

MINUTES OF A REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE  
TOWN OF CHAPEL HILL, MUNICIPAL BUILDING  
MONDAY, OCTOBER 10, 1983, 7:30 P.M.

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

Marilyn Boulton  
Winston Broadfoot  
Jonathan Howes  
Beverly Kawalec  
David Pasquini  
R. D. Smith  
James Wallace

Councilmember Joseph Straley was absent, excused. Also present were Acting Town Manager, Ron Secrist, and Town Attorney, Grainger Barrett.

Presentation of Certificates of Appointment

Mayor Nassif presented the following Certificates of Appointment and expressed appreciation to these persons for their service to the Town of Chapel Hill:

--Lawrence Lanset, Transportation Board  
--Bill Rohe, Planning Board

Petitions

Since one Councilmember was absent, Mayor Nassif explained that petitions could only be received; no action could be taken by the Council.

Mr. Gary Buck requested permission to speak on Agenda Item #8 (re increase of acreage requirements for Planned Developments). The Council granted the request.

Mayor Nassif stated that no discussion from citizens would be permitted on items re Special Use, as a public hearing had been held previously.

Minutes (September 19 and 20, 1983)

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER WALLACE, ADOPTION OF THE MINUTES OF SEPTEMBER 19, 1983, AS CORRECTED. THE MOTION CARRIED UNANIMOUSLY.

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER KAWALEC, ADOPTION OF THE SEPTEMBER 20, 1983, COUNCIL MINUTES, AS CORRECTED. THE MOTION CARRIED UNANIMOUSLY.

Resolution Denying a Request for a Planned Development-Housing Special Use Permit for Oxford Hills

In the absence of Councilmember Straley, COUNCILMEMBER PASQUINI MOVED, SECONDED BY COUNCILMEMBER BOULTON, TO TABLE THIS MATTER UNTIL OCTOBER 24, 1983.

THE MOTION TIED WITH A VOTE OF 4 TO 4: SUPPORTING WERE COUNCILMEMBERS BOULTON, HOWES, PASQUINI, AND KAWALEC. OPPOSING WERE COUNCILMEMBERS WALLACE, BROADFOOT, SMITH, AND MAYOR NASSIF.

COUNCILMEMBER BOULTON MOVED ADOPTION OF RESOLUTION 83-R-149b (to deny) WITH THE CHANGE IN THE NUMBER OF DWELLING UNITS FROM 110 TO 150 (in the R-4 portion of the proposal only).

COUNCILMEMBER PASQUINI SECONDED THE MOTION.

Councilmember Boulton stated that 150 units would be 50% of the allowable density of this area. She also did not feel that a downzone would make a significant improvement in this area.

Mr. Jennings stated that an R-2 zone of this area would allow 94 dwelling units at 100 sq.ft. He responded to Councilmember Boulton that this could also mean twice as many units at half the size.

Mr. Barrett responded to Councilmember Boulton that if a proposal were developed under the density of a designated zone, it could become non-conforming if the site were downzoned. A modification could be requested, under the present regulations, to increase the floor area (should this request be approved).

Councilmember Smith questioned why the wording of the proposal was to deny the request, and then allow the applicant 60 days to bring a proposal back to the Manager. The Comprehensive Plan designated this area as low-density residential, and R-4 was not low-density residential. He felt that the error seemed to be in the incorrect zoning of the area. To permit an R-4 development in this area would destroy the 70% (low density)/30% (high density) designation of this area.

Councilmember Howes questioned if the wording of the second "BE IT FURTHER RESOLVED" implied obligation of the Council to approve a future request from the applicant. Mr. Barrett did not feel that it would. Councilmember Howes stated that "it goes about as far as you can go towards doing that because it invites such a proposal, it specifies a number, it seems to suggest...the possibility of favorable treatment." Mr. Barrett explained that issues of access, traffic circulation, site arrangement, buffers, municipal services, square footage, etc., would be subject to approval. He explained that if the last phrase were omitted, the applicant could apply after one year, with the same options available. The total effect of this section would be to free the applicant from the one-year requirement.

Mayor Nassif stated that the Council did not just consider issues of access, and number of units, and square footage, etc., but also considered the appropriateness of the buildings for the site. He did not feel that the proposed buildings were appropriately designed for this site. He also felt that to propose 150 dwelling units would, in essence, say that that number would fit the site within the proposed framework. He asserted that it would not. The proposal needed to be revamped. There had been ample opportunity to do so, but that had not been done; now was the time for the Council to approve or disapprove.

Mr. Barrett responded to Councilmember Broadfoot that the last paragraph indicated that any other application would require the approval process to begin again, to meet the four findings.

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER BROADFOOT, TO AMEND THE MOTION TO DELETE THE LAST "BE IT FURTHER RESOLVED" PARAGRAPH FROM THE PROPOSED RESOLUTION.

Councilmember Kawalec felt a better approach would be to approve a specific number of square footage than to specify a number of units. She felt this would be a good compromise to avoid prolonging the process.

Councilmember Wallace felt that this request was not a low-density request--the area had been identified as low-density in the Comprehensive Plan. He concurred with Councilmember Howes re the deletion of this paragraph. He felt the inclusion of the paragraph could set a precedent for other requests, and that such a compromise did not leave the Council in as strong a position as they should be to reject any future proposals. He supported clarifying the proposed resolution. The way to do that would be to adopt this amendment and make it clear that the Council would consider the rezoning of this area to R-2. This would not limit the developer from submitting a future request. He felt that the Council should reject the application on the basis that all four findings could not be made.

Mayor Nassif stated that if this amendment to the motion passed, and the area were not rezoned, the applicant would be required to wait the full year before requesting a Special Use Permit. Mr. Barrett responded to Councilmember Broadfoot that this requirement could be waived by the Council.

VOTE ON THE MOTION TO AMEND THE MAIN MOTION CARRIED 7 TO 1 WITH COUNCILMEMBERS WALLACE, PASQUINI, BROADFOOT, BOULTON, HOWES, SMITH, AND MAYOR NASSIF SUPPORTING, AND COUNCILMEMBER KAWALEC OPPOSING.

VOTE ON THE MAIN MOTION TO ADOPT THE FOLLOWING RESOLUTION, AS AMENDED, CARRIED 7 TO 1 WITH COUNCILMEMBERS WALLACE, PASQUINI, BROADFOOT, BOULTON, HOWES, SMITH, AND MAYOR NASSIF SUPPORTING, AND COUNCILMEMBER KAWALEC OPPOSING:

A RESOLUTION DENYING A REQUEST FOR A PLANNED DEVELOPMENT-HOUSING SPECIAL USE PERMIT FOR OXFORD HILLS (83-R-149b)

WHEREAS, Goforth Properties, Inc., has applied to the Town of Chapel Hill for a Planned Development-Housing for Tax Map 27, Block A, Lot 3A, comprising some 27 acres between Old Oxford Road and the WCHL property, to be called Oxford Hills; and

WHEREAS, some 180 apartment units and some 18 subdivided lots are proposed for this tract; and

WHEREAS, a Planned Development-Housing requires a Special Use Permit approved by the Town Council; and

WHEREAS, the intent of the Town's Special Use regulations include ensuring protection of the public health, safety and welfare, and providing environments of stable character compatible with surrounding areas; and

WHEREAS, the Council may not approve a Special Use unless the applicant satisfies the burden of persuading Council that the proposed development meets the four findings set forth in Section 8.3 of the Development Ordinance; and

WHEREAS, the record before the Council in this matter contains material, competent and substantial evidence both in support of and opposition to granting of the Special Use application; and

WHEREAS, Old Oxford Road is presently a narrow, winding street only some 1,330 feet long on the west side of Booker Creek; and

WHEREAS, this development will at least double traffic on Old Oxford Road in one increment, and even possibly increase it by 170% according to one expert's experience, and such an increase would immediately bring this low-traffic record to the lower part of its 3,000 - 6,000 range for full capacity as estimated by the Town Engineer; and

WHEREAS, this traffic would create congestion on Old Oxford Road and on Elliott Road and intensify that road's function from that of a minor street to that of a significant collector; and

WHEREAS, the improvements proposed for Old Oxford Road will not significantly improve traffic flow at its intersection with Elliott Road, where 80% to 90% of the traffic will be turning left; and

WHEREAS, traffic from this development will cause traffic hazard to pedestrians and bicyclists on Elliott Road, especially children riding or walking to or from school; and

WHEREAS, traffic from this development will increase the traffic entering the Franklin Street - Elliott Road intersection up to 70%, substantially increasing traffic congestion and increasing the risk of traffic accidents, especially for left turns onto Franklin Street in the peak evening traffic hours; and

WHEREAS, this traffic increase will substantially increase the chances that cars backed up on Elliott Road and the Franklin Street intersection will block the fire station driveway during a public safety or health emergency; and

WHEREAS, the site drops some 50 feet in elevation from Old Oxford Road back to Booker Creek and the plan proposed for Oxford Hills has deficiencies with respect to cutting and grading of terrain, erosion potential, impact of storm drainage, and other matters related to development of this intensity on this terrain bordering on Booker Creek; and

WHEREAS, this application has made Council aware that lack of adoption of Flood Hazard Overlay district for the Zoning Map proposed in 1981 inadvertently left an underlying zoning district that allows an intensity of development that may be inappropriate for this site and for others; and

WHEREAS, the Land Use Plan designates the Oxford Hills tract as low-density residential; and

WHEREAS, the Land Use Plan suggests as a guide that 70% of a subcommunity's population should live in low-density housing, and 30% in high density housing; and

WHEREAS, approval of this application in disregard of the Land Use Plan would make achievement of that ratio more difficult; and

WHEREAS, the Council deems that the matters set forth above are not speculative, vague or merely sentimental, but are based on competent, material, and substantial evidence in the record; and

WHEREAS, the Council recognizes that the evidence in the record is in dispute and reasonable minds could arrive at different conclusions about this application;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that, with respect to the Special Use Permit application for Oxford Hills submitted by Goforth Properties and received by the Town on September 1, 1983, the Council fails to make the following findings set forth in Section 8.3 of the Development Ordinance:

1. That the proposed development will be located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare, because:
  - a. Traffic from this development will create traffic congestion at the intersection of Elliott and Old Oxford Roads, especially during peak travel hours; and
  - b. Traffic from this development will exacerbate traffic congestion on Elliott Road between Old Oxford Road and Franklin Street, will exacerbate delays in making left turns to Franklin Street, and will add 50% or more traffic entering the intersection on Elliott, especially during the peak travel hours; and
  - c. Traffic from this development will create traffic safety concerns and increase sharply the risk of traffic accidents on Elliott Road between Old Oxford Road and Franklin Street, will conflict with traffic exiting the Arbors Office Park, and will substantially raise the chances that the fire station driveway will be blocked during a public safety or health emergency, impeding the response of fire or rescue vehicles; and
  - d. Traffic from this development will increase traffic safety concerns for pedestrians and bicyclists, particularly children going to or from school, on Elliott from Old Oxford to Audubon, Clayton or Curtis Roads.
2. That the proposed development will comply with all required regulations and standards of the Development Ordinance, including all applicable provisions of Articles 4, 5, and 6, and the applicable specific standards contained in Section 8.7 and 8.8, and will all other applicable regulations, because:
  - a. Traffic from this development will not comply with Sections 8.8.1.1 and 6.5 of the Development Ordinance; and
  - b. This site plan will require extensive grading and cutting, and will increase the chance of significant erosion near Booker Creek and of flooding downstream. The cutting and grading necessary, the storm drainage measures, the asphalt required for parking, along with the 50-foot drop in slope from the road to the creek, at the proposed intensity of development, do not suit or enhance this specific tract under the Standards in Section 8.8.1.3.
4. That the proposed development will conform with the general plans for the physical development of the Town as embodied in the Development Ordinance and in the Comprehensive Plan, because:
  - a. The Land Use Plan designates this tract as appropriate for low density residential development; and
  - b. The R-4 zoning of this tract, without adoption of the Flood Hazard Overlay District, was an inadvertent but manifest error in the zoning map that did not come to Council's attention until the application was submitted; and
  - c. Approval of the application would make more difficult in the future, as development occurs in this subcommunity which has seen much development of multi-family housing built or proposed in the vicinity of Old Oxford Road, achievement of the Land Use Plan's desired ratio in

each subcommunity of having 30% of the population in high-density housing and 70% in low-density housing; and for this reason does not conform to the General Plan for the Town's development as embodied in the Comprehensive Plan.

This the 10th day of October, 1983.

Resolution Approving the Site Plan for Kensington Trace Condominiums

Mr. Jennings, Planning Director, stated that a concern raised during the public hearing was the effect this proposed development would have on the density ratio of this area. The ratio was currently 69% low density and 31% high density. This proposal, combined with Coventry and The Shire would result in a 5% low density and 48% high density ratio.

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER HOWES, ADOPTION OF RESOLUTION 83-R-150.

Mr. Bill Morris, Town Engineer, did not feel that there was a need for concern over the transition from two lanes to more lanes on Weaver Dairy Road, as the transitions would be gradual. Councilmember Smith felt that the Council should request improvements to the entire road through the NC Department of Transportation (NCDOT). Chapel Hill needed help in absorbing increased traffic resulting from industrial expansion in the Research Triangle Park. Mr. Morris stated that the staff had made requests for road improvements to the NCDOT.

Councilmember Boulton questioned if the Council could consider annexing the intersection of N.C. 86 and Weaver Dairy Road in order to improve the intersection, or if Orange County could give Chapel Hill planning area jurisdiction for expansion. Mr. Jennings responded that the request to Orange County would be legitimate. Annexation of this area, however, was not currently being considered.

Mr. Morris responded to Councilmember Smith that the State required documentation of need before initiating improvements. He stated that the State had recently requested to know the opening date of the shopping center in that area in order to plan re-evaluation of traffic generations in that area.

Councilmember Broadfoot felt that the factors the Council considered when reviewing a Site Plan should be listed in the Development Ordinance. Mr. Barrett responded that Article 17 of the Town Code outlined enforcement provisions for non-compliance. A Site Plan review could also outline conditions that would constitute a violation.

Mr. Jennings responded to Councilmember Howes that Duke Power lines would be directly over the parking area. Councilmember Howes felt the issue of a parking lot under power lines could be addressed in the Design Manual.

VOTE ON THE MOTION TO ADOPT THE FOLLOWING RESOLUTION CARRIED 6 TO 2 WITH COUNCILMEMBERS BOULTON, BROADFOOT, KAWALEC, PASQUINI, SMITH, AND WALLACE SUPPORTING, AND COUNCILMEMBER HOWES AND MAYOR NASSIF OPPOSING:

A RESOLUTION APPROVING THE SITE PLAN FOR KENSINGTON TRACE CONDOMINIUMS (83-R-150)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council finds that the condominium development proposed by Benchmark/Atlantic on Chapel Hill Township Tax Map 17, part of Lot 41, if developed in accordance with (a) the site plan received by the Town on June 22, 1983, (b) the landscape plan received by the Town on July 12, 1983, and (c) the conditions listed below, would comply with all applicable provisions of the Development Ordinance:

1. That sight triangle easements be provided at the entrance to the development (6.5.4).
2. That the sidewalks adjacent to parking spaces be a minimum of six feet wide or that wheel stops be provided for these spaces to prevent bumpers of parked cars overhanging the walkway (6.6.5e).
3. That a 5-foot-wide bufferyard be provided along the entire northern property line; that a 10-foot-wide bufferyard be provided along the western property line; that a 15-foot-wide bufferyard be provided along the portions of the development's eastern and northern property lines adjacent to the Duke Power Substation (6.12).

4. That the detailed architectural elevations, landscape plan and lighting plan be submitted to the Appearance Commission for a courtesy review prior to issuance of a Zoning Compliance Permit. That a detailed landscape and shading plan be approved by the Town Manager showing compliance with the ordinance requirements for landscaping, shading, screening and buffering, and the provisions of Condition 5 regarding retention of significant planting.
5. That as much significant planting as possible be retained and that such planting to be retained be shown on the landscape plan. Existing planting shall be protected during construction by appropriate fencing or barriers. Such protection measures shall be shown on the landscape plan and shall be installed before issuance of a Grading Permit or Building Permit.
6. That Duke Power confirm the uses and landscape materials proposed within the power line easements are permitted by Duke's easement and its regulations related to such easements prior to issuance of a Zoning Compliance Permit.
7. That the number, location and installation of fire hydrants be approved by the Town Manager. That a report demonstrating that the water system is capable of providing a minimum fire flow of 2,500 gallons per minute with a residual pressure of 20 psi be approved by the Town Manager prior to issuance of a building permit. That, prior to issuance of a Certificate of Occupancy, the results of actual flow tests of the new hydrants at the site shall be submitted to the Town Manager. These tests must show an actual flow of at least 2,500 gpm with a residual pressure of 20 psi before a Certificate of Occupancy may be issued.
8. That prior to issuance of a Zoning Compliance Permit, the applicant document that he has a permanent easement from Duke Power Company for his emergency supplemental access.
9. That construction plans for the improvements to Weaver Dairy Road be approved by the Town Manager and NCDOT and that the improvements be completed prior to issuance of a Certificate of Occupancy.
10. That striping for opposing left-turn lanes with 100 feet of storage and 150-foot tapers be provided on Weaver Dairy Road at the entrance to the development.
11. That the 16-inch water main be extended along the property's frontage with Weaver Dairy Road.
12. That the development be served with conventional gravity sewer and that utility easements be provided to adjacent properties where necessary for future service.
13. That plans for water and sewer utilities be approved by the Town Manager and OWASA prior to issuance of a Zoning Compliance Permit.
14. That easement documents as approved by OWASA be recorded for utility easements prior to issuance of a Zoning Compliance Permit.
15. That a plat dedicating all easements and street rights-of-way including any off-site easements or rights-of-way necessary to serve the development be approved by the Town Manager and recorded prior to issuance of a Zoning Compliance Permit.
16. 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.
17. That plans showing the location and detailed design of dumpster pads and screening be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
18. That a storm drainage plan with hydrologic calculations be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
19. That a phasing plan be approved by the Town Manager prior to issuance of a Zoning Compliance Permit and that the improvements for each phase be completed before a Building Permit is issued for the next phase.

20. That the detailed plans as required above may be submitted by phase.

BE IT FURTHER RESOLVED that the Council of the Town of Chapel Hill hereby approves the site plan for Kensington Trace received by the Town June 22, 1983, subject to the above conditions.

This the 10th day of October, 1983.

Resolution Granting a Modification of the Special Use Permit for Coventry Town-  
houses

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER SMITH, TO APPROVE THE FOLLOWING RESOLUTION:

A RESOLUTION GRANTING A MODIFICATION TO THE SPECIAL USE PERMIT FOR COVENTRY TOWNHOUSES (83-R-151)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Special Use Permit granted to Don Higgs by Orange County on July 8, 1981, for Coventry Townhouses (formerly Gatewood Condominiums) on Chapel Hill Township Tax Map 25, Lot 2A is hereby modified to a Planned Development-Housing Special Use Permit to allow construction of 43 dwelling units with a total floor area of 67,580 square feet subject to the following:

1. That wheel stops be provided where parking spaces abut sidewalks or that 6-foot-wide sidewalks be provided adjacent to these spaces.
2. That a shading plan be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
3. That a lighting plan be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
4. That a 5-foot bufferyard be provided along the north property line.
5. That a fire hydrant be provided in the center median. Plans for the location and installation of the hydrant shall be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
6. That plans for water and sewer utilities be approved by the Town Manager and OWASA prior to issuance of a Zoning Compliance Permit.
7. That easement documents as approved by OWASA be recorded for utility easements prior to issuance of a Zoning Compliance Permit.
8. That a plat dedicating all easements and street rights-of-way including any off-site easements or rights-of-way necessary to serve the development be approved by the Town Manager and recorded prior to issuance of a Zoning Compliance Permit.
9. 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.
10. That plans showing the location and detailed design of dumpster pads and screening be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
11. That a storm drainage plan with hydrologic calculations be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
12. That detailed plans for providing benches and picnic areas along the nature trail be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
13. That the detailed plans as required above may be submitted by phase.
14. That construction begin by October 31, 1985, and be completed by October 31, 1988.
15. That except as modified herein, all other special terms, conditions and stipulations heretofore made applicable to the Special Use Permit be continued in effect.

BE IT FURTHER RESOLVED that the Council finds that, if developed in accordance with the plans submitted July 20, 1983, and as modified by all stipulations and conditions, this project:

- a) Will be located, designed, and proposed to be operated so as to maintain or promote the public health, safety and general welfare;
- b) Will comply with all required regulations and standards of the Development Ordinance, including all applicable provisions of Articles 4, 5 and 6, and the applicable specific standards contained in Sections 8.7 and 8.8, and with all other applicable regulations;
- c) Will be located, designed and proposed to be operated so as to maintain or enhance the value of contiguous property; and
- d) Will conform with the general plans for the physical development of the Town as embodied in the Development Ordinance and in the Comprehensive Plan.

This the 10th day of October, 1983.

THE MOTION CARRIED UNANIMOUSLY.

#### Resolution Denying a Special Use Permit for Shop Quick Convenience Center

Mr. Jennings stated that the time calculated for site distances at the intersection of U.S. 15-501 and the property in question was  $3\frac{1}{2}$ -5 seconds, due to the obstruction caused by the business on the adjacent property. A stipulation had been proposed that this area be cleared to increase the time.

Staff recommendation was to deny the request because of non-compliance with ordinance requirements.

COUNCILMEMBER BROADFOOT MOVED, SECONDED BY COUNCILMEMBER HOWES, ADOPTION OF RESOLUTION 83-R-152a, TO DENY THE REQUEST.

Councilmember Smith expressed concern for inequity in implementing the ordinance's requirements for distances between service stations in Chapel Hill. He stated that he knew only of one service station in the Chapel Hill planning area that complied with the ordinance's requirement; all others were non-conforming. Non-conformance would affect the ability to rebuild; therefore, this requirement of the ordinance should be deleted, as it was unrealistic.

COUNCILMEMBER SMITH MOVED A SUBSTITUTE MOTION TO CALL A PUBLIC HEARING TO CONSIDER DELETION OF THE REQUIREMENT IN THE DEVELOPMENT ORDINANCE THAT SERVICE STATIONS NOT BE LOCATED WITHIN 300 FEET OF ANY INTERSECTION OR 750 FEET OF THE ZONING LOT IN ORDER TO BRING ALL SERVICE STATIONS INTO COMPLIANCE. COUNCILMEMBER WALLACE SECONDED THE SUBSTITUTE MOTION.

VOTE ON THE SUBSTITUTE MOTION FAILED 2 TO 6 WITH COUNCILMEMBERS SMITH AND WALLACE SUPPORTING, AND COUNCILMEMBERS KAWALEC, PASQUINI, BROADFOOT, BOULTON, HOWES, AND MAYOR NASSIF OPPOSING.

Councilmember Smith asserted that this did not solve the problem of non-conforming gas stations. He felt this problem should be handled now. Councilmember Howes concurred with Councilmember Smith. He favored a public hearing to consider amending the Development Ordinance. He supported the current motion to deny the request, and would support a second motion to call a public hearing to consider amending the Development Ordinance.

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER SMITH, TO TABLE CONSIDERATION OF THIS ITEM.

THE MOTION FAILED 2 TO 6 WITH COUNCILMEMBERS WALLACE AND SMITH SUPPORTING, AND COUNCILMEMBERS KAWALEC, PASQUINI, BROADFOOT, BOULTON, HOWES, AND MAYOR NASSIF OPPOSING.

VOTE ON THE MAIN MOTION (to adopt the following resolution) CARRIED 6 TO 2 WITH COUNCILMEMBERS KAWALEC, PASQUINI, BROADFOOT, BOULTON, HOWES, AND MAYOR NASSIF SUPPORTING, AND COUNCILMEMBERS SMITH, AND WALLACE OPPOSING:



A RESOLUTION DENYING A SPECIAL USE PERMIT FOR SHOP QUICK CONVENIENCE CENTER (83-R-152a)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby fails to find:

That the development complies with all required regulations and standards of the Development Ordinance because it does not meet the standards contained in Section 8.7.15(4).

BE IT FURTHER RESOLVED that the Council hereby denies the Special Use Permit requested for said development.

This the 10th day of October, 1983.

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER SMITH, TO CALL A PUBLIC HEARING AT THE EARLIEST POSSIBLE TIME TO CONSIDER THE EXISTING DISTANCES BETWEEN SERVICE STATIONS, WITH A VIEW TOWARD THEIR POSSIBLE CHANGE--HIGHER, LOWER, ELIMINATION, OR NO CHANGE.

Councilmember Kawalec stated that she opposed the motion, as she felt that the Council should make a preliminary proposal for the public to respond to, rather than to ask the public to respond to the whole question. She also felt there were other ways to deal with non-conformity other than making them conform, and allowing mistakes to exist. She felt that to have a public hearing at this point was a short-sighted approach to a difficult problem and was premature.

Councilmember Pasquini concurred. COUNCILMEMBER PASQUINI MOVED A SUBSTITUTE MOTION TO REFER THIS CONCERN TO THE MANAGER FOR A REPORT BACK TO THE COUNCIL FOR A DECISION RE ANY NECESSITY FOR A PUBLIC HEARING. THE MOTION WAS SECONDED BY COUNCILMEMBER HOWES.

VOTE ON THE SUBSTITUTE MOTION CARRIED 7 TO 1 WITH COUNCILMEMBERS KAWALEC, BROADFOOT, PASQUINI, HOWES, BOULTON, WALLACE, AND MAYOR NASSIF SUPPORTING, AND COUNCILMEMBER SMITH OPPOSING.

VOTE TO MAKE THE SUBSTITUTE MOTION THE MAIN MOTION CARRIED 7 TO 1 WITH COUNCILMEMBERS KAWALEC, BROADFOOT, PASQUINI, HOWES, BOULTON, WALLACE, AND MAYOR NASSIF SUPPORTING, AND COUNCILMEMBER SMITH OPPOSING.

#### Proposal to Increase Acreage Requirements for Planned Developments in the Chapel Hill Development Ordinance

Councilmember Broadfoot stated that he felt that the main issue was to increase the acreage requirements. He felt 25 acres would be a reasonable limit.

COUNCILMEMBER BROADFOOT MOVED, SECONDED BY COUNCILMEMBER WALLACE, THAT THE MANAGER PREPARE A STAFF REPORT TO THE COUNCIL THAT A PUBLIC HEARING BE SCHEDULED FOR THE CONSIDERATION OF THIS MATTER.

Mr. Gary Buck, a citizen, questioned whether there could have been so many flaws in the ordinance that took four years to compile. On behalf of the Homebuilders Association of Chapel Hill and Durham, he recommended denial of this proposal until there was a long-term solution to the water crisis, challenging the Council to take a more active role in resolving the water controversy and then to proceed diligently to work out the zoning density problems.

Councilmember Boulton asked if the other questions of the Council could be incorporated into the report: (1) a maximum and a norm for density; (2) addressing non-conformities.

Councilmember Howes stated that the question of maximum square footage limits in existing established neighborhoods be considered.

VOTE ON THE MOTION CARRIED 7 TO 1 WITH COUNCILMEMBERS BOULTON, BROADFOOT, HOWES, KAWALEC, PASQUINI, SMITH, AND WALLACE SUPPORTING, AND MAYOR NASSIF OPPOSING.

Auditor's Report on 1982-83 Financial Statement

Mayor Nassif distributed the Report to the Council, stating that a presentation would be made to the Council on October 24, 1983.

Designation of Voting Delegate for Annual Meeting of the North Carolina League of Municipalities

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER BOULTON, THAT COUNCILMEMBER HOWES BE DESIGNATED AS THE VOTING DELEGATE FOR THE ANNUAL MEETING OF THE NORTH CAROLINA LEAGUE OF MUNICIPALITIES, AND THAT COUNCILMEMBER BROADFOOT BE DESIGNATED AS THE ALTERNATE VOTING DELEGATE. THE MOTION CARRIED UNANIMOUSLY.

Deferred Compensation Plan

Mr. Secrist stated that this resolution would incorporate changes in the Deferred Compensation Plan that were required by the Internal Revenue Service and by the Security Exchange Commission.

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

A RESOLUTION OF THE TOWN COUNCIL OF CHAPEL HILL ADOPTING CHANGES TO THE ICMA DEFERRED COMPENSATION PLAN (83-R-153)

WHEREAS, the Town of Chapel Hill maintains a deferred compensation plan for its employees which is administered by the ICMA Retirement Corporation (the "Administrator"); and

WHEREAS, the Administrator has recommended changes in the plan document to comply with recent federal legislation and Internal Revenue Service Regulations governing said plans; and

WHEREAS, the Internal Revenue Service has issued a private letter ruling approving said plan document as complying with Section 457 of the Internal Revenue Code; and

WHEREAS, other public employers have joined together to establish the ICMA Retirement Trust for the purpose of representing the interests of the participating employers with respect to the collective investment of funds held under their deferred compensation plans; and

WHEREAS, said Trust is a salutary development which further advances the quality of administration for plans administered by the ICMA Retirement Corporation:

NOW, THEREFORE, BE IT RESOLVED that the Council of the Town of Chapel Hill hereby adopts the deferred compensation plan, attached hereto as Appendix A, as an amendment and restatement of its present deferred compensation plan administered by the ICMA Retirement Corporation, which shall continue to act as Administrator of said plan; and

BE IT FURTHER RESOLVED that the Council hereby authorizes the Town Manager to sign the ICMA Retirement Trust, attached hereto as Appendix B; and

BE IT FURTHER RESOLVED that the Town hereby adopts the trust agreement with the ICMA Retirement Corporation, as appears as Appendix C hereto, as an amendment and restatement of its existing trust agreement with the ICMA Retirement Corporation, and directs the ICMA Retirement Corporation, as Trustee, to invest all funds held under the deferred compensation plan through the ICMA Retirement Trust as soon as is practicable; and

BE IT FURTHER RESOLVED that the Town Manager shall be the coordinator for this program and shall receive necessary reports, notices, etc. from the ICMA Retirement Corporation as Administrator, and shall cast, on behalf of the Town, any required votes under the program.

This the 10th day of October, 1983.

THE MOTION CARRIED UNANIMOUSLY.

Resolution Authorizing the Execution of an Amendment to the Lease Between the Town of Chapel Hill and Orange County

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

A RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO THE LEASE BETWEEN THE TOWN OF CHAPEL HILL AND ORANGE COUNTY (83-R-154)

WHEREAS, the Town of Chapel Hill leases space at 100 W. Rosemary Street to the County of Orange, pursuant to a lease dated as of August 6, 1982, (the "Lease") and certain amendments thereto;

BE IT HEREBY RESOLVED, that the Town Council approves, and authorizes the Mayor to execute on behalf of the Town, an amendment to the Lease, for part or all of the second floor; except that rent for 800 square feet of the building, shall not be charged until after September 30, 1984, as long as it is used by the Community Restitution Project pursuant to Agreement between the County and said Project.

This the 10th day of October, 1983.

THE MOTION CARRIED UNANIMOUSLY.

Resolution Authorizing an Extension of the Period for Submittal of the Town Manager's Report on Certain Proposed Amendments to the Development Ordinance

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER HOWES, ADOPTION OF THE FOLLOWING RESOLUTION:

A RESOLUTION AUTHORIZING AN EXTENSION OF THE PERIOD FOR SUBMITTAL OF THE TOWN MANAGER'S REPORT ON CERTAIN PROPOSED AMENDMENTS TO THE DEVELOPMENT ORDINANCE (83-R-155)

BE IT RESOLVED by the Town of Chapel Hill that the Council hereby extends the period in which the Manager must submit a report, in accord with Section 19.3.6 of the Development Ordinance, on the following proposed amendments which were the subject of a public hearing on September 27, 1983, as follows:

- to increase buffer area requirements (Amendment of Section 6.12): extension to January 23, 1984;
- to exclude adjacent right-of-way and open space (the concept of gross land area) in computing floor area and other intensity limits and standards for a development site (Amendment of Section 5.6 re gross land area): extension to December 12, 1983;
- to reduce maximum floor areas permitted in Residential-1 and Residential-5 zones: extension to December 12, 1983;
- to limit the density of residential units to 15 per acre: extension to December 12, 1983;
- to prohibit transfer of allowable floor area to a portion of Planned Development site in a less intense zone: extension to December 12, 1983;
- to prohibit duplexes in Residential-1 zones: extension to December 12, 1983;
- to hold hearings on applications for Special Use Permits and Development Ordinance amendments each month except June, July, August and December: extension to December 12, 1983.

This the 10th day of October, 1983.

Councilmember Broadfoot opposed the motion. He felt these concerns should be addressed by the Council before consideration of other proposals.

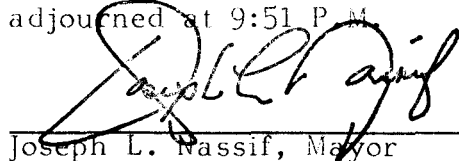
Mr. Jennings informed Councilmember Broadfoot that none of these concerns had yet been reviewed by the Planning Board and the Board had several full agendas scheduled. Staff was required by the Development Ordinance to meet a specific time frame. The proposed resolution would allow the Planning Board members two meetings in which to review these concerns, rather than one meeting.

Councilmember Broadfoot felt there should be a limit on the number of proposals the Planning Board and staff could handle at a given time. He stated that he would support the motion, but felt that the schedule should be adjusted.

Councilmember Boulton also expressed concern for the proposed delays, as the election would bring new Councilmember(s) that could slow down Council action.

VOTE ON THE MOTION CARRIED UNANIMOUSLY.

As there was no further business to come before the Council, the meeting was adjourned at 9:51 P.M.



Joseph L. Nassif, Mayor



David B. Roberts, Clerk