construction of 9 additional multi-family units and subdivision of 9 residential building lots according to plans dated February 22, 1983 and subject to the following:

1. That detailed landscape plans and architectural elevations not be required for the 9 residential building lots.
2. That Sylvan Lane and Aster Place be constructed 33 feet wide to back of curb to the eastern property line of this project and that a 5-foot wide sidewalk be provided along one side of each of these roads from Rhododendron Drive to the eastern property line of this project. Plans for these streets shall be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
3. That the applicant consider providing a central collection point with concrete pad and bench for school bus loading and future public transit service.
4. That plans for the development be revised to meet the requirements of Sections 6.6.6c (screening of parking areas), 6.6.6d (shading of parking areas) and 6.5.4 (dedication of sight triangle easements). These plans shall be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
5. That the proposed sidewalk along Rhododendron Drive be extended to the northern property line of the development. Plans for this sidewalk shall be approved by the Town Manager prior to issuance of the Zoning Compliance Permit.
6. That the property owner bear the cost of any assessments required by OWASA for maintenance of fire hydrants until such time as this responsibility is assumed by a homeowners association or a public entity or until such time as OWASA policy may change.
7. That construction begin by April 30, 1985 and be completed by April 30, 1988.
8. That, except as modified herein, all other special terms, conditions, and stipulations heretofore made applicable to the special use permit approved under Council's resolution 82-R-162.2 be continued in effect.

BE IT FURTHER RESOLVED that the Council's action on this Special Use Permit modification is conditioned upon its action not being intended to, nor having the effect of waiving the Town's position or rights in pending litigation relating to this development.

This the 11th day of April, 1983.

MAR 21 1983

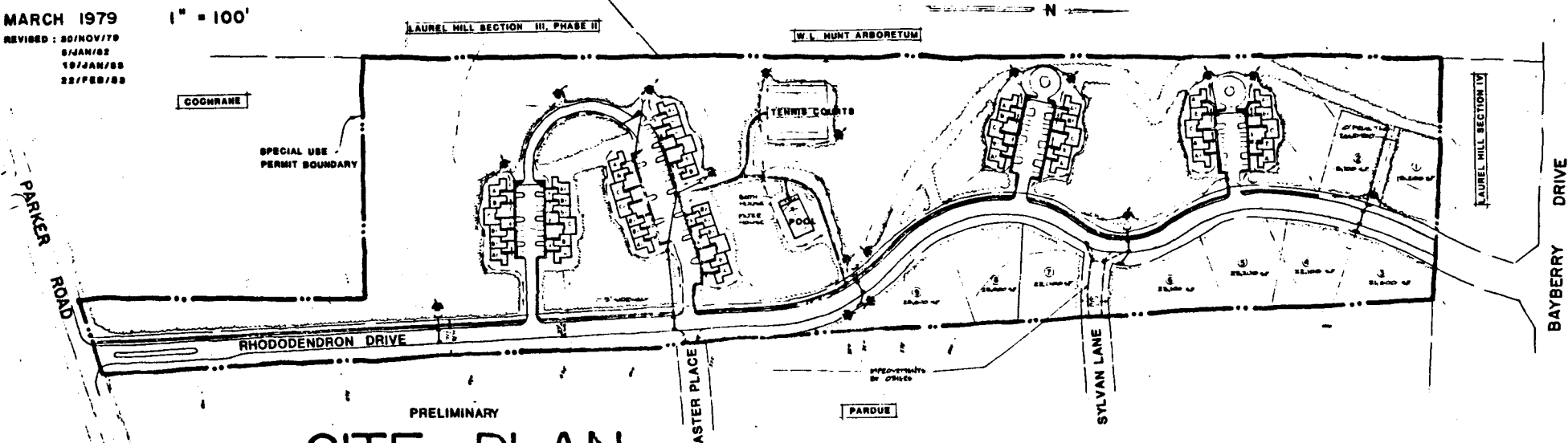


LAUREL HILL SECTION 5 VICINITY MAP

LAUREL HILL SECTION V

CHAPEL HILL, N.C.

MARCH 1979 1" = 100'
REVISED: 30/NOV/79
6/JAN/82
19/JAN/86
22/FEB/89



PRELIMINARY SITE PLAN

51 UNITS / 9 LOTS

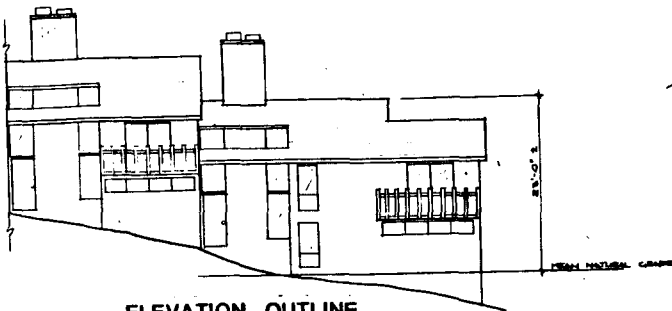
MULTI-FAMILY BOUNDARY -	21.0 AC.
9 LOT SUBDIVISION -	4.8 AC.
STREET RIGHT-OF-WAY -	4.7 AC.
TOTAL -	30.5 AC.

OWNER: SOLAR VILLAGE DEVELOPMENT CORP.
P.O. BOX 287
CHAPEL HILL, N.C.

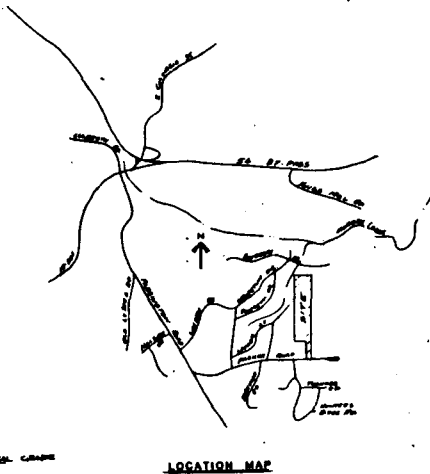
DESIGNER: **BALLENTINE-NEVILLE & ASSOCIATES P.A.**
consulting engineers
221 providence road chapel hill, n.c.
919-929-0481

LEGEND

---	SPECIAL USE PERMIT BOUNDARY
---	PROPOSED LOT/BLK
---	DEVELOPMENT
---	TEMPORARY SETBACK TEMP
---	TEMPORARY SETBACK
---	PROPOSED CATCH BASIN
---	PROPOSED STREET DRAINAGE PIPE
---	PROPOSED HEADWALL
---	PROPOSED PAVED END SECTION



ELEVATION OUTLINE
SCALE: 1/8" = 1'-0"



LOCATION MAP

PROJECT FACT SHEET (Multi-Family Only)

A. IDENTIFICATION OF DEVELOPMENTName of Project Laurel Hill VType of Request Special Use Permit - Planned Development - HousingTax Map(s)/Block(s)/Lot(s) 131-8Zoning District(s) R-1 Use Group (Sec. 4.5) A**B. GROSS LAND AREA (Sec. 5.6)**

Net Land Area	Area within zoning lot boundaries	NLA	<u>914,760</u>
Credited Street Area	Up to $\frac{1}{4}$ perimeter street area (Sec. 5.6.1)	CSA	<u>72,900</u>
Credited Open Space	Up to $\frac{1}{4}$ perimeter permanent open space (Sec. 5.6.1)	COS	<u>46,440</u>
GROSS LAND AREA	NLA + CSA + COS	GLA	<u>1,304,100</u>

C. REQUIRED LAND USE INTENSITY (Sec. 5.3.1, 5.3.2, 5.3.3)

Land Use Intensity Rating	LUI	<u>27</u>	
Floor Area Ratio	FAR	<u>.081</u>	Maximum Floor Area (FAR x GLA) MFA <u>83,762</u> ✓
Open Space Ratio	OSR	<u>.83</u>	Minimum Open Space (OSR x GLA) MOS <u>858,303</u> ✓
Livability Space Ratio	LSR	<u>.68</u>	Minimum Livability Space (LSR x GLA) MLS <u>703,188</u> ✓
Recreation Space Ratio	RSR	<u>.023</u>	Minimum Recreation Space (RSR x GLA) MRS <u>23,784</u> ✓

D. PROPOSED LAND USE INTENSITY (Based upon proposed plans)

FLOOR AREA (Sec. 5.8.2)	Floor area on all floors	FA	<u>83,248</u>
Principal Building Area	Floor area at ground level	BA(1)	<u>41,424</u>
Garage Building Area	Enclosed car parking area	BA(2)	<u>—</u>
Other Enclosed Building Area	Community building, storage, etc.	BA(3)	<u>400</u>
Carport Building Area	Covered car parking (open sides)	BA(4)	<u>—</u>
Other Ground Level Building Area	Covered porches, breezeways, etc.	BA(5)	<u>—</u>
Building Area	BA(1)+BA(2)+BA(3)+BA(4)+BA(5)	BA	<u>41,824</u>
Basic Uncovered Open Space (Sec. 5.8.4)	GLA - BA	UOS(1)	<u>991,196</u>
Other Uncovered Open Space (Sec. 5.8.4)	Improved roof area, open balconies, etc.	UOS(2)	<u>—</u>
Covered Open Space at Ground Level (Sec. 5.8.4)	Open space under buildings, carports, etc.	COS(1)	<u>—</u>
Covered Open Space above Ground Level (Sec. 5.8.4)	Covered balconies, etc.	COS(2)	<u>—</u>
OPEN SPACE (Sec. 5.8.4)	$[UOS(1) + UOS(2)] + \frac{1}{2} [COS(1) + COS(2)]$	OS	<u>991,196</u> ✓
Car Movement Area	Roadways of Abutting Street Area, on-site roadways	CMA	<u>107,040</u>
Car Storage Area	$\frac{1}{2}$ carport area + parking courts	CSA	<u>21,200</u>
LIVABILITY SPACE (Sec. 5.8.6)	OS - (CMA + CSA)	LS	<u>864,036</u> ✓
RECREATION SPACE (Sec. 5.8.8)	Livability Space improved for recreation	RS	<u>100,000</u> ✓
Bonus Intensities (Sec. 5.5)	<u>None</u>		

Minimum Lot Size (Sec. 5.6.2)	42,500	Proposed Lot Width	2620'				
Minimum Lot Width (Sec. 5.7.2)	80'	Proposed Street Frontage Width	2620'				
Minimum Street Frontage Width (Sec. 5.7.3)	64'						
Required Buffers (Sec. 6.12)	5'						
Required Minimum Setbacks: Street (Sec. 5.9 and 5.10)	28'	Proposed Minimum Setbacks: Street	35'				
	Interior 14'		Interior 100'				
	Solar 17'		Solar 100'				
Maximum Height: Primary (Sec. 5.9 and 5.10)	26'	Proposed Maximum Height: Primary	16'				
	Secondary 50'		Secondary 23'				
Required Number of Parking Spaces: (Sec. 6.6.7)	102	Proposed Number of Parking Spaces:	Regular 53				
			Compact (Sec. 6.6.5g) 53				
			Total Spaces 106				
			Percent Compact 50%				
Required Number of Loading Spaces: (Sec. 6.6.9)	None	Proposed Number of Loading Spaces:	None				
Number of Dwelling Units	51	Number of Buildings	52				
Utilities:							
Water	Sewer	Electric Service	Telephone Service				
OWASA X	OWASA X	Underground X	Underground X				
Individual Well(s)	Individual Septic Tank(s)	Above Ground	Above Ground				
Community Well(s)	Community Package Plant						
Other	Other						
Estimated Wastewater Discharge (Gallons/Day)		15,300					
Fire Protection Provided By: South Orange and North Chatham							
Solid Waste Collection Provided By: Private Agency							
Total Area Within Floodway: None		Total Area Within Flood Fringe: None					
Soil Type(s) Tatum (TaE)							
Generalized Slope of Site 20%							
Historic/Cultural Features of Value None							
Forest/Wildlife Features of Value Wooded site with small animals							
Water Features Drainage features north and west of proposed tennis courts							
Adjoining or Connecting Streets:							
Street Name	Right-of-way Width	Pavement Width	# of Lanes	Paved or Unpaved	Existing Sidewalk (yes/no)	Existing Curb and Gutter (yes/no)	Designation (A) Arterial (C) Collector (L) Local
1. Rhododendron Drive (proposed)	70'	33' b.b.	2+	Paved	Proposed	Proposed	C
2. Bayberry Drive (proposed)	70'	33' b.b.	2+	Paved	No	Proposed	T
3. Parker Road	varies	varies	2	varies	No	No	T
4.							
Minimum Building Spacing: Show calculations, if applicable, on a separate sheet or on the Site Plan. (Refer to Section 5.9.12)							

PROJECT FACT SHEET

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Computation of Minimum Recreation Space for Multi-Family and Subdivision Combined
(51 + 9 = 60 D.U.)

Gross Land Area of 9 Lot Subdivision:

Net Land Area =	204,700 sf
Credited Street Area =	50,220 sf
Credited Open Space =	<u>-0-</u>
Gross Land Area =	254,920 sf

Minimum Recreation Space of 9 Lot Subdivision:
$$254,920 \text{ sf} \times 0.023 = 5,863 \text{ sf}$$
Minimum Recreation Space of Multi-Family:
$$1,304,100 \text{ sf} \times 0.023 = 23,784 \text{ sf} \quad (\text{see p. 1})$$
Combined Minimum Recreation Space:
$$5,863 \text{ sf} + 23,784 \text{ sf} = 29,647 \text{ sf}$$
Proposed Recreation Space:
$$100,000\pm \text{ sf} > 29,647 \text{ sf}$$

January 19, 1983

STATEMENT OF JUSTIFICATION

LAUREL HILL V

MODIFICATION OF SPECIAL USE PERMIT

A special use permit was granted by the Town of Chapel Hill on this property on March 10, 1980. This modification is to increase the proposed multi-family density from 42 to 51 dwelling units and to add a nine lot subdivision.

1. The following evidence is presented to document our belief that this development is located, designed and proposed to be operated so as to maintain or promote the public health, safety and general welfare.

Considerations

- (a) The Kimley-Horn Traffic Impact Analysis for Laurel Hill IV dated January 23, 1981 estimated that approximately 25 percent of the traffic generated by the Laurel Hill IV/V area would use Parker Road and 75 percent would use Bayberry Drive. The additional traffic generated by these 60 units would be 360 trips per day for Bayberry and 120 trips per day for Parker Road. These additional volumes will not materially endanger the public safety.

Rhododendron Drive is a proposed 3000 lineal foot connector between Bayberry Drive and Parker Road. Rhododendron Drive will meet the geometric design standards of the North Carolina Department of Transportation classification of a residential collector street. This classification street has a capacity well in excess of the anticipated traffic volume.

Parker Road is designated as a thoroughfare on the current Town of Chapel Hill Thoroughfare Plan.

A traffic count on Parker Road near the intersection of Farrington Road indicates an estimated daily volume of 754 vehicles. The additional traffic on Parker Road generated by these 60 units of 120 trips per day amounts to a 16 percent increase in volume.

Bayberry Drive is also designated as a thoroughfare on the Thoroughfare Plan. However, Laurel Hill IV was approved with a stipulation that Bayberry Drive be constructed to temporary standards across the W. L. Hunt Arboretum to allow future closing of that portion of Bayberry when acceptable alternative access is available. Refer to the traffic impact study for Laurel Hill IV prepared by Kimley-Horn dated January 23, 1981.

Each driveway and street intersection will be constructed with adequate sight distance.

- (b) The provision of all services and utilities, including sewer, water, electric, telephone, garbage collection and fire protection have been carefully planned in the layout of this project. Water and sewer lines will be constructed to meet OWASA Standards and will be turned over to OWASA for ownership and maintenance upon completion. Underground telephone and electric lines will be installed. Garbage collection will be by private company. All private drives will be designed with adequate turn-arounds to allow for future garbage collection by Town vehicles. Fire protection will be by the South Orange Fire District until the area is annexed by the Town of Chapel Hill. Fire hydrants have been located on the preliminary utility plan so that each unit is within 500 feet of a hydrant. The preliminary utility plan has been submitted to OWASA and the Town of Chapel Hill for review.
 - (c) Detailed storm drainage plan will be submitted for review prior to construction. Temporary sediment basins and silt fences will be installed to control erosion and sedimentation during the construction phase. Rip-rap aprons will be installed at storm drainage outlets to serve as energy dissipators. Drainage swales will be lined with riprap where velocities would otherwise indicate erosion.
 - (d) The site is not located within the Chapel Hill Flood Plain. The units have been carefully sited on the sides of the ridges and slopes—safely away from the local drainage features.
2. The following evidence is presented to document our belief that this development complies with all required regulations and standards of the Zoning Ordinance and with all other applicable regulations.

All applicable articles of the Zoning Ordinance will be adhered to, particularly with regards to density, setbacks, parking, screening and buffers.

Parking lots will be paved, shaded and screened to Town Standards. Private drives will be paved with lateral grassed swales and bay-type parking with elevated sidewalk.

Dwelling units will be attached in buildings of from five to seven units each. These units will be two-story townhouses. All state and local building codes will be complied with.

A swimming pool and tennis courts are proposed as an active recreation area. All open space including the pool will be owned, managed and maintained by the Homeowner's Association.

January 19, 1983
Statement of Justification
Laurel Hill V
Page Three

3. It is the applicant's opinion that this development is located, designed and proposed to be operated so as to maintain enhance the value of contiguous property.

Considerations

- (a) The entire area around this property is zoned R-1. Most of the land has already been developed in one acre single family lots. The adjacent property to the west has been deeded to the State of North Carolina by Mr. Hunt as the permanent open space of the W. L. Hunt Arboretum. The property to the north and east is currently undeveloped but will be developed in the future as residential. Hunters Ridge to the south has one acre single family lots. We do not anticipate any possible conflicts between this proposed development and the existing land uses. The density of this development does not exceed that allowed by the current zoning. By clustering the units much more open space will remain undeveloped than if they were detached.
 - (b) This project meets the requirements of R-1 zoning and meets the objectives of the Comprehensive Plan of Chapel Hill and its Environs.
 - (c) It is our opinion that the aesthetically pleasing design of the units and well buffered site development will maintain or enhance value of the surrounding properties.
4. The following evidence is presented to document our belief that this development conforms with the general plans for the physical development of the Town as embodied in the Comprehensive Plan.

Considerations

- (a) This project is in conformance with the Town of Chapel Hill's Comprehensive Plan for Housing by providing a mix of residential uses in each sector. The general use around Parker Road is primarily single family detached dwellings on individual lots. This project interjects a new uniform housing development of single family condominiums with common walls in clusters of 5 to 7 units. This plan allows for approximately 2/3 of the total property to remain as undeveloped open space.

This project is in conformance with the Comprehensive Plan through the use of new concepts of site and housing design, materials and construction techniques that reduce the costs of future maintenance and energy consumption.

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Statement of Justification
Laurel Hill V
Page Four

- (b) The project is not located within the Chapel Hill Flood Plain. The units have been carefully located so that local stormwater run-off will not create drainage problems.

Parker Road and Bayberry Drive are designated as a thoroughfare on the Chapel Hill Throughfare Plan.

This property is not located on the Chapel Hill Greenway Plan but the property is adjacent to the W. L. Hunt Arboretum.

Respectfully submitted,

A handwritten signature in cursive script, reading "Roger D. Messer", is written over a horizontal line.

Roger D. Messer, President
Solar Village Development Corporation

January 19, 1983

TRANSPORTATION IMPACT REPORT
LAUREL HILL V
MODIFICATION OF SPECIAL USE PERMIT

A special use permit was granted by the Town of Chapel Hill on this property on March 10, 1980. This modification is to increase the proposed multi-family density from 42 to 51 dwelling units and to add a nine lot subdivision.

Reference is made to the Kimley-Horn Traffic Impact Analysis for Laurel Hill V dated July 1979 and revised on December 7, 1979 and to the Traffic Generation and Distribution Report for Laurel Hill IV dated January 1981. Copies of these three documents have been submitted to the Town of Chapel Hill for previous applications.

The Traffic Generation and Distribution Report for Laurel Hill IV estimated that approximately 25 percent of the traffic generated by the Laurel Hill IV/V area would use Parker Road and 75 percent would use Bayberry Drive. The additional traffic generated by these 60 units would be 360 trips per day for Bayberry and 120 trips per day for Parker Road. These additional volumes will not materially endanger the public safety.

Rhododendron Drive is a proposed 3000 lineal foot connector between Bayberry Drive and Parker Road. Rhododendron Drive will meet the geometric design standards of the North Carolina Department of Transportation classification of a residential collector street. This classification street has a capacity well in excess of the anticipated traffic volume.

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Bayberry Drive is also designated as a thoroughfare on the Thoroughfare Plan. However, Laurel Hill IV was approved with a stipulation that Bayberry Drive be constructed to temporary standards across the W. L. Hunt Arboretum to allow future closing of that portion of Bayberry when acceptable alternative access is available. Refer to the traffic impact study for Laurel Hill IV prepared by Kimley-Horn dated January 23, 1981.

Each driveway and street intersection will be constructed with adequate sight distance.

Respectfully submitted,


Roger J. Messer, President
Solar Village Development Corporation

MAR 21 1983

Holiday Inn. Said applicant shall comply with reasonable directives of the Town Police and/or Fire Department to undertake safety measures determined by either of these Town departments to be necessary or desirable for protection of persons and property in the vicinity of the above event.

This the 23rd day of August, 1982.

THE MOTION CARRIED UNANIMOUSLY.

Future Business

Mr. Taylor informed Council that Mr. Ed Kitchen, Personnel Director for the City of Greensboro, would speak with the Council on Wednesday, September 15, 1982, at 3:30 P.M. to discuss Greensboro's system of merit pay and employee performance appraisal.

Council scheduled to meet with the Housing Authority on Monday, August 30, 1982, at 7:30 P.M.

Executive Session

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER WALLACE, THAT COUNCIL ADJOURN TO EXECUTIVE SESSION TO DISCUSS LITIGATION AND PERSONNEL MATTERS.

THE MOTION CARRIED UNANIMOUSLY.

The meeting adjourned to Executive Session at 10:15 P.M.

At 11:08 P.M., Mayor Nassif reconvened the meeting.

Resolution Concerning the Preliminary Sketch for the Laurel Hill V Subdivision

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER HOWES, TO ADOPT THE FOLLOWING RESOLUTION:

A RESOLUTION GRANTING A PLANNED DEVELOPMENT-HOUSING SPECIAL USE PERMIT FOR THE LAUREL HILL V DEVELOPMENT (82-R-162.2)

BE IT RESOLVED that the Council, pursuant to the direction and by order of the Superior Court of Orange County (Judge Gordon Battle presiding), authorizes the issuance of a Planned Development-Housing Special Use Permit to Roger Messer for the Laurel Hill V development, subject to the plans submitted by the developer therefor and the stipulations and conditions set forth below; and

BE IT FURTHER RESOLVED that the Council takes such action, pursuant to said judicial order, without any waiver of or prejudice to the Town's position in pending litigation regarding said Special Use Permit, it being recognized and understood that the Town has filed notice of, and intends to pursue, an appeal of the above mentioned judicial order.

BE IT FURTHER RESOLVED that said Special Use Permit shall be subject to the following stipulations and conditions:

WITH REGARD TO SAFETY

1. That a paved sidewalk be constructed according to the phasing plan, along one side of Rhododendron Drive prior to issuance of certificates of occupancy for each phase of development. The design of such sidewalk shall be approved by the Town Manager prior to construction.
2. That the design and construction of the private drives serving the individual clusters of units be reviewed and approved by the Town Manager prior to construction.
3. That the right-of-way of Rhododendron Drive be realigned so that it is adjacent to the eastern property line for a minimum distance of 1,300 feet from its intersection with Parker Road and that it be paved to Town standards with a minimum paved cross-section of 33 feet back-to-back of curb with curb and gutter. A paved temporary cul-de-sac, with required easements, shall be provided at the northern terminus of Rhododendron Drive. The water line, including the proposed valve and blow-off, shall be extended beyond the paving of the cul-de-sac. The final design of the roadway including plans for paving the street shall be approved by the Town Manager prior to construction. Street grades on Rhododendron Drive shall not exceed 12%.
4. That prior to issuance of a building permit a plat shall be recorded dedicating public right-of-way to provide access from Rhododendron Drive to the Pardue property. Such access shall be at two points; one north of the location of the proposed tennis courts and a second approximately 900 feet back from Parker Road. The precise location of such rights-of-way shall be approved by the Town Manager. If it is necessary to relocate the tennis courts to accommodate this requirement the relocation of the courts shall be approved by the Town Manager and shall not be considered a modification of the approved permit.
5. That the final design for fire protection, including the number, location and installation of fire hydrants and layout of water lines be approved by the Town Manager. A plan for such improvements shall be approved by the Town Manager prior to issuance of any building permit.

WITH REGARD TO APPEARANCE

6. That detailed architectural elevations, and a site plan showing the location of landscaped areas, signage, lighting and other site elements be submitted to and approved by the Appearance Commission prior to issuance of a building permit.

7. That a detailed landscape/planting plan including detailed sign and lighting plans be submitted to and approved by the Appearance Commission prior to issuance of a certificate of occupancy.
8. That any and all planting which dies during the life of the Special Use Permit be replaced with planting of the same species and approximately the same size by the end of the next planting season.
9. That as much significant planting as possible be retained and that such planting be shown on the landscape plan. Existing planting shall be protected during construction by appropriate fencing or barriers. Provisions for such protection shall be shown on the landscape plan and shall be in place prior to issuance of a building permit.
10. That sewer and utility easements be dedicated as required by the Town Manager.
11. That at such time as municipal garbage collection is available to the development, the provisions for garbage collection shall be provided as required by the Town Manager. The location and screening of bulk trash containers shall be provided as required by the Town Manager in consultation with the Appearance Commission. The provision of such facilities shall not be a modification to the approved permit. The applicant shall provide areas for the location of bulk trash containers. Such provisions shall be provided as required by the Town Manager and shall be installed prior to issuance of a certificate of occupancy.
12. That additional right-of-way be dedicated along the applicant's frontage with Parker Road. Such dedication shall be recorded prior to issuance of a certificate of occupancy and shall measure 45 feet from the centerline of the road.
13. That a drainage plan be submitted to the Town Manager for his approval prior to issuance of a grading permit or building permit. Improvements included in the drainage plan shall be completed prior to issuance of any certificate of occupancy. The maintenance of any detention basins shall be the responsibility of the homeowners association.
14. That prior to paving streets, utility service lines and laterals shall be installed and stubbed-out to each cluster of units. A letter from the owner or owner's representative shall be presented to the Town Manager prior to paving any street certifying that all utilities are in place.
15. That no proposed street names (public or private) duplicate or be similar to existing street names within Chapel Hill Township. Such proposed street names shall be approved by the Town Manager.
16. That prior to issuance of any certificates of occupancy, signs indicating that the rights-of-way providing access to the Pardue property are subject to future extension be placed at their respective intersections with Rhododendron Drive.
17. That a valve and tee for the extension of the water line to the Pardue property be provided at both proposed street stubs identified in stipulation

#4. The water line at such stubs shall be extended a minimum distance of 30 feet to ensure the extension of the water line will not damage the street.

18. That the proposal comply with all design standards included in Article 6 of the Zoning Ordinance.
19. That construction begin by August 23, 1984 and be completed by August 23, 1987.

This the 23rd day of August, 1982.

THE MOTION CARRIED UNANIMOUSLY.

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER KAWALEC, TO ADOPT THE FOLLOWING RESOLUTION:

A RESOLUTION CONCERNING THE PRELIMINARY SKETCH FOR THE LAUREL HILL V SUBDIVISION (82-R-162.1)

BE IT RESOLVED that the Council, pursuant to the directives and by order of the Superior Court of Orange County (Judge Gordon Battle presiding), hereby amends the conditions of approval for the Subdivision Preliminary Sketch it approved for Roger Messer's Laurel Hill V development on January 11, 1982, to delete Paragraph 16 of the stipulations contained in such approved preliminary sketch; and

BE IT FURTHER RESOLVED, that the Council takes such action and amends said Subdivision Permit, pursuant to said judicial order, without any waiver of or prejudice to the Town's position in pending litigation regarding said Subdivision Preliminary Sketch approval, it being recognized and understood that the Town has filed notice of, and intends to pursue, an appeal of the above mentioned judicial order.

BE IT FURTHER RESOLVED that the stipulations of such Preliminary Sketch approval are now as shown on the attachment hereto.

This the 23rd day of August, 1982.

1. That the right-of-way of Rhododendron Drive be realigned so that it is adjacent to the eastern property line for a minimum distance of 1,300 feet from its intersection with Parker Road and that it be paved to Town standards with a minimum paved cross-section of 33 feet back-to-back of curb with curb and gutter. The plans for such paving shall be approved by the Town Manager and NCDOT prior to construction. Street grades on Rhododendron Drive shall not exceed 12%.
2. That the final plat include the dedication of a public right-of-way to provide access from Rhododendron Drive to the Cochrane property. The precise location of such right-of-way shall be approved by the Town Manager.

objects to this requirement. Staff has consistently recommended that road extensions be made to property lines, and that they be paved. This is in order to provide for adequate access to the adjacent properties as they develop. We have had a policy of requiring the property owners to pave these roads to their property lines.

The applicant also objects to a stipulation s...and the stipulation is only that he consider providing a central collection point, with improvements, for school buses now, and for transit in the future. We are only as...suggesting that it is in his best interest to consider that now, because certainly school bus, ah, location is a possibility, as well as transit facilities in the future. We are just trying to provide some help given the staff experience in this al...area.

I'd like to point out there is one error in the staff memorandum. There is a reference in there that the staff would be working with the applicant to have the roads meet the horizontal alignment requirements of the Design Manual. It is not our intent that they meet the strict standards because of the topography in the area, but that should have said that the staff will try to have them be as close as possible to the standards in the Design Manual. That's on the first page.

In regards to regulations and standards, the plans that you have before you are not detailed enough to determine compliance with some, ah, standards of the ordinance. We have stipulated compliance in the resolution. As far as property values, the units are going to be the same distance from adjacent property as in...as in the previous approval. No other changes have occurred.

With regard to conformance with the Comprehensive Plan, this area is designated as low-density residential, which is one to seven dwelling units. The change would raise the density from 1.37 to 1.96 dwelling units per acre.

The Manager's preliminary recommendation is that in view of the prior court order, that the Council grant the modification of the Special Use Permit, subject to the stipulations in the resolution. Thank you, Mr. Mayor.

MR. CLETUS LYMAN: Ah, Mayor and Council, my name is Cletus Lyman. I am an attorney and I represent Mr., ah, Roger Messer, who is also at the podium.

This, ah, proposed modification is well within the density standards for this area and consists of adding a total of 18 potential housing units to 42 already approved by the Mayor and Council. Since this matter was heard in 1979 and 1980, access by way of Parker Road has changed in that, ah, as of that time about 700 feet of Parker Road were unpaved; ah, 500 additional feet were paved in the spring of '82.

The applicant objects, ah, in principle, to the addition of new conditions for this project which have nothing to do with the proposed modification and, in particular, he objects to a condition which relates to Aster Place and Sylvan Lane as proposed. These are hypothetical streets which, ah, as we will show, will never be used. He, ah, did not object to dedicating right-of-way, which was the stipulation originally imposed, but he does object to actually constructing these useless streets.

He also, ah, specifically objects to the condition requiring bus pads purportedly for either school buses, which preferably should not stop at a, ah, bus pad, but should go to the students' homes and, ah, also purportedly for public transit which does not exist and which will not exist.

I would like now to, ah, proceed to have Mr. Messer testify on these points.

Mr. Messer, would you, ah, explain what your modification is about.

MR. MESSER: Ah, it's simply about adding additional units.

MR. LYMAN: Ah, what is the, ah, reason for the addition of the units?

MR. MESSER: Ah, to simply bring it in line of cost, ah, in today's market.

MR. LYMAN: Has access, ah, changed since this matter was considered in '79 and '80?

MR. MESSER: Yes, it has. Ah. An additional 500 feet of Parker Road has been paved by the state, remaining...leaving a remainder of approximately 200 feet left. Ahm. That portion is still maintained in good weather and bad weather by the state. Ah...and will still be the major access for Laurel Hill V, and the residents will use that over, ah, the Bayberry/Arboretum link...ah...because it is more direct and...ah...is just as safe.

MR. LYMAN: What are your reasons for opposing the, ah, construction, as opposed to the dedication of right-of-way for Aster Place and Sylvan Lane?

MR. MESSER: First of all, ah, there is no indication that, ah, the property immediately to the east will be developed. In fact, I've a letter from the property owner stating that development would be precluded.

MR. LYMAN: Would you read...? First of all, would you identify that letter as to date and the author?

MR. MESSER: Yes. The author is Turner E. Pardue, property owner of the adjoining property to the east. It is dated May 27, 1981. Ahm....

MR. LYMAN: Would you read the letter into the record?

MR. MESSER: Yes.

Dear Mr. Messer:

As stated previously, my desires to keep...is to keep the property for retirement purposes. That would not involve development.

I would like to enter this into the record.

MR. LYMAN: Would you read the last paragraph of the letter into the record.

MR. MESSER: Certainly.

Since that time I have gotten one-hundred percent occupied in projects which will take two years or so to complete. After that time I expect to have time to start on a retirement home in Chapel Hill.

(The letter was submitted to the Clerk for the records.) The letter follows:

PYCO Enterprises, Inc.

1050M East Duane Ave., Sunnyvale, CA 94086
Telephone (408) 733-1960

6-21-83 Bpc.
Ag #1

MAR 21 1983

May 27, 1981

Mr. Roger D. Messer
President
Land Management & Solar Construction
P. O. Box 2474
Chapel Hill, N. C. 27514

Dear Mr. Messer:

As stated previously, my desire is to keep the property for retirement purposes. That use would not involve development.

A few months back I had some time to consider the area and called Mr. Hunt. We did not arrive at any mutual needs.

Since that time I have gotten one-hundred percent occupied in projects which will take two years or so to complete. After that time I expect to have time to start on a retirement home in Chapel Hill.

Very truly yours,

Turner E. Pardue

Turner E. Pardue
President

ELECTRONIC ASSEMBLY

RECEIVED JUN 1 1981

MR. LYMAN: Ah, from where and to where does Aster Place lead?

MR. MESSER: Ah, it leads from Rhododendron Drive to nowhere. Ah, it doesn't lead to any other street. It's intent is to be used for further development if and when it occurs, which I do not object to and, indeed, agree to dedicate the right-of-way for that purpose.

MR. LYMAN: Ah, to...from where and to where does Sylvan Lane lead?

MR. MESSER: It is...it has the, ah, same condition. It begins at Rhododendron Drive and will simply stop in the woods.

MR. LYMAN: Ah, do you object to actually constructing these roads on environmental grounds?

MR. MESSER: Yes, I do, also. Ah, I feel that to cut down any more trees in the area would first of all add to the erosion. Ah, would also simply be another eyesight that the residents...ah, people driving on, ah, Arboretum Drive would have to look at.

MR. LYMAN: Ah, did you mean eyesore?

MR. MESSER: I'm sorry, eyesore, yes.

MR. LYMAN: Do you object on the basis of expense?

MR. MESSER: Yes, I do. It would be an additional 129 feet of curb and gutter and pavement which I will...have to construct, ah, which will cost upwards of approximately \$20,000...which will be an additional \$333 per unit, by the way.

MR. LYMAN: Will, ah, you have to attempt to pass that on to home buyers?

MR. MESSER: Yes, I will.

MR. LYMAN: What are your reasons for objecting to the, ah, construction of a proposed bus pad of a central collection point.

MR. MESSER: For that, I would like to move to the map for just a moment.

Rhododendron Drive is approximately one, ah, 3,000 feet long, which is about one-third of a mile. As you see, there was no housing really abutting the street. To have a centralized location pad in the middle of this long one-third road and the thirty-acre tract would have to be somewhere in here, which means that any student, ah, on the far ends would have a long walk. Being a parent myself, I would not let my child do that. I prefer to have them stop at the roads going into the development and I think that parents buying these units will also want the same thing.

MR. LYMAN: Is there, ah, public transit serving the Laurel Hill V area?

MR. MESSER: No, there is not.

MR. LYMAN: Is Lauren Hill V located within the jurisdiction of the Chapel Hill/Carrboro transit district?

MR. MESSER: No, it is not.

MR. LYMAN: Is it within any operating transit district that you know of?

MR. MESSER: No, it is not.

MR. LYMAN: What, ah, type of, ah, housing, with respect to, ah, cost are you proposing to build? Is it low income? High income? Middle income?

MR. MESSER: Ah, it would be in the upper income bracket.

MR. LYMAN: What, ah, bearing does the upper income, ah, nature of the housing have on, ah, likely use of public transit?

MR. MESSER: According to a conversation this afternoon with the Department of Transportation of Chapel Hill, the upper income bracket, ah, residential, ah, areas in Chapel Hill do not use the bus. As a matter of fact, in those areas where they...where it has been begun...it has ended because of lack of ridership.

MR. LYMAN: Can you site any, ah, areas where, ah, that was the case?

MR. MESSER: Yes. He sited two. One was the North Forest Hills...or the Forest Hills area. Ah, the other one was the Kings Mill Road, another Laurel Hill area.

MR. LYMAN: And, is your, ah, development similar in terms of, ah, likely income levels?

MR. MESSER: Yes, it is.

MR. LYMAN: Ah, with respect to possible school bus stopping, is there any, ah, point where you could have a, ah, central pick-up that would be visible from all the houses?

MR. MESSER: No, there is not.

MR. LYMAN: Do you have, ah, environmental reasons for opposing the bus pad?

MR. MESSER: They are, of course, less. But it still would eliminate certain tree-standing. Ah, and I just feel that, ah, since I have designed this project from an environmental point of view, leaving two-thirds of the land as unbuildable open space, to further cut any...even one more tree is simply unnecessary.

MR. LYMAN: Do you have an expense objection to building the bus pad?

MR. MESSER: Yes, I do. It would cost anywhere from \$2,000 to \$4,000.

MR. LYMAN: With respect to the, ah, two conditions, namely the construction of Aster and Sylvan and the, ah, bus pads, this application does not raise any issues which bear on these provisions. In fact, the decision with respect to Sylvan and Aster was made by the Council before when it approved this, ah, project and there the decision, correctly, which was, ah, not contested by the applicant, was simply to allow for the dedication of right-of-way.

Since that time, as, ah, it has been, ah, demonstrated by the letter from Mr. Pardue, it has been established that the Pardue property is not going to be developed, but is going to be one man's retirement home.

The, ah, Mayor and Council should reject this for all of the reasons listed, and because it is fundamentally unfair to a developer to have to submit to new conditions simply because he has proposed an unrelated modification. It is also unwise as a matter of, ah, policy to allow issues to be reopened for no reason...where there is no, ah, related change in the application or other facts and circumstances. Indeed, the only change in the facts and circumstances is the, ah, knowledge that we have about the Pardue property that it will not be developed. These matters, ah, should be considered precluded by the Council's earlier action in favor of the project. Thank you.

MR. MESSER: Thank you.

MAYOR NASSIF: Ms. Cunningham.

MS. VIRGINIA
CUNNINGHAM,
CHAIR OF THE
PLANNING BOARD:

The Planning Board concurs with the...the Planning Department's recommendation.

MAYOR NASSIF:

Mr. Dalston. Ah, I'm sorry, just, ah, one minute...The Appearance Commission.

MR. DALSTON:

I'm going to wear out this floor.

MAYOR NASSIF:

Anyone here from the Appearance Commission? Mr. Manager? No?

MR. TAYLOR:

They know about it.

MAYOR NASSIF:

Then, you have given your preliminary recommendation?

MR. TAYLOR:

Right, and the Appearance Commission's recommendation is included in the memorandum.

MAYOR NASSIF:

O.K., then. I'm sorry, Mr. Dalston. If I don't, I'll let you take the mic with you this time.

MR. DALSTON:

O.K. My name is Rodger Dalston. I live at 100 Hunter's Ridge Road.

In Roger Messer's January 19, 1983, Transportation Impact Report, numerous references were made to Bayberry Drive. However, there are two principal concerns I would like to raise regarding this implied access to Laurel Hill, Section V.

First of all, in his current Transportation Impact Report, Mr. Messer specifically refers to a July 1979, Traffic Impact Analysis...Analysis commissioned by him and performed by Kimly-Horn. According to Mr. Messer, this analysis suggests that (and I quote out of the packet that you have) "approximately 25% of the traffic generated by the Laurel Hill IV/V area would use Parker Road, and 75% would use Bayberry Drive."

Judge Battle's decision on August 6, 1982, is in marked contrast to this analysis. On page 8 of his judgment, Judge Battle states that even if the extensions of Bayberry and Rhododendron Drives were constructed (and now I quote) "people would still use Parker Road and the use of Parker Road is more desirable."

It seems curious that, in finding for the plaintiff, Judge Battle came to a conclusion that was in complete contrast to information cited by the plaintiff, himself. In addition, both these opinions concerning traffic flow on Bayberry Drive and Parker Road were based upon conditions that no longer exist.

First of all, as mentioned by Mr. Messer tonight, Parker Road was unpaved east of its intersection with Arboretum and, as you know, it now is paved up to its intersection with Hunter's Ridge Road.

Secondly, Bayberry Drive was unpaved between Azalea and the vicinity of Chestnut...that section of Bayberry is now paved.

My second major concern regards the current status of Bayberry Drive which is very much in question at this time. This road appears as a minor thoroughfare on the 1965 Thoroughfare Plan which currently is in force. The Planning Department's proposed Thoroughfare Plan which was presented at the Public Hearing on January 13, did not include Bayberry Drive. In response to citizen input, the Thoroughfare Plan was revised. The current version includes Bayberry Drive as a minor thoroughfare once again, but extends itself to an intersection with Mangum Court.

Hb

As you know, you will be holding a Public Hearing later this evening regarding this and other revisions. If these revisions are adopted, then the facts germane to previous opinions concerning future traffic in this area would be substantially different and would render those opinions obsolete. This fact is indicated clearly by current computer projections reported to me by Mr. Danly...Danny Pleasant in direct response to a request by me. These projections suggest that 61% of the traffic in the area would use Bayberry Drive and 39% would use Parker Road, if the prov...proposed revisions before you tonight were to be adopted. I submit that the differences in judgment concerning the role to be played by Bayberry Drive in providing future access to this area and the uncertainties regarding the status of this road with respect to the Thoroughfare Plan should be resolved before a decision is made by you concerning this project. Thank you. I do have copies for that...of this statement.

(Please refer to files in the Clerk's Office for a copy of this statement.)

MAYOR NASSIF: Ah, Ms. Alice Gordon.

MS. GORDON: I am Dr. Alice Gordon, Vice President of the Parker Road/Laurel Hills Neighborhood Association. Also, since I will be speaking on some issues related to planning, I will mention that I have been a member of the Orange County Planning Board for three years and currently serve as the Vice Chairperson. However, I am not speaking tonight as a representative of the Orange County Board.

I would like to speak concerning two points related to the modification of the Special Use Permit for Laurel Hills V. It is my contention that we must pay careful attention to these two points, so that the addition of 18 more units--9 multi family and 9 single family, detached--for a total of 60 units altogether, will not make the current problems in the area even worse. My two points have to do with dual access to the property and No. 2 the current status of Parker Road between Hunter's Ridge and the proposed Rhododendron Drive which we have heard tonight will be the major access to the development.

And I have here a picture that I will start passing around. It's the...it...it's between Hunter's Ridge and pro...Rhododendron Drive. It's a picture of Parker Road taken yesterday.

First, concerning the dual access. Rhododendron Drive, as you know, is over 1/2 mile long. It's 3,000 lineal feet in the application. And, therefore, it is important to insure dual access. With only one access, Rhododendron would be a cul-de-sac in excess of 400 feet. That would make it dangerous for emergency vehicles, and so forth, and if I understand your ordinance, it would be prohibited. The applicant seems to state that both Bayberry and Parker would provide access. And I hope you can assure that plan will be implemented.

My second point has to do with the current status of Parker Road between Hunter's Ridge and proposed Rhododendron Drive. I think it is important to clarify the current status of Parker Road, since there seems to be some indication in the August 23, 1982, Town Council minutes, under Special Use Permit condition #3, that Parker Road would be used as a sole access, at least temporarily. Also, there seems to be confusion concerning the actual status of the road. And tonight, we have heard the developers say that Parker Road would be the major access.

Point A, under the status of Parker Road, has to do with the right-of-way. I talked by telephone on Wednesday, March 16, 1983 to Mr. William Cochran, and he stated that he had not relinquished the right-of-way.

Point B concerns the physical characteristics of the road. Three of us went out to the section of Parker Road between Hunter's Ridge and the proposed development and took the picture that is circulating, yesterday. It shows that two cars can pass each other with great care indeed. We also...you will see that cars are kind of tilted to either side. We also measured the road at this point and found that from the middle of one ditch, such as they are, to the middle of the other ditch, the road was 17 feet, 5 inches wide. And of course, you can see it is unpaved.

As I was trying to visualize this 60-unit urban multi family development with curb and gutter, sidewalks, and maybe even a bus pad, I became curious concerning what definition the current unpaved section of Parker Road would meet. Essentially, I found the definition on page 18-1 of the Chapel Hill Zoning Ordinance, under the definition of an alley. What you are considering tonight as the major access to an urban, multi family, cluster development...you are considering that...that development, that urban, cluster development, will be served by an unpaved alley.

MAYOR NASSIF: Did anyone else wish to make a statement? If so, you will have to be sworn.

Questions by Council? Mr. Smith.

COUNCILMEMBER SMITH: I would just like to ask the attorney for Mr. Messer if he knows the, ah, law with regards to school bus stops. Ah, the statement was made that they wanted the school buses to stop in front of each house, I believe, ah, was his objection to...to, ah, not wanting to put a pad. The distance between school bus stops.

MR. LYMAN: Ah, I don't have any specific information on that...no.

COUNCILMEMBER SMITH: Well, for your information, it's a quarter of a mile...so a large number of students in this Town are walking a considerable distance to catch the school bus. Buses do not stop in front of every house. Ah, it is more of a reason why, ah, we should have something in that, ah...some place in a...in a subdivision, ah, so that there could be a centrally located place with kids to stop. Now, one of the problems that you will find at the...the upper income people that we talked about resent, greatly, children catching school buses on their lawns. I say that because I was Transportation Supervisor for Chapel Hill schools for a number of years, and that was one of my major complaints. "I want them moved because they are all over my lawn." Now, if you have a central place, you don't have that problem.

No further questions.

MAYOR NASSIF: Any other questions by Council? Mr. Broadfoot.

COUNCILMEMBER BROADFOOT: Ah, Mr. Messer. You...you will forgive me for being one of the new members on the Council for asking, ah, about Laurel Hill V. Ah, it apparently had been around awhile. Is there a Laurel I, II, III, and IV? And if so, whatever happened to them?

MR. MESSER: Ah, I actually think there is a...a Laurel Hill I, although I have never been involved in that. I am the property owner...owner of Section 2 of Laurel Hill II. Ah, Laurel Hill III has already been built out and I am the optionee on Laurel Hill IV and V.

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COUNCILMEMBER
BROADFOOT: Mr. Hunt owns the property and you have an option. Is there a life estate in it...or beyond....

MR. MESSER: I have an agreement of sale, which is not an option.

COUNCILMEMBER
BROADFOOT: Hmmm?

MR. MESSER: I have an agreement of sale, which is not an option. It's something much more binding than that.

COUNCILMEMBER
BROADFOOT: Could you tell us about it, please?

MR. MESSER: Yes, my attorney can.

MR. LYMAN: It...it's an agreement to purchase the property, subject to zoning approvals.

MR. JENNINGS: Right.

COUNCILMEMBER
BROADFOOT: Ah, Mr. Hunt, I believe, gave some arboretum property, donated to the University, so that what, in effect, we have is on three sides, starting on Mason Farm and then going into the Botanical Garden, and then coming around to the Hunt Arboretum...or whatever it's called, and then this Laurel Hill V right in the midst of it. Ah, do you have a view that it would be necessary to cross any of this environmental area for what you are asking? Or would this be something that we shouldn't do. We are trying to work out...ah, you've got one hell of a density in there compared to what (next few words unintelligible) because I took some time this afternoon (unintelligible words here) and we are trying to work out how you get those people in there and how you get them out. That is one of the big issues.

MR. MESSER: Yes, Laurel...I think I understand your question...ah, Laurel Hill IV is already approved and it does cross the Hunt Arboretum.

COUNCILMEMBER
BROADFOOT: There is the a right to cross it, no matter what...? A road?

MR. MESSER: That is correct. That is correct.

COUNCILMEMBER
BROADFOOT: O.K. Do you have any idea...?

MAYOR NASSIF: Excuse me, are you asking is there a road there now?

COUNCILMEMBER
BROADFOOT: No, there is a right to have a road there, is that what I understand?

MR. MESSER: That is correct.

COUNCILMEMBER
BROADFOOT: So, if we wanted to stop having a road there, it's already too late to do that.

MR. MESSER: Well, I think that we can do anything that we want to do.

COUNCILMEMBER
BROADFOOT: I believe that is your opinion.

MR. MESSER: I meant that in the collective "we," if you wanted to talk about that issue. Up to this point, there hasn't been much discussion on that I have been doing what I wanted to do.

COUNCILMEMBER
BROADFOOT: Ah, the 18-housing additional unit, which is why you are here, ah, are solely the cause of advancing costs, inflation, and whatever.

MR. MESSER: One hundred percent, yes.

COUNCILMEMBER
BROADFOOT:

Do you have a...a fixed view? We have heard testimony tonight, and, ah, I share the view...that, ah, at one point you said Bayberry in the old days would take the major part of the traffic, and you are now saying Parker Road would take the major part of the traffic? Do you have some final opinion, or am I wrong that you have taken two different views on this?

MR. MESSER:

First of all, the record will show that I did not agree with...even though I paid for, and indeed hired Mr. Kimly-Horn, to d...I do not agree with his result. He was hired because he had done a traffic study for the Town a few years earlier. And I...I took the Town's recommendation. Ah, first of all...and also his, ah, traffic impact study was taking Laurel Hill IV and V together, not separately, which, of course, I can...I am only building them separately. Ah, obviously, if Laurel Hill IV is not built until the future, even though as the condition is on my Special Use Permit that there will be a sign showing that it will connect to Bayberry Drive. Obviously, the traffic would have to come out Parker Road at which point Bayberry Dri...ah, Rhododendron is constructed to Bayberry, then perhaps his report is...is correct. But as we just saw, someone read into the record, another report by someone's statistics just today gave another answer.

We really don't know, do we?

COUNCILMEMBER
BROADFOOT:

Ah, you brought in the matter of what Mr. Pardue has in mind for his property. I think I'm correct that the Markham property is considerably larger. Do you have any idea what Mr. Markham, or Ms. Markham, or whoever Markham is....

MR. MESSER:

I have had no conversation with Mrs. Markham.

COUNCILMEMBER
BROADFOOT:

That's bigger than Pardue...I mean, it would have a larger impact, ah, just....

MR. MESSER:

According to the map, yes, it is; I think it is considerably larger.

COUNCILMEMBER
BROADFOOT:

Ah, Mr. Mayor, I think we've got some question marks, ah, not only in terms of traffic study, but, ah, we will be looking at proposals tonight...ah, a matter of what we are going to do based on a revised proposal from the Mason Farm and it involves Parker Road and the rest of it. God knows what we are going to do to, ah, pave and make minor access to major access. But, if it's in order, I would like to...to move this....

MAYOR NASSIF:

Could I hold?

COUNCILMEMBER
BROADFOOT:

Surely.

MAYOR NASSIF:

I have one more speaker.

COUNCILMEMBER
BROADFOOT:

Yes.

MAYOR NASSIF:

Please identify yourself, for the record, and ah....

MR. DELMAR:

Ah, I am Charles Delmar. I am a resident of the Bayberry Hills Subdivision. Ah. I would like, ah...becau...I had planned to enter this for the next item on the agenda, but I believe it has relevance for this, as well. And for the record I'd like to read from the minutes of the February 9th, 1981, meeting of the Council. Proposal 12. That the connection of Bayberry Drive, across the Hunt Arboretum, to Arboretum Drive shall be a temporary connection which shall be closed to motorized vehicles when there is a means of access to the subject subdivision, other than the temporary connection to

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Arboretum Drive, via Bayberry Drive. The Final Plat shall reflect the temporary status of the connection of Bayberry Drive to Arboretum Drive and shall state basis upon which the temporary connection shall be closed to motorized vehicles as described above. At such time as the temporary connection is closed, the portion of Bayberry Drive east of Arboretum Drive shall be renamed.

Item 13: Should access by means of Rhododendron be available before this subdivision is started, that access be by Rhododendron, and not by an extension of Bayberry Drive across Hunt Arboretum. The motion was carried by a vote of 5 to 3 with Councilmembers Herzenberg, Howes, Kawalec, Thorpe, and Wallace supporting, and Councilmembers Smith, Straley, and Mayor Nassif opposing.

In effect, what that would do both for this and for the other would be...pardon me...this access, if ever allowed to exist, would be removed, this would be renamed, and the access from any of this area over here through these areas would be cut off. The Council moved that in order to protect the delicate conditions of the neighborhoods in this area.

MAYOR NASSIF: Further questions from Council? If not, then Mr. Broadfoot you have the floor again, sir.

MR. LYMAN: Excuse me, Mr. Mayor. Ah, Mr. Messer had wanted to, ah, make, ah, one remark in response to something that, ah, Dr. Gordon had brought up.

MR. MESSER: The....

MR. LYMAN: Ah, I'll ask it in the form of a question...ah, are you aware of the, ah, State Transportation Department's view as to, ah, the necessary width to, ah, make a road passable by two cars?

MR. MESSER: Yes. To be within the guideliness of a State Safety, ah, Code, it is 16 feet.

MAYOR NASSIF: Mr. Broadfoot, you have the floor, sir.

COUNCILMEMBER BROADFOOT: Mr. Mayor, if it's in order, I WOULD LIKE TO MOVE THAT WE REFER THIS BACK TO THE MANAGER, THAT HE OBTAIN A NEW TRANSPORTATION IMPACT, AH, REPORT FROM THE DEVELOPER, AND THAT HE RE-EVALUATE HIS RECOMMENDATIONS AFTER, AH, WE TAKE SUCH ACTION AS WE TAKE ON A THOROUGHFARE PLAN.

Ah, that...the issue of the Thoroughfare Plan has really come down to the...the area that affects this particular development, through no fault of anybody's...an accident. And I am at a loss to understand how we can proceed without reliable figures and without that thing in place. And I so move that we refer and defer, ah, until these things are in place.

MAYOR NASSIF: The motion is on the floor. Do I have a second?

COUNCILMEMBER BOULTON: I SECOND IT.

MAYOR NASSIF: Seconded by Ms. Boulton. Discussion of the motion?

Ah, I have a question of the attorney, please. Does...can we take that action tonight? Or would we have to wait to the next meeting to take an action?

MR. BARRETT: Ah, you...typically, your procedures are to refer to the Manager. And this case is a referral to the Manager with a request that new information, or additional information be brought....

MAYOR NASSIF: That at the time it comes back to us...this new information...is that what you mean by your motion?

COUNCILMEMBER BROADFOOT: Yes, that would be fine.

MAYOR NASSIF: O.K.

MR. LYMAN: Ah, I would like to, ah, comment on that, if I may...

MAYOR NASSIF: We have a motion on the floor, sir. It will remain as well.

Further discussion on the motion?

COUNCILMEMBER STRALEY: Well...

MAYOR NASSIF: Mr. Straley.

COUNCILMEMBER STRALEY: Given the fact that the Thoroughfare Plan is a very comprehensive plan and it deals with things that don't relate to this, I should think that we would regard this as sufficient for us to deal with this particular aspect, and not worry about any kind of outcome on the other phases of the Thoroughfare Plan.

MAYOR NASSIF: I'm sorry, I'm not following that, Mr. Straley.

COUNCILMEMBER STRALEY: Well, I can envisage a scenario in which we have a hard time putting together an agreement on the total Thoroughfare Plan. But I can believe that we might be able to settle this one at some date...when we are talking about this, we don't want to move this thing into...out of fairness to the applicant...into the sweet bye and bye. What we want to do is to say there exists a date at which, ah, the condition will be satisfied...and I think all we have to do is to reach a point where we're satisfied with what we are going to do with the Thoroughfare Plan, insofar as this area is concerned. And not let, ah, continued, ah, discussion on other parts of the Thorough Plan hold up, ah, making this decision.

MAYOR NASSIF: Is that for or against the motion?

COUNCILMEMBER STRALEY: I think that we ought to, perhaps, amend it by simply saying that we will....

MAYOR NASSIF: Are you offering an amendment now?

COUNCILMEMBER STRALEY: Yes, I think that we can call it that. We ought to delay....

MAYOR NASSIF: This will be a motion for an amendment. State your amendment, please, Mr. Straley.

COUNCILMEMBER STRALEY: I thought maybe Mr. Broadfoot would accept this, and then....

MAYOR NASSIF: O.K.

COUNCILMEMBER STRALEY: I think that the only thing I would like to put into this is that when the...when the, ah, Council is satisfied with this aspect of the Thoroughfare Plan, that is, the aspect that concerns itself with, ah, Parker Road, at that time we ought to be able to move to consideration of this application without waiting for any further worries about the total Thoroughfare Plan.

COUNCILMEMBER BOULTON: Yes, but aren't we going to decide it altogether in here?

COUNCILMEMBER STRALEY: I....

MAYOR NASSIF: Do you want to accept that?...or....

COUNCILMEMBER BROADFOOT: I...I'm not...the problem is, Mr. Straley, I'm not sure how we are, ah, satisfied what we are going to do until we adopt...or don't adopt...a Thoroughfare Plan. It doesn't (words here not discernable) me a thing.

COUNCILMEMBER STRALEY: Well, I haven't heard, yet, exactly the specifics by which we are going to deal with the Thoroughfare Plan and I can believe that we will come to the place where we will be dealing with the components of it, separately. We may get hung up on something as completely out of...in left field with respect to this and I don't think that we ought to keep this client waiting, if that's what happens to it.

COUNCILMEMBER BROADFOOT: I would agree with you to...if you are saying that if this is in place and we know what we are going to do. I'm not sure under what circumstances...we don't have to worry about how we're going to do Franklin and Rosemary...fair enough, no...no problem.

COUNCILMEMBER STRALEY: Maybe that's just a question of interpretation of your motion.

COUNCILMEMBER BROADFOOT: Yes.

MAYOR NASSIF: Does that satisfy you on that, Mr. Straley?

COUNCILMEMBER STRALEY: Um-hmm.

MAYOR NASSIF: Are there other questions? Discussions on the motion? None? Then, we will take a vote....

MR. LYMAN: May we be heard on this motion?

MAYOR NASSIF: All those in favor signify by saying "aye."

COUNCILMEMBERS: "Aye."

MAYOR NASSIF: Opposed, "no."

COUNCILMEMBERS: No response.

MAYOR NASSIF: THE MOTION CARRIES UNANIMOUSLY.

Now, you may be heard, sir.

MR. LYMAN: Yes, but....

MAYOR NASSIF: When we are in motion...please.

MR. LYMAN: If I may say, a hearing is required on action affecting property owners, as, ah, your ordinance contemplates. You have just taken a substantial step which purports to dispose of the application in a manner which is extremely prejudicial to my client's interest. You did not give my client an opportunity to be heard on the motion. I would suggest to you that, under standards of minimal due process, that the motion that you have just purported to adopt is null and void.

Now, I would ask you to reconsider the motion and to reverse yourselves in this respect. My client is entitled to....

COUNCILMEMBER BROADFOOT: Would you like to have the gavel?

MR. LYMAN: My client is entitled to an answer on an existing application for a modification which must be judged in accordance, among other things, with existing plans. You can...you're dealing here with private property rights, with financial...with economic interests and you may not draw my

client into the mesh of your own, ah, general planning considerations for the future. There will be substantial damages here if this matter is put into limbo, which I think is the, ah, practical result of the motion. Time is most definitely money in development of, ah, real estate. And, as I understand it, ah, ah, the Thoroughfare does not go through LH V and, ah, really, ah, is entirely an off-site matter...we're talking here about amending an application to increase the density by a, ah, modest amount.

MAYOR NASSIF: Mr. Howes, first, please.

COUNCILMEMBER
HOWES: I don't, ah....

MAYOR NASSIF: Then Mr. Broadfoot.

COUNCILMEMBER
HOWES: I don't propose to debate, ah, Mr. Lyman because, ah, he is not a member of this Council and, therefore, ah, I cannot engage in debate with him. However, ah, it seems to me that the debate prior to the passage of this motion made it very clear that there was no attempt to, ah...as somebody said, send this into the sweet bye and bye, but rather to act on it in a timely fashion and in a way that, ah, the Council can do so responsibly...and there is a new factor and that is the, ah, proposal in regard to Bayberry Drive about which we will be having a hearing later tonight...maybe much later tonight, but it will be later tonight.

Ah, so it does seem to me that, ah, that the Council is acting both responsibly and expeditiously and not prejudiciously...prejudicially, and therefore we should get on with the other public hearings at hand, Mr. Mayor.

MAYOR NASSIF: Mr. Broadfoot has the floor, and then we are going to close it on this one.

Mr. Broadfoot.

COUNCILMEMBER
BROADFOOT: I would...I would like to say that, ah, we intend, ah, with all due and deliberate speed to move this thing. No...no attempt to delay at all, ah, there would not even be such delay as is taking place tonight had there not been the request on the part of the applicant. And we are entitled to look at that as damned well we like. And we did.

MAYOR NASSIF: The matter is referred, as the motion stipulated, and we will, ah, move on to, ah, item #2.

Public hearing on a request to change the zoning of 17 acres at the end of Hilltop Street between Edwards Street and Dogwood Drive, from R-2 to R-4. Mr. Manager.

Hilltop Street--Request to Change the Zoning of 17 Acres

Mr. Taylor informed the Council that a protest petition had been submitted and had been certified as valid by the Town Clerk.

Mr. Jennings reviewed the request to change the zoning of approximately 17 acres at the end of Hilltop Street from R-2 to R-4. This change would allow an increase of dwelling units per acre from 5 (allowed under the current R-2) zoning) to 13 (allowed under R-4 zoning requested). An R-3 zoning designation would allow approximately 8 dwelling units per acre.

Mr. Jennings stated that since a valid protest petition had been submitted, a zoning change on the property would require an affirmative vote of seven Councilmembers (including the Mayor).

Staff considered the current zoning of the surrounding properties, access, and topography in determining if a manifest error in the Development Ordinance existed. Staff submitted that no major new developments or zoning changes in the area had occurred since adoption of the zoning atlas in May of 1981. In addition, staff submitted that the Land Use Plan designated this property as low-density residential. The requested zoning would be higher than that needed to achieve the purposes of the Comprehensive Plan.

Mr. Robert Page represented the property owner, Mr. B. Frank Boyd, and the optioner, Benchmark Atlantic, Corporation of Hilton Head, South Carolina. Mr. Page stated that the applicant proposed to reclassify the land in order to build housing. He stated that the proximity of this site to the Central Business District and to the university made it a desirable site for development.

Mr. Page stated that the applicant would like to request that the application be amended from R-4 (requested) to R-3. The request would, in effect, reduce the increase in density from "over 100%" (if the zoning were changed from R-2 to R-4) to "less than 50%" (if R-3 were granted).

Mr. Page submitted that approval of the request would (1) develop this area in an orderly and planned manner; (2) meet the needs for moderately priced housing; and (3) expand the tax base at a greater rate than the cost to the Town in municipal services.

The applicant proposed to improve access to and from the site. Mr. Page felt that the development would more nearly meet the goals and objectives of the Comprehensive Plan, if the request were reduced from R-4 to R-3. Mr. Page submitted the State of Justification for the records (please refer to files in the Planning Department).

Mr. Grainger Barrett explained that the Development Ordinance provided that an amended application was to be treated as a "new, original application," if the Town Manager concluded that "the amended substitution alters or modifies the original application." Mr. Barrett stated that he had suggested to the Manager that "that's not something we ought to decide or give an opinion on tonight."

Ms. Gina Cunningham, Chair of the Planning Board, stated that the Planning Board concurred with staff recommendation to deny the R-4 zoning request. No formal action had been taken on the R-3 request.

Mr. Taylor stated that the Manager's preliminary recommendation was that R-4 be denied. A zoning change to R-3 had not been considered.

After consultation between the Town Manager, and the Planning Board Chair, Mr. Barrett submitted that it would be prudent for the Manager to consider the request to amend as a substantial amendment, as neither the Manager nor the public were prepared to address the issue.

In view of this consideration, Mr. Page withdrew his request to amend. The original request for R-4 zoning would remain, but he requested that the Council consider an R-3 zone (which the applicant would prefer).

Mr. Gene Strowd, a 23-year resident of 502 Dogwood Drive, opposed the rezoning request of Chapel Hill Tax Map 91-G-25. He submitted that the area surrounding this tract was predominantly subdivision (over 20,000 sq.ft.). The area was stable and the majority of the residents had lived in this area for 20 years or more, representing a large part of an individual's life savings. A high density development in this area would be devastating to the character of the neighborhood and to property values. Access would become a serious problem, as would noise pollution. Flooding would result from accelerated run-off.

Mr. Strowd proposed that the tract, if developed as a subdivision, would substantially reduce traffic problems, eliminate most of the flooding problems, reduce noise pollution, preserve the natural environment, and maintain current property values. He urged the council to deny the rezoning request.

Mr. Arnold King, a 42-year resident of 51 Dogwood Drive, concurred with the comments of Mr. Strowd.

Ms. Rebecca Clark, a resident, expressed concerns for traffic problems that would result from an access to the property on Durham Street, where a school existed.

She proposed an alternate access behind Chase park. She felt this would reduce traffic on Merritt Mill Road.

Mr. Ken Brinkhouse, a 30-year resident of Dogwood Drive, objected to Mr. Page's statement that the Council should approve the request "because it would increase the tax base for the Town." He felt the statement was "irrelevant and should not be used as an argument. If zoning were to be based upon financial incentives to the community, the real criterion should be the excess of tax revenues over expenditures." His opinion was that such a development "might even be a loss."

Mr. "Spike" Saunders, a resident, asked the Council to allow the "Chapel Hill community atmosphere" to exist in this area.

Mr. Barry Popkin, a resident of Dogwood Drive, informed the Council of the joint efforts of surrounding communities to maintain the stability of this area. He expressed the concensus of area residents that the current low-density development designation of this area was appropriate, lacking significant changes that might support the rezoning request.

Mr. Popkin concurred with earlier statements of Mr. Strowd.

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER HOWES, TO REFER THE MATTER TO THE MANAGER. THE MOTION CARRIED UNANIMOUSLY.

Mr. Barrett informed Councilmember Pasquini that denial of the request would require a 12-month interval before another request could be submitted.

Thoroughfare Plan--Proposed Changes

Mr. Jennings stated that the proposed changes were a response to community concerns raised at the January 31, 1983, Public Hearing and at the February 28, 1983, Planning Board meeting re (1) the Parker Road extension, and (2) the Western Loop. Citizens' opposition to the Parker Road extension dealt primarily with the potential harmful effect this would have on the research activities in the Mason Farm tract.

The proposed changes would provide an outer loop using part of Mt. Carmel Church Road, extend Mangum Court and Barbee Chapel Road to Farrington Mill Road. Staff had felt that another means of access would be needed. Bayberry Road appeared to be a logical access from the Parker Road area. The Planning Board had concurred.

The second proposed change concerned the Western Loop. At the January 31, 1983, Public Hearing residents of Billabong Lane had expressed concerns for the effect of the proposed Homestead/Weaver Dairy Road connector on their property values.

Staff found that a preferable alternative would run a connector parallel to and east of the railroad tracks.

Ms. Gina Cunningham, Chair of the Planning Board, stated that the Board supported the proposed changes. The Board would submit a formal recommendation to the Council at a later date.

Citizens Speaking Re the Proposed Southern Loop:

Mr. Ken Moore submitted a petition (please refer to files in the Clerk's Office) to the Council from "over 400 citizens of the [Mason Farm] area" supporting the preservation of Mason Farm for study and enjoyment. The petition urged the Council to consider alternate routes lying outside the Mason Farm area.

Mayor Nassif advised those present that this portion of the public hearing was to address the proposed changes to the Thoroughfare Plan; i.e., the extension of Bayberry Drive to Mangum Court and extension of Mangum Court to Farrington Mill Road. Other issues were not pertinent to this proposal.

Mr. Mike Campbell, a resident of Mt. Carmel Church Road, referenced a March 7, 1983 petition that stated the concerns of area residents (please refer to files in the Clerk's Office). The petition encouraged the Council to return the proposed alternates to the Planning Board and Transportation Board to consider extension of "a route from Parker Road to circumvent the Botanical Gardens and unite with 54 East at a junction that is compatible to the Dalston proposal and to investigate the Sourwood Circle access." Mr. Campbell challenged the Council "to return to the Parker Road concept of the inner loop in the Thoroughfare Plan."

Ms. Jane Byrd, representing the citizens and residents of the Mt. Carmel Church Road/Mangum Court area submitted that if a major concern were for dual access through Hunter's Ridge, access via Linden Road and Azalea Drive already existed. She proposed that a third access could be provided by crossing Morgan Creek at Ashe Place--all alternatives being less expensive than a new road.

She also supported the preservation of natural growth and wildlife of this area. She asserted that a road through this wildlife preserve would not be any better than a road through the Mason Farm area. Ms. Boyd proposed alternate routes: (1) no loop, or (2) extension of Parker Road to Finley Golf Course.

Ms. Stephanie Cheek read "a story that represents our community--Mt. Carmel Church Road, Old Lystra Church Road, and Mangum Court...a community that would be directly affected by the latest change in the Southern Loop." Ms. Cheek stated that "all in all this picturesque community, with deep roots, is a community that Chapel Hill has historically leisurely driven through to watch the cows graze,...to...glimpse...the brook,...to watch the maples turn,... Remember...that surrounding Chapel Hill are communities that bring back the true heritage of America." She requested the Council to "let us continue our research project of human life."

Mr. Robert Smythe, Conservation Chairman of the Research Triangle Group of the Sierra Club, supported the Mangum Court/Farrington Road extension as a "possible long-range route." He felt other alternatives should also be considered. Mr. Smythe stated that the group took no position on the proposed Bayberry Road area.

Mr. Barry Lentz, 309 Azalea Drive, submitted a letter signed by 96 community residents. The following persons spoke regarding the petition:

Mr. Tom Traut, 400 Bayberry Drive, expressed concerns for the effect of the Thoroughfare Plan on street safety in the Farrington Hills and Morgan Creek Hills neighborhoods. Mr. Traut reviewed a dual access concept that was recommended by the Planning staff and Planning Board in 1981 and which had been supported by the Council in numerous discussions. The concept was that Azalea Drive, Bayberry Drive, and Arboretum Drive would serve one neighborhood and Rhododendron Drive would loop with the eastern part of Bayberry Drive back to Parker Road to serve the developing neighborhoods in that area.

Mr. Traut stated that members of Morgan Creek Hills and Farrington Hills "heartily endorsed" the Thoroughfare Plan presented at the January 1983 Public Hearing. He stated that the Association was surprised that the Administration at the University of North Carolina had expressed their opposition to the Parker Road extension. Prior communication with the Administration had indicated full support.

Mr. Traut submitted that the former proposals for a Southern Loop "contained elements that were first adopted into the Thoroughfare Plan more than 20 years ago...and had considerable input over several years...." He felt that the new plan (since January 1983) had had no opportunity for discussion and lacked adequate and thorough consideration by the Planning Board or Planning staff.

Mr. Don Francisco, representing the Homeowners' Association, and a resident of the area and former Planning Board member, stated that, as a professional environmental scientist with three degrees in Biology, he had conducted research in the Morgan Creek area for approximately 13 years. Mr. Francisco submitted that:

1. The proposed route (via Mangum Court) would not meet the transportation needs of the community during the present planning time frame. The proposed route was considerably less direct and would result in an undesirable traffic impact on a more direct route via Bayberry/Azalea (an increase of 5,000-6,000 cars/day on the Bayberry/Azalea route which currently had fewer than 750 cars/day).
2. The proposed route over the B. Everette Jordan Lake property (a permanently preserved wildlife area of approximately 1,500 acres) would cause significant environmental damage. In addition, a significant increase in flooding could result in the Mason Farm "botanical reserve," if the proposed road were not built properly.
3. Proper road construction, to minimize flooding, would be expensive. Bayberry Drive and Azalea Drive would have to be improved to meet thoroughfare standards.

Mr. Barry Lentz requested additional time to explore more acceptable alternatives.

Mr. Kenneth Sugioka, 1 Bayberry Drive, Director of the Morgan Creek Land Company which owned the tract of land through which Bayberry Drive extension would be constructed to join Farrington Road, stated, on behalf of the Company, that there were no plans in the foreseeable future to cut any road through this tract of land and submitted that if this proposal were approved, significant traffic impact would result on Azalea Drive.

Mr. Eddie Williams, a resident of Mt. Carmel Church Road, felt that the proposed loop was "too far out," and expressed his support for the Parker Road extension.

Mr. Charles Rupkalvis, President of the Laurel Hills/Parker Road Neighborhood Association, recommended "that a concerted effort be made to provide the local road access from the Hunt property to Finley Golf Course Road as recommended by the Planning Board." This would allow alternate access plans for the area.

Mr. Rupkalvis also submitted that Bayberry Drive should remain in the Thoroughfare Plan to ensure adequate access to new development in the area.

Ms. Alice Gordon wished to clarify the previous statement made during the Laurel Hill V Subdivision consideration re the Thoroughfare Plan. Ms. Gordon stated that in 1982 the Council had agreed with the Planning staff, the Planning Board, and the Town Manager's recommendation that dual access to Laurel Hill IV was essential, referencing condition 12 of the approved Laurel Hill IV development.

Mr. Charles Delmar, 502 Bayberry Road, requested that the area to the west of the Hunt Arboretum be permanently excluded from any future traffic patterns due to the delicate nature of the area.

Mr. Tom Tyson, a resident of Mt. Carmel Church Road, stated that if research, preservation of wildlife and pastoral serenity were "valid reasons for striking the Parker Road extension," then for the same reason the Bayberry Road extension should also be struck.

Citizens speaking re the proposed Western Loop:

Mr. John Lacey, a resident of Billabong Lane, stated his support for the current alternate proposal.

Councilmember Smith stated that if the proposed Western Loop were approved, adequate signalization should be a priority at the intersection of the proposed connector and Homestead Road.

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

Graham Court Apartments--Zoning Change Request

The zoning change request was from R-4 to R-5 for the Graham Court Apartments on the south side of McCauley Street between Ransom and Pittsboro Streets (Chapel Hill Tax Map 87, Block D, Lot 2).

Mr. Jennings stated that the request would bring the existing property into conformity with the Development Ordinance. Staff submitted that the request would maintain comparable zoning districts between the old and the new ordinance. No major changes had occurred in this area since 1981. The request would also provide a mix of residential uses and provide needed housing.

Rezoning would eliminate the current non-conforming status of the property and allow repairs and improvements to the property. Should the property suffer damages at 50% or more of its assessed taxable value, the property could not be developed to its current size because of its current non-conforming status.

Rezoning to R-5, as requested, would permit a buildable height of 90 feet. Rezoning to R-6, as recommended by the Planning Board and Manager, would permit a buildable height of 50 feet. The same floor density was allowed in both R-5 and R-6 zones.

Mr. Bob Anderson, representing the applicant, submitted the Statement of Justification (please refer to files in the Planning Department). Mr. Anderson felt that the request would correct a manifest error in the Zoning Ordinance. The distinctive architecture could be preserved by rehabilitating the units. The applicant intended to bring the property into conformity with the Comprehensive Plan and did not intend to add to the property. The property consisted of two lots: (1) the building and parking area; and (2) the grounds.

Under the current ordinance, adding to the project would not eliminate its non-conforming status.

Ms. Gina Cunningham, Chair of the Planning Board, stated that the Planning Board recommended that the property be rezoned to R-6 (instead of R-5, as requested).

Mr. Anderson stated that rezoning to either R-5 or R-6 was acceptable to the applicant.

Ms. Carol Hanes, a nextdoor resident to the Graham Court Apartments, submitted that currently the apartments were in "a terrible state of disrepair." If rezoning allowed the construction of more units, the old ones should be repaired first.

Mr. David Kleinbaum, 305 McCauley Street, requested that the Council consider scheduling a special hearing to reconsider the McCauley Street extension, since the Transportation Board had recommended denial of the proposed extension.

Mr. Anderson, responding to comments made by Ms. Hanes, stated again that the owners were not considering adding units to the current property, but desired to have the property brought into conformity in order to finance improvements and repairs.

Mr. Barrett informed the Council that no protest petition had been filed and could not, at this point, be filed.

Councilmember Broadfoot asked if the current structure on one lot could be rezoned to bring it into conformity and leave the undeveloped lot zoned R-4.

Mr. Jennings responded that this could be considered.

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

Kroger Shopping Center--Request to Modify the Special Use Permit

Mr. David B. Roberts, Town Clerk, swore persons wishing to address the Council on this issue.

Mr. Jennings informed the Council that the request was to modify the existing Kroger Plaza Special use Permit by adding an entrance/exit drive directly onto East Franklin Street.

The proposed access would be 230 feet from the Elliott Road/Franklin Street intersection (the Design Manual required 250 feet); the proposed access would be only 250 feet from the nearest driveway connection (the Design Manual required 750 feet). The applicant did not propose to provide a deceleration lane for eastbound traffic. The proposed access would cross an existing sidewalk and create potential vehicle/pedestrian conflict. Plantings in the area would have to be removed to provide the proposed access. Adjoining property values would be maintained.

Mr. Anderson, representing the applicant, stated that he felt that the Development Manual could be interpreted liberally and had measured 250 feet from the intersection to the proposed access by measuring from centerline to centerline. The literal interpretation of the Manual, however, indicated that these measurements were to be made along the inside lane. He felt that the access could be moved another 10 feet to the east, if necessary, thus meeting the literal dimensional requirements of the Development Manual.

Mr. Anderson showed that the Kroger Plaza parking lot entrances onto Elliott Road did not meet the literal dimensional requirements of the Manual. He also compared the dimensional aspects of other entrances onto East Franklin Street, and stated that it would be difficult to apply the dimensional requirements to this request.

Mr. Anderson submitted that the proposed intersection would solve both internal and external traffic problems.

Ms. Gina Cunningham, Chair of the Planning Board, stated that the Board recommended denial of the request.

The recommendation of the Community Appearance Commission, as submitted in the Council's memorandum, was to deny the request.

The Manager's preliminary recommendation was to deny the request.

Mr. Bob Page, representing the applicant, stated that the access to Franklin Street was necessary, due to the increased volume of internal traffic resulting from new tenants in the Kroger Plaza.

Mr. Page stated that he felt that current entrances onto Elliott Road were more of a problem than an entrance onto East Franklin Street would pose. Mr. Page submitted that many of the numerous curb cuts onto East Franklin Street were within 250 feet or less from major intersections.

Mr. Robert Anderson submitted that the proposed access was designed to provide relief for the internal traffic problems of the Kroger Plaza as well as traffic on the streets.

Regarding the appearance of the entranceway, Mr. Anderson felt that the proposed access was not severe and would pose only a minor visual impact, requiring only the removal of several trees at the proposed access and a few at the intersection. The applicant proposed new plantings at the entranceway.

Mr. Charles Ginn, owner of Kroger Plaza, stated that the tenants at the Kroger Plaza supported the request for the access.

Mr. Robert Joesting, a citizen, urged the Council to consider the safety aspects and to use caution in approving a curb cut near an intersection.

Mr. Norman Block, a co-owner of the Village Instant Printing in Kroger Plaza, expressed his strong support for approval of the request.

Ms. Myra Waud, President of the Chapel Hill Board of Realtors, supported the request.

Councilmember Boulton asked if there was still a fence between the Lowes' business and the Kroger Plaza. Mr. Ginn responded affirmatively.

Councilmember Boulton asked Mr. Jennings if the traffic problems of entering the Plaza from Elliott Road would be significantly alleviated by having the East Franklin access. Mr. Jennings felt that he would need to speak with the Engineering staff, and other staff members, in order to adequately respond to the question.

Councilmember Broadfoot asked if the Planning Board had considered the problem of insufficient vehicle turning room when entering the exiting lane within the Plaza parking lot. Mr. Jennings stated that this had been a concern in the past and that the neck of the exiting lane had been widened.

Councilmember Broadfoot asked if it might be a consideration to have a right turn lane all the way from the Elliott Road/East Franklin Street intersection to Eastgate. Mr. Jennings responded that it could be considered.

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

Etna Service Station--Request to Modify the Special Use Permit

Persons wishing to make a statement on this request were sworn.

Mr. Jennings stated that the request was to add 400 sq.ft. to the existing building and to change the direction of the vehicular traffic. The only problem was that the proposal would not meet the standards of driveway separation of 750 feet required by the Development Ordinance. Mr. Jennings stated that the Council could grant a Planned Development-Shopping Center Special Use Permit, allowing the station to be judged in the context of a larger commercial center. To do this, the Council must find that the application would meet public purposes to an equivalent or greater degree than would be achieved by strict adherence to the Development Ordinance.

Mr. Jennings informed Councilmember Boulton that the height of the proposed building and canopy would be a total of 18 feet.

Mr. Bob Epting, representing the applicant, stated that (1) plantings were proposed to separate this property from property to the east and to the west; and (2) rearrangement of the curb cuts would improve traffic safety. Mr. Epting stated that he felt that there were benefits that would come from the proposed development that would override the objectives behind the 750-foot rule of the Development Ordinance. He submitted an additional request that the Council grant a Special Use Permit to waive the 750-foot rule.

Mr. Josh Gurlitz stated that the proposed modification of the existing gas station would (1) reduce the visual impact (to give an overall shorter appearance); (2) use non-reflecting material; (3) shield lighting fixtures from the street; and (4) slow traffic circulation.

Mr. Bob Epting submitted the Statement of Justification (please refer to files in the Planning Department).

Mr. Billy Morgan, owner of the Etna Service Station, informed the Council that between 1968 and 1975 there had been no accidents reported on his property. He also stated that the proposed changes would bring the station's standards up to the level of his competitors and would improve the appearance of the station from East Franklin Street.

Ms. Gina Cunningham, Chair of the Planning Board, recommended approval of the request.

Mr. Epting informed Councilmember Smith that a canopy height of 18 feet was necessary to accommodate recreational vehicles and rental trucks.

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER HOWES, REFERRAL OF THE MATTER TO THE MANAGER. THE MOTION CARRIED UNANIMOUSLY.

Old School Lane--Proposed Closing of Right-of-Way on West Side of Church Street, North of Caldwell Street Extension

Mr. Bill Morris, Town Engineer, informed the Council that as part of completing the Caldwell Street construction project, staff proposed to close Old School Lane. The right-of-way was no longer needed since the construction of the new street.

Mayor Pro-Tempore Marilyn Boulton, presiding in Mayor Nassif's temporary absence from the meeting, asked for a motion.

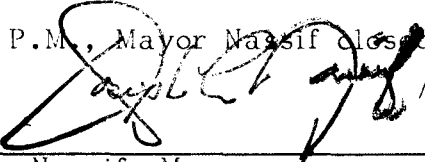
COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER STRALEY, REFERRAL OF THE MATTER TO THE MANAGER. THE MOTION CARRIED UNANIMOUSLY.

Proposed Private Sale of School Lane Right-of-Way Fragment to Mr. Buffington Falls

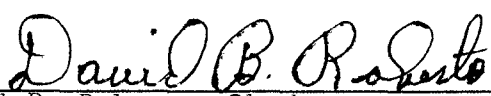
Ms. Loewenthal stated that the Housing Authority proposed to sell its portion of the School Lane right-of-way to the adjacent property owner, Mr. Buffington Falls, if the Council permanently closed the School Lane right-of-way.

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER SMITH, REFERRAL OF THE MATTER TO THE MANAGER. THE MOTION CARRIED UNANIMOUSLY.

At 11:20 P.M., Mayor Nassif closed the Public Hearing.



Joseph L. Nassif, Mayor



David B. Roberts, Clerk