

144

MINUTES OF A PUBLIC HEARING OF THE MAYOR AND COUNCIL
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,
MONDAY, JUNE 20, 1983, 7:30 P.M.

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

Marilyn Boulton
Winston Broadfoot
Jonathan Howes
Beverly Kawalec
David Pasquini
R. D. Smith
Joseph Straley

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

Oxford Hills--Request for Planned Development-Housing Special Use Permit

Persons wishing to speak on this issue were sworn by the Deputy Town Clerk.

Mayor Nassif advised those present of the procedures that would be followed during the public hearing.

Mr. Mike Jennings, Planning Director, stated that the request was to construct 233 dwelling units on 19.75 acres (zoned Residential-4), and to subdivide 7.42 acres (zoned Residential-1) into 14 lots (5 of the 14 lots were proposed for single-family dwellings and 9 were proposed for duplexes). Mr. Jennings stated that the property was located on the east side of Old Oxford Road between Elliott Road and Booker Creek, and was identified as Chapel Hill Township Tax Map 27, Block A, Lot 3A. The surrounding properties were zoned R-1, OI-2, and R-4.

Mr. Jennings explained that in December of 1978, the Board of Aldermen granted K. Carroll Kennedy a Unified Housing Development Special Use Permit for 106 apartment dwelling units on this property. This permit was modified in September of 1980 to extend the time to begin construction. That deadline passed on June 1, 1983.

The applicant proposed (1) to provide two means of access; (2) to realign Markham Drive to a 90° angle to Old Oxford Road; (3) to pave 30½ feet of Old Oxford Road with curb and gutter on the south side (between realigned Markham Drive and the proposed cul-de-sac); and (4) to construct a sidewalk along the property (staff recommended extending the sidewalk to Markham Drive).

The applicant also proposed to construct a left-turn lane on Old Oxford Road at the Elliott Road intersection to improve traffic safety. Access for emergency services was available through Lake Forest, should Old Oxford Road be blocked.

Mr. Jennings explained that dual access through Booker Creek had been discouraged in past Council action (Summerfield Crossing). Access to Milton Avenue was not possible, as the applicant did not own the abutting property.

Staff also recommended that the applicant provide a continuous sidewalk within the project and to the proposed recreation area.

Staff recommended that the loop road have curb and gutter to help prevent damage to the edge of the pavement from parked cars.

Sewer easements were proposed between Lots #1 and #2, and Lots #10, and #11.

Current concern was if dam failure occurred during a possible 100-year storm. Forty-seven of the proposed units would be located within the floodway fringe. Mr. Jennings explained that construction of units within the floodway fringe was permissible if they were elevated one foot above the base elevation of a 100-year flood. Ninety-two proposed dwelling units would be below this recommended elevation.

Proposed recreation space was deficient by 675 sq.ft.

The proposed residential lots were comparable in size to property across Old Oxford Road and would serve as a transition between the single-family detached area and the multi-family area of the proposed developed.

Staff felt that lot depth and trees would maintain sufficient buffer. The proposal would provide needed additional housing and was within walking distance of a major activity center.

Mr. Jennings explained to Councilmember Boulton that individual property owners (of the 14 proposed lots) would determine the amount of buffer that would remain. (Stipulation #3 of the proposed resolution would not require a detailed landscape plan or architectural elevation of the 14 residential building lots.)

Mr. John McAdams, representing the applicant, introduced Mr. Ed Vick, to present the traffic impact report of the proposed development.

Mr. Vick, President of Kimly-Horn Associates, Transportation Engineering Consultant Firm, stated that collected data had determined that the predicted traffic on Old Oxford Road would result in a capacity level well within the limits of a two-lane urban street. Data also determined that the projected traffic level on Elliott Road would result in a level well within the capacity for this road.

Mr. Vick asserted that the stop sign controlled intersection at Elliott and Old Oxford roads, with the additional traffic, would result in a "C" level of service, using a scale from "A" to "F."

The intersection of Franklin Street and Elliott Road would be operating at an "A" level of service in the morning (peak hour) and a "B" level of service in the afternoon (peak hour). He stated that 70% of the time, a car approaching the signal during the peak hour could get through the first cycle of the signal. He added that most towns were designed for "D" level of service during peak hours and "C" level of service in off-peak hours.

Councilmember Pasquini asked if the traffic figures included newly approved developments in the area. Mr. Vick responded that figures showed existing traffic combined with the development's proposed traffic. He felt that there was still the capacity to absorb additional traffic from additional developments. Mr. Vick stated that the impact could be reviewed to include formerly approved developments.

Councilmember Pasquini questioned if the University was in session when the traffic count was taken. Mr. Vick responded that it was not; he felt that there would be a change in the count when the University was in session.

Mr. Vick responded to Councilmember Pasquini that an "urban street" referred to a town comparable in size to the Town of Chapel Hill.

Councilmember Smith asked Mr. Vick if the calculation for the total number of cars exiting this area reflected:

- One (or more) cars per household;
- Various times people left their homes;
- Traffic from surrounding areas.

Councilmember Smith felt that the total of 104 cars from this development, out of a possible 300, did not include such considerations.

Mr. Vick responded that the counts reflected morning and afternoon peak hour traffic.

Councilmember Smith questioned the effect the number of peak-hour vehicles would have on the Fire Station on Elliott Road and Franklin Street. Mr. Vick responded that back-up traffic could be a problem during peak hour traffic, but the provision of turn lanes would reduce the problem.

Mr. McAdams introduced Mr. Tom Heffner, a Real Estate Appraiser, to give a presentation on the effect of the proposed development on adjoining property values.

Mr. Heffner stated that in his opinion the 14 lots facing Old Oxford Road would shield the apartment project from the houses across the street. Without this "buffer," a development of this size would have a negative impact on adjoining property values. He also felt that the proposed lots would be deep enough and would have good tree coverage to provide sufficient buffer.

He estimated that the projected traffic on Old Oxford Road would be more similar to Elliott Road where property values had not decreased significantly. He did not feel that traffic on Old Oxford Road would create a negative impact on property values.

Mr. Jennings responded to Councilmember Broadfoot that a smaller open space ratio was required for single-family and duplex lots than for multi-family developments. The location of the open space proposed by the applicant would preserve land along the creek as part of the greenway.

Mr. McAdams addressed the concerns for flooding, stating that current studies reported that the Eastwood Lake Dam was declared "somewhat deficient." Once this report was made to the State, the State would require rehabilitative measures to upgrade the classification of the dam. He stated that Stipulation #11 addressed this concern through restrictions for minimum floor elevations.

Mr. McAdams stated for the record that the trees on Old Oxford Road were "approximately 30 feet high and extremely thick, screening the proposed apartments from view from developments across the road." He stated that what would be seen would be dwellings constructed on the 14 lots. These structures would not be dissimilar from area development.

Mr. McAdams explained to Councilmember Smith that the North Carolina Housing Finance Agency had agreed to finance 180 units. The developer proposed to either not use this funding source or to use a combination of funding sources for construction of the 233 proposed units.

Mr. McAdams explained to Mayor Nassif that the entire area would be graded, and that a majority of the site would not remain undisturbed. Mayor Nassif questioned why the density of the development increased, rather than decreased, nearer the flood plain area. Mr. McAdams explained that a concern for the visual impact of the proposed apartments had resulted in the 14 lots proposed along Old Oxford Road rather than on the lower level of the site.

Mr. McAdams submitted the Statement of Justification and the Project Fact Sheet (please refer to files in the Planning Department).

Ms. Gina Cunningham, Chair of the Planning Board, stated that the Board tied a vote (4 to 4) re recommendation for this request. The Board expressed concerns for traffic impact, density, proposed recreation area in the flood plain, and development proposed in the flood-way fringe.

Ms. Jane Norton, speaking for the Community Appearance Commission, stated that concerns of the Commission were for adequate buffers, proposed density, and adequate site lines.

Mr. Taylor stated that the Manager's preliminary recommendation was to grant the request, subject to the proposed stipulations.

Mr. Paul Marion, a Markham Court resident, opposed the request. Concerns were:

- Traffic impact (traffic through area neighborhoods might be encouraged).
- Development in the floodway fringe (safety of residents, increased flooding downstream, wet area for recreation, and impact on current sewer service).
- Impact on property values (the 14 lots might be developed as rental units due to the close proximity to the proposed apartment complexes, the proposed tree buffer would be reduced as lots were developed).

Mr. Marion supported improvements to Old Oxford Road and stated that he felt that single family dwellings would be a more appropriate use of the land area.

Mr. John Thomas, a resident of Markham Drive, expressed the following concerns:

- Negative traffic impact on area roads (additional cars, insufficient parking provisions, traffic would increase 7 times in normal driving periods and would result in one car every 7 seconds on Old Oxford Road during peak driving

periods, affect on safety of pedestrians, an increase in access points on Old Oxford Road (from 8 to 24), and blocking of the fire station exit with the seventh vehicle from the light).

- Traffic counters did not include traffic from Eastwood Lake Road, the Church of the Reconciliation (which operates a nursery and day care center), Elliott Woods Apartments, or Northwestern Bank.

Mr. Thomas proposed (1) that traffic be reduced by lowering the density of the proposed development, (2) to reduce the number of access points, (3) maintain street frontage as undeveloped buffer, and (4) that Old Oxford Road be improved to Elliott Road.

Mr. William Turnier, a resident of 1909 Rolling Road, felt that traffic back-up would encourage traffic through neighborhood roads. He felt that restrictions imposed on the prior developer should also be imposed on the current developer.

Ms. Terry Blaurock, a resident of 2110 Markham Drive, expressed concern for flooding and density. She requested more reasonable density and greater control of flooding.

Mr. Henry Edmiston, questioned how the "proposed Oxford Hills [could] maintain or promote the public health, safety, and general welfare with this density of housing." He stated that the total acreage (19.75 acres for 233 units) included 6.8 acres of land in the floodway or floodway fringe, nor did it include the 15-25% reduction for easements and rights-of-way. Mr. Edmiston compared the proposed density on the given acreage to property owned by each of the Councilmembers and Mayor Nassif, and asked if such density would promote public health, safety, and general welfare.

Mr. Charles Paddock, a resident of 1627 Old Oxford Road, expressed concern for noise and traffic and for preserving the greenway. He felt that the proposed density was "clearly excessive and damaging to the quality of life and property values in our neighborhood."

He requested that the Council "require that the proposed residential lots along Old Oxford Road not be sold or developed, but that they be conserved as a true green belt...." He also requested that "construction equipment not cut through the green belt except at the designated access road locations during the apartment construction, and that that restriction be made a stipulation of the Special Use Permit."

Ms. Bobbie Lubker, a resident of #1 Tadley Drive, stated that she supported the earlier recommendation of the Lake Forest Association Board of Directors when the Kennedy proposal was considered by the Board of Aldermen: "The Chairman is authorized to present to the Board of Aldermen the position of the Lake Forest Association that the project should not be allowed as it is presently proposed." (February 28, 1978)

She added that she spoke for her neighbors on Milton Avenue who were against the proposed development as presented. She stated that "the members of the existing communities and those who would rent and build according to Mr. Goforth's high density proposal would be grievously wronged by the dangerous living conditions into which they would be thrust."

Dr. Thelma Harms, Secretary of the Lake Forest Association Board of Directors, stated that the 1983 Board position was unanimous opposition to the building of the Old Oxford Hills development, as proposed, for reasons previously addressed at this meeting.

Mr. Maurice Whittinghill, a resident of Chapel Hill, stated that the documents addressing bus service for the area were not correct: (1) the "L" bus route had been discontinued; and (2) the distance from the nearest bus stop to the nearest driveway was approximately 2,200 feet instead of 1,700 feet quoted.

Mr. Whittinghill also stated that projected peak traffic (473 vehicles per hour) was "very near the upper end of the estimated capacity (300-500) for that road."

Mr. Wilbur L. Morse, a resident of 2023 Markham Drive, opposed the proposed development. He felt that there would be loss of property values, excessive noise, traffic hazards, and a general lowering of the quality of life available to adjacent residents.

Mr. William Graves, a resident of Markham Court, expressed concern for run-off of the proposed development. He referenced eight prior proposals to develop this and surrounding areas, stating that both the Crowell-Little and Foxcroft II proposals were denied because "this neighborhood had paid its price."

He also felt that the development would contribute to flooding downstream, more buffer was needed, and that density should be limited. He expressed concern for the displacement of animals through development.

Mr. Lightning Brown, a citizen, stated that he had studied the proposal carefully and supported the project. He stated that many citizens realized the need for additional rental units, but expressed opposition when it was proposed near their homes.

He felt that the area was well-stipulated for pedestrian/renters who would use the transportation system and would need access to activity centers and to the greenway system.

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER BOULTON, TO REFER THE MATTER TO THE PLANNING BOARD.

Councilmember Howes stated that the developer should not hurry the response to the questions raised during this meeting. Mr. Taylor stated that the request must be brought back to the Council within 30 days unless an extension was granted. He requested additional time for full consideration.

MAYOR NASSIF STATED THAT THE MOTION WOULD INCLUDE THAT THE STAFF AND THE PLANNING BOARD WOULD NOT BE REQUIRED TO ADHERE TO THE 30-DAY REVIEW.

Councilmember Pasquini addressed a point of order, that it would not be mandated that the developer refer his proposal back to the Planning Board.

Mr. Grainger Barrett informed the Council that the ordinance stated that "if the Manager did not make a recommendation to the Council within a certain period of time fixed from the date of the application, or from the Planning Board's review, that the failure to make a recommendation within that time period would be deemed to be a recommendation without conditions unless the Council took the action of the current motion." He added that the extent of the changes in the current proposal would determine whether or not a second public hearing would be required.

THE MOTION CARRIED UNANIMOUSLY.

Cameron Condominiums--Request for a Planned Development-Housing Special Use Permit

Persons speaking on this issue were sworn.

Mr. Jennings explained that the request was to construct 18 dwelling units on 2.2 acres of land, zoned R-3. The property was located on the south side of Cameron Avenue between Ransom Street and Merritt Mill Road. Six of the units would be single-family attached units, and 12 would be two-story units.

Three of the surrounding properties were zoned R-3 with the fourth being zoned Industrial. One driveway would provide access onto Cameron Avenue. At the staff's request, the applicant had revised his plans to show a 50-foot setback for the landscaped island in order to provide sufficient maneuvering space for cars. Since then, however, it had been demonstrated that a 42-foot setback from the curb line would save significant tress and still allow adequate maneuvering room for cars. Because of this information, the Planning Board adjusted its recommendation.

The proposal met all ordinance requirements for livability and recreation space, met high density requirements, would provide additional housing within walking distance of the Town Center and UNC, and would add to the diversity of housing types available in the western subcommunity.

Mr. Watts Hill, Jr., speaking for Cameron Associates, entered the Statement of Justification (please refer to files in the Planning Department).

Ms. Gina Cunningham, Chair of the Planning Board, stated that the Board concurred unanimously with staff recommendation to approve the request.

Ms. Jane Norton, speaking for the Community Appearance Commission, stated that the Commission unanimously approved the project. Chair, Jon Condoret, had requested that she state that he "commended Mr. Hill on the design and site planning of the project, noting that he would like to see more of this kind of scale of infill housing proposals in Town."

Mr. Taylor stated that the Manager's recommendation was to grant the Special Use Permit to the stipulations in proposed resolution "b," calling for the 42-foot entrance setback.

Mr. Kurt Jenne, a citizen of Chapel Hill, stated that this proposal met all of the four findings required. He praised the design of the entire project, and supported the request, urging Council's approval.

Mr. Michael Crowell favored this development, stating that this plan had been well done.

Ms. Helen Urquhart, a resident of 426 West Cameron Avenue, addressed concerns:

- Insufficient parking in the area for employees and residents due to restrictive hours for bike lanes and student use of parking spaces.
- Traffic impact on McCauley Street, Ransom Street, Cameron Avenue, and Pittsboro Street.
- Uninforced speed limits.
- Cyclists not using caution when operating bikes.
- Noise resulting from late night parties; the parties also caused traffic problems.
- The University's long-range plans for development of other properties in the area.
- Vehicles entering the Chapel Hill Day Care Center on West Cameron Avenue during peak traffic periods.

Ms. Urquhart submitted a petition signed by the parents of children attending the Chapel Hill Day Care Center and the Center's staff (please refer to files in the Clerk's Office).

Mr. Robert E. Giles, a resident of Raleigh, stated that he and his mother were joint owners of the property at 413 Cameron Avenue.

He felt that the proposed development would increase the density of the current property by more than 600%. Traffic safety would be impaired. The gradual increase in density in this older neighborhood would affect the value of single-dwelling properties. He felt that this property could be adequately developed under an R-3 zoning designation and still provide desirable housing. In addition, a Special Use Permit would not be required for R-3.

Mr. Giles asserted that "Chapel Hill could save a lot of hard wear and tear if you would just repeal this Special Use business...zone your property, and abide by your zoning unless you get a good case to change zoning." He suggested that "the Special Use Permit...be repealed, retroactive to June 1, 1983...."

Councilmember Smith requested that the concerns expressed by Ms. Urquhart re noise, careless cyclists, and parking problems on Cameron Avenue be considered by the Manager.

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

OWASA--Request for a Public Service Facility Special Use Permit

Citizens speaking on this issue were sworn.

Mr. Jennings described the request to allow construction of an elevated .5 million gallon water storage tank on 29.1 acres of land zoned Residential-1. Mr. Jennings stated that the property was located on the west side of Piney Mountain Road between Highland Drive and Piney Mountain Road and identified as Chapel Hill Township Tax Map 24, Lot 30.

Mr. Jennings explained that the height of the storage tank could exceed regulations as long as its height did not exceed the distance to the nearest property line. The tank was proposed to be 450 feet from the nearest property line and 123 feet high. The tank would not impair solar access of properties to the north.

The tank would allow an increase in water supply and pressure to the area north of Chapel Hill. This was needed to support the increased development in this area, and to provide adequate pressure for fire flow.

Mr. Robert Epting, representing OWASA, entered the Statement of Justification into the record (please refer to the files in the Planning Department). Benefits of the project would be an increase in stored water and water pressure. Many homes in the area currently required booster pumps to provide adequate water pressure in the area. Currently, water pressure was inadequate for sprinkler systems needed for fire protection for commercial development in the area.

Little removal of vegetation would be required for the installation of the tank. The site was heavily forested. A 20-25 foot wide path would be cleared to maintain a 15-inch pipeline. Visual impact would be minimal. There would be no increase in traffic to the service area. The project complied with all requirements and regulations of the ordinance.

Mr. Billingsley responded to Councilmember Howes that the fluted column tank would be considerably less expensive. It was not thought at the time that painting or lighting of the tank would be required for visibility to aircraft.

Balloons had been used to determine the visual impact of the tank.

Mr. Wayne Lunden, an OWASA engineer, demonstrated the proposed visibility zones with drawings that depicted a person standing at various points on Piney Mountain Road and Stateside Drive; there were only a few areas in which the proposed tank could be seen from the open areas. The balloons could barely be seen from the Municipal Building with binoculars.

Councilmember Kawalec asked if there had been any discussion with the Parks and Recreation Commission re the use of a portion of this land for recreation purposes. Mr. Billingsley responded affirmatively. Councilmember Kawalec requested that the Council be kept informed of the progress of these discussions.

Mr. Jennings informed Councilmember Smith that the distance from the proposed storage tank to the nearest home on Piney Mountain Road ("as the crow flies") was approximately 800 feet.

Ms. Cunningham, Chair of the Planning Board, stated that the Board unanimously recommended approval of the request, with the stipulation that trees be maintained to provide adequate buffer.

Ms. Jane Norton, representing the Community Appearance Commission, stated that the Commission unanimously recommended approval, concurring with the stipulations proposed by the Planning Board for adequate buffers.

Mr. Taylor stated that the Manager's preliminary recommendation was that the Council grant the request.

Ms. Barbara Schliebe, a resident of Stateside Drive, requested minimal clearing of trees to maintain adequate buffers.

Mr. Billingsley explained to Councilmember Smith that the overflow tank would have two protective warning devices to prevent overflow. The tank was designed to be structurally sound. Any accidental overflow would go into a ravine and nearby stream.

Councilmember Kawalec did not feel that any area should be cleared for recreation until it was decided whose interest it would serve. Clearing of any trees should be carefully considered.

Councilmember Broadfoot was assured that the water in the tank would not freeze, as it was moving water.

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

The Highlands--Request for a Planned Development-Housing Special Use Permit

Persons speaking on this issue were sworn.

Mr. Jennings stated that the State did not have a 60-foot right-of-way on Erwin Road. The applicant agreed to widen Erwin Road along his property's frontage to one-half of a 41-foot wide cross-section and to provide a Chapel Hill gravel sidewalk.

A proposed public street through this property would provide access to the east. The proposed street would be 33-feet wide and stubbed out to the adjacent property line. A temporary turn-around would be provided, as required by ordinance. A sidewalk would be provided on one side of the proposed street.

Staff recommended that separation be provided between the dam on the property and the road to prevent damage to the road.

Water and sewer lines would cross properties fronting on Erwin Road. Staff recommended that buffer be provided along the Duke Power property.

Mr. John McAdams, representing the applicant, submitted the Statement of Justification (please refer to files in the Planning Department).

Ms. Cunningham, Chair of the Planning Board, stated that the Board voted 6 to 1 in favor of the request.

Ms. Jane Norton, representing the Community Appearance Commission, stated that the Commission recommended approval of the request. Concerns had been for buffers along the front of the property, and for setback distances.

Mr. Taylor stated that the Manager's preliminary recommendation was for approval of the request as outlined in resolution "a."

Councilmember Smith was informed that the property was not within the corporate limits of the Town of Chapel Hill.

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

Mr. Jennings responded to Councilmember Smith that any concerns had been resolved. The general feeling was that it was better to allow development and require the developers to improve roads than to have no developments with no improvements. Councilmember Smith questioned why the State was not asked to make road improvements instead of making these requirements of the developer. Mr. Jennings responded that requests were made annually to the State, but other requests took priority. The best way to get roads improved was to show an effort on the part of the Town and developers and hope that the State might come in to complete what had been started. Councilmember Smith felt that if the Town continued to do this, the State would never do anything in Chapel Hill.

Councilmember Pasquini questioned why the property was zoned R-4 (high density) even though it was sparsely developed. Mr. Jennings explained that high density residential zoning had been recommended along major thoroughfares where there was excess land for this density.

VOTE ON THE MOTION TO REFER THE MATTER TO THE MANAGER CARRIED UNANIMOUSLY.

Councilmember Kawalec felt that it might be better to make the Development Ordinance comply with the Comprehensive Plan rather than the other way around. Mr. Jennings concurred.

Drive-In Window for a Laundry at the Timberlyne Shopping Center--Special Use Request

Persons wishing to speak on this matter were sworn.

Mr. Jennings outlined the request for a drive-in window for a laundry at Timberlyne Shopping Center. The property was zoned Community Commercial and was on the south side of Weaver Dairy Road east of its intersection with N.C. 86 and was identified as Chapel Hill Township Tax Map 24, part of Lot 28.

The proposed drive-in window would be separated from other traffic lanes by a grassed median, with adequate landscaping and buffers. The proposed drive-in window met all conditions and standards of the Development Ordinance.

Mr. James E. Evans, representing the applicant, submitted the Statement of Justification (please refer to the files in the Planning Department).

Ms. Cunningham, Chair of the Planning Board, stated that the Board voted 6 to 1 to approve the request.

Ms. Jane Norton, speaking for the Community Appearance Commission, stated that the Commission recommended approval of the request.

Mr. Taylor stated that the Manager's recommendation was to approve the resolution with the proposed stipulations.

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

Coventry Property--Request to Rezone 7 Acres

Mr. Jennings stated that the request was to reclassify 7 acres of land from Residential-3 (medium density) to Residential-5 (high density residential). The property was identified as Chapel Hill Township Tax Map 25, Lot 2A. The property was currently being developed as Coventry, a Planned Development-Housing. The Carol Woods property to the east was zoned R-5, property to the north, west and south were in the County's jurisdiction, zoned low-density residential.

Staff did not feel that the first criteria for a Zoning Atlas amendment could be met: the R-3 designated zoning did not represent a manifest error, since that zone designation had been given to accommodate the owner's plans for the property at that time. Staff also did not feel that changes in area conditions were sufficient to justify an amendment as the area's development was considered at the time of the R-3 zoning designation. It was felt, however, that the third criteria could be met, that the area, being designated high density residential under the Land Use Plan, and located within $\frac{1}{2}$ mile from an activity center was suited for a change to R-5 classification as requested. The meeting of only one criteria was sufficient to amend the Zoning Atlas.

Mr. Don Higgs, the applicant, entered the Statement of Justification (please refer to files in the Planning Department).

Mr. Higgs explained that the original request was to develop 55 units. Construction had slowed considerably since the original approval. Now that development had resumed, the number of units was reduced to 44. It was not yet known if an R-4 zoning designation would be adequate. An R-4 request, however, would require another project review; an R-5 request would not.

Mr. Jennings explained that R-4 would allow the number of units needed, but the request for an R-5 zone change would prevent the developer from having to come back before the Council.

Councilmember Boulton questioned if a mistake had been made in the original zoning classification. Mr. Jennings felt that at the time the zoning designation was determined, it appeared correct.

Councilmember Howes felt that rezoning to R-5 might lead to similar requests for similar high levels of development.

Ms. Cunningham, Chair of the Planning Board, stated that the Board recommended approval.

Mr. Taylor stated that the Manager's recommendation was to approve the request to rezone to R-5.

Mr. Charles Pullium, owner of the property across the street, expressed concern for the high density development in the area. He stated that he did not feel that R-5 zoning was consistent with the development of the area. He felt that the area was developed more as R-3. Carol Woods had been designated R-5 because of the need to construct health care facilities and social halls (which allowed more square footage). The living units by themselves would have been classified R-3.

He stated that his concern was not for the number of developments, but that if the property were sold, it could conceivably be developed as "93 units with a high-rise on the back end of the property." He felt that R-4 might be a good compromise between what would be a more favorable growth density and what would still allow the developer what he needed.

Mr. Dave Christiansen, a citizen, concurred with Mr. Pullium's comments.

Mr. Higgs stated that 25 of the proposed 44 units had been sold and that only one small area--less than one acre--had not been offered for sale. The idea that he could sell anything for high density development was out of the question at this time. He stated that he was "committed by contract to use the land in a certain way."

Mr. Jennings explained to Councilmember Kawalec that it would take $3\frac{1}{2}$ months to go through the modification of a Special Use Permit process. This could be hastened by calling a special public hearing.

Mr. Barrett explained to Councilmember Broadfoot that a protest could have been submitted at any time up to three business days before the public hearing. No protests were filed.

Mr. Pullium stated that he had received notices of the public meetings re the request to rezone, but he was not aware that there was a process by which he could submit a protest. Councilmember Broadfoot stated that the Comprehensive Plan made it clear that citizens should be informed as fully as possible re Town business. Mr. Jennings asserted that information re all meetings had been properly advertised and that property owners had been properly notified. Any additional information was provided upon request.

Mayor Nassif stated that the process for notification of meetings had always been the same and that the information provided had improved over the years. There was no attempt to deny anyone any part of the process. Usually people questioned what process should be followed if they wished to protest. At that time, the process was explained. No document was sent out explaining the protest process.

Mr. Pullium stated that he did not know about the 3-day restriction on the protest process. He stated that he represented 50% of the area property owners, a percentage which he felt constituted a strong petition, if it were allowed to be heard at this meeting. He felt that he had been well-informed re the meetings.

Mr. Barrett explained that Mr. Pullium's concerns had been heard by the Council and would be considered. Councilmember Kawalec suggested that it might be helpful if the Planning Department could assist residents in knowing the protest process. Mayor Nassif stated that notification of public meetings could refer citizens to the General Statute re the protest process. Councilmember Kawalec felt that it might be sufficient to inform citizens that if a protest petition were submitted, a $\frac{3}{4}$ vote of the Council would be required to grant the request.

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

Maddry Property--Petition to Annex 23.7 Acres and Request for R-5 and R-1 Zoning of the Property

Mayor Nassif turned the meeting over to Mayor Pro-tem Boulton at 12:38 A.M. and excused himself from the remainder of the meeting.

Mr. Jennings outlined the request to annex approximately 23.7 acres of land east of N.C. 86 and south of Weaver Dairy Road. This property was not in the Town's corporate limits nor within its planning jurisdiction.

Staff recommended that the property be annexed, as it was contiguous to the corporate limits on two sides and on part of a third side. Municipal services could be easily extended to the property, if annexed.

Mr. Jennings stated that the applicant also requested R-1 zoning (low density residential) zoning for a 50-foot wide portion of the property (next to the Timberlyne subdivision) and an R-5 zoning (high density residential) for the remaining 22 acres.

Currently, the only access to the property would be by an extension of Butternut Drive in the Timberlyne low density subdivision. No dual access was proposed. Because of this access limitation, staff did not feel that R-5 zoning was appropriate and recommended a zoning to R-4 and R-1. The R-1 section would be used as a buffer; it was currently wooded.

Mr. Joseph "Skip" Moore, representing the applicant, stated that the Maddry's wished to see the highest and best use of the property. If this zoning request was not granted, he felt that the owners "would have to consider other options."

Mr. Barrett explained that the first official act was to annex property. Zoning was subsequent, within 60 days. Mr. Moore could consider withdrawing the request to annex prior to Council's consideration.

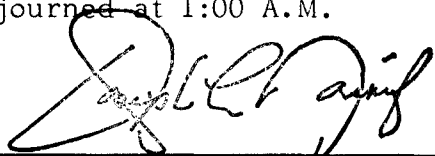
Ms. Cunningham, Chair of the Planning Board, stated that the Board unanimously recommended annexation. The Board recommended zoning of R-4 and R-1.

Mr. Taylor stated that the Manager's recommendation was to annex the property and to zone the property R-4 and R-1.

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER BROADFOOT, TO REFER THE MATTER OF ANNEXATION TO THE MANAGER. THE MOTION CARRIED UNANIMOUSLY.

COUNCILMEMBER BROADFOOT MOVED, SECONDED BY COUNCILMEMBER STRALEY, TO REFER THE MATTER OF REZONING OF THE PROPERTY TO THE MANAGER. THE MOTION CARRIED UNANIMOUSLY.

As there were no other issues to be heard at the public hearing, the meeting was adjourned at 1:00 A.M.



Joseph L. Nassif, Mayor



David B. Roberts, Clerk