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MINUTES OF A PUBLIC HEARING OF THE MAYOR AND COUNCIL
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,
MONDAY, JANUARY 16, 1984, 7:30 P.M.

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

Winston Broadfoot
Jonathan Howes
Beverly Kawalec
David Pasquini
Nancy Preston
R. D. Smith
Bill Thorpe

Councilmember Marilyn Boulton was absent, excused. Also present were Town Manager, David R. Taylor; Assistant Town Managers, Sonna Loewenthal and Ron Secrist; and Town Attorney, Grainger Barrett.

Colony Lake--Request for a Planned Development-Housing Special Use Permit for 351 Condominium Units

The Deputy Town Clerk swore citizens wishing to speak re this item before the Council.

Mr. Taylor requested that the following documents be entered into the record of this meeting (please refer to the Clerk's files):

- Agenda #1, January 16, 1984, "Colony Lake--Request for Planned Development-Housing Special Use Permit"
- Applicant's Project Fact Sheet
- Applicant's Statement of Justification
- Applicant's Traffic Impact Report

Mr. Mike Jennings, Planning Director, stated that the Council's memorandum was based on the site plan that had been reviewed by the Planning Board. The applicant was now submitting a revised plan which the Planning Board had not had the opportunity to review. The revised plan included newly purchased land to the north of the proposed development which allowed the extension of Standish Drive to Old Durham Road. Mr. Jennings stated that his remarks would address the revised plan.

The request was for 351 dwelling units on 69.8 acres of gross land area, zoned R-2. The newly acquired property was 1.8 acres, zoned R-3 and R-4.

The applicant proposed off-site improvements to make Old Durham Road a through road with a stop sign located on Scarlette Drive. This would improve traffic flow at the intersection and eliminate cut-through traffic via Cooper Street. Staff recommended completion of these improvements prior to issuance of a Certificate of Occupancy in Phase II.

Access was proposed via a loop road, Standish Drive, between Legion Road and Old Durham Road. Left-turn lanes for traffic onto and off of Standish Drive from both Legion Road and Old Durham Road were recommended. Staff recommended immediate dedication of the Standish Drive right-of-way and a performance guarantee that Standish Drive be looped to Old Durham Road within 2 years of the completion of 89 units in order to provide dual access to the project. Internal access was felt to be adequate. Staff, however, recommended that all private roads be built to a 27 foot width with curb and gutter to provide better maintenance. The applicant had proposed that internal roads be of varying widths with no curb and gutter in order to preserve the rural atmosphere. Internal sidewalks, pedestrian trails, and 2 bus stops were also proposed.

Gravity sewer was proposed for one portion of the development, and a pump station would serve the northeast corner. Staff recommended that (1) fire hydrant lines be 8" in diameter (instead of the proposed 6"); (2) hydrant lines be looped to Fountain Ridge; (3) utility easements be provided to Forsythe and University Heights subdivisions; (4) utility lines be stubbed out to property lines within these easements; and (5) a fire flow report be submitted, showing that a minimum flow of 2500 gallons of water per minute could be achieved prior to issuance of a Zoning Compliance Permit, with an actual test prior to issuance of the certificate.

A lake was proposed with a dam designed to meet standards of the Department of Natural Resources and Community Development. The DNRCD would inspect the dam during construction and after completion. Two small detention basins (southwest and northeast corners) would be used for dry-weather softball. Staff recommended that these fields be designed to remain dry in a 10-year frequency storm.

Staff felt that the site plan currently lacked sufficient detail to determine compliance with all standards of Article 6, but felt that these standards could be met. Approval of a preliminary landscape plan would be required prior to issuance of a Zoning Compliance Permit. A 3-acre park adjacent to University Heights would be deeded to the Town. Open space, livability space, and recreation space requirements were exceeded. Buffers were felt to be adequate. Surrounding development was low-density residential. Staff felt that the proposed development complied with the Land Use Plan.

Mr. John McAdams, representing Carolina Communities, stated that the proposal was for low-density development in an R-2 zone. The applicant proposed duplexes near the adjacent University Heights development in order to more nearly match the single-family character of that development. A park was proposed near Cooper Street. Extensive buffering was proposed to maintain the rural atmosphere of the area.

Mr. McAdams stated that storm water retention requirements of the Development Ordinance would be exceeded because of the proposed storm water retention basins, a diversion ditch, and the size of the proposed lake.

The purchase of the additional property to the north would afford direct access to Old Durham Road. Proposed off-site improvements to Old Durham Road and Scarlette Drive would eliminate cut-through traffic on Cooper Street.

Mr. McAdams requested that the revised Statement of Justification, the revised Project Fact Sheet, and the revised Traffic Impact Analysis be entered into the records (please refer to the Clerk's files). The revised Traffic Impact Analysis reflected the proposed 351 units, but did not reflect the proposed Standish Drive. Kimley-Horne and Associates, traffic analysts, felt that current roads would continue to operate at a high level of service with this development.

The applicant proposed "turned-down" sidewalks (to simulate curbs) on some roads, but no edge for other roads, in an attempt to retain the rural atmosphere. The applicant felt that curb and gutter would tend to increase run-off, that no curb and gutter was adequate, and that proposed road widths were adequate. Mr. Ken Coulter, site designer for Coulter Associates, explained to Mayor Nassif that varied road widths were proposed to meet the needs of the individual areas.

Mr. McAdams stated that revisions had been made as a response to concerns expressed by citizens at previous Planning Board meetings. He requested that the matter be referred back to the Planning Board for consideration of the revisions.

Mr. McAdams responded to Councilmember Howes that the Homeowners' Association would be responsible for maintaining the lake and common open space. He clarified for Councilmember Howes that the state's technical classification of "small dam, high hazard" indicated that the dam was small (in height). "High hazard" indicated that there were occupied dwellings downstream. Because of this classification, design standards would be quite high and designed to remove risk. The lake would also have aesthetic appeal.

Councilmember Smith expressed concern for the protection of property surrounding the lake and for the safety of young children playing near the lake. Mr. McAdams explained that recreation areas were proposed away from the lake area.

Mr. Gordon Brown, a Chapel Hill attorney, stated that the northern property had been acquired to provide a more satisfactory second access. He requested that the memorandum (re compatibility of the proposed development to the Comprehensive Plan) be entered into the records (please refer to the Clerk's files). There were generous buffers, the closest development being at a point on the northern edge of the proposed development near the Brunson/Swanson property. Mr. Brown stated that there was no development or pre-existing activity adjacent to this part of the development and submitted that the proposed development would have no adverse affect on adjacent properties.

Mr. Brown stated that homeowners would be required to have insurance coverage for the dam. The policy would require bi-annual inspection of the dam by the insurance underwriters.

Mr. Brown stated that the applicant would like to request that the stipulation for a sidewalk between the proposed development and Old Durham Road be deleted, as he felt that utilization would not be significant (due to the proposed location of a bus stop) and as he wished to maintain a rural atmosphere.

Mr. Roscoe Reeve, Chair of the Planning Board, stated that the Planning Board had not had the opportunity to review the revised proposal and had voted unanimously to recommend denial of the request based on the previous proposal. The Planning Board had previously been concerned about the safety of the dam, but maximum safety standards had been assured. Concerns were also expressed for traffic impact on surrounding communities. The Board welcomed the opportunity to respond to the revised proposal as it would have a considerable impact on the Board's recommendation.

The Planning Board did concur with staff recommendation for consistent road widths and for curb and gutter. Mr. Reeve stated that the applicant's request that the sidewalk from the project to Old Durham Road be deleted had not been reviewed by the Board. Mr. Reeve responded to Mayor Nassif that the Board would in the future consider proposed stipulations in its recommendations.

Mr. Taylor stated that the Manager's recommendation was that the Council grant the request for a Special Use Permit, subject to the proposed stipulations. He added that some of the stipulations would need to be reconsidered, in light of the revisions proposed at this meeting.

Ms. Anne Fleming, a resident of University Heights, stated that she represented the citizens listed in a letter submitted to the Chapel Hill Planning Board on November 27, 1983 (with the addition of James and Frances Williams of 108 Cooper Street, and Rick Lonon of [211] Cooper Street) and that current revisions proposed by the applicant had sufficiently addressed concerns re traffic impact.

Ms. Margot Wilkinson and Ms. Kathleen McBride, residents of University Heights, declined to speak.

Ms. Gwen Swanson stated that she and Ms. Bronson owned property directly adjacent to the northern edge of the proposed development, and operated Pine Knolls Stables, a riding school and boarding stable. Currently, she and Ms. Bronson also leased 28 acres of the proposed development site. If this development was approved, the operation of the stables would need to be changed. She requested that the Council give consideration to the close proximity of the proposed development to the existing, fully scheduled activity of riding classes on the Bronson property. She differed with the comments of Mr. Brown that there was no need for buffer because there was "no pre-existing activity" on this land. She and Ms. Bronson were pleased with the newly proposed location of Standish Drive, but requested that adequate buffer be required between the properties.

Mr. Ritchie Bell declined to speak.

Mr. Herman Shaw, a real estate appraiser with Hartsock and Shaw, Inc., of Raleigh who had been employed by the applicant, submitted a report that the proposed development would not adversely affect property values in the general area (please refer to the Clerk's files).

Mr. Marshall Spears, Jr., an interested citizen from Durham, expressed his support for the request for adequate buffers near the Bronson/Swanson property, and suggested that some of the proposed units be moved. He proposed a review of the northeast corner of the proposed development.

Mrs. Marshall Spears, Jr., read a letter to the Council stating that the community needed pasture land and programs offered by Pine Knolls Stables that addressed concerns for "youth, stress, lack of open space, wholesome recreation, and pleasure...and exceptional citizenship...far more than [it needed] a 351-unit housing development...." She urged the search for more agreeable options that would ensure the continuance of this teaching program.

Mr. Edmund Wise, a Chapel Hill citizen, stated that he seconded the request of previous speakers for additional buffers that would allow the continued existence of these stables and the invaluable services its owners offered the students and the community.

Mr. Thomas McCurdy, a resident of 1709 Fountain Ridge and spokesman for Colony Woods citizens, stated that the residents requested (1) that the open space buffer strip (on the southeast portion of the proposed subdivision) be dedicated to the Town; (2) that no lights be allowed on the proposed softball fields; (3) that the Town Engineer evaluate the proposed drainage plan and that it be designed to prevent flooding on adjacent and downstream properties for no less than a 100-year storm frequency; and (4) that citizens receive optimal protection from dam failure, including multiple inspections during and after construction.

Ms. Ron Conrad, a resident of 1921 Fountain Ridge, referenced a May 24, 1983, letter to Mr. Taylor from 300 citizens of Colony Woods expressing concerns for traffic impact, flooding, and the need for assurance from OWASA re the ability to provide sufficient water for expanding Chapel Hill communities. Mayor Nassif stated that the letter, with her signature, could be received--but not with the other signatures. Ms. Conrad stated that she wished to have a copy of this letter entered into the public record (please refer to the Clerk's files).

Ms. Kim Sullivan, a resident of Lassiter-Currie subdivision, expressed appreciation for the applicant's efforts to preserve the integrity of existing neighborhoods. She requested that the future homeowners' association of Colony Lake be required to maintain buffers in their natural state and requested that motorized vehicles not be allowed on pedestrian trails. Citizens also opposed the use of dedicated green areas for play or tennis.

Mr. Rob Sullivan declined to speak.

Mr. Henry Whitfield, a Chapel Hill citizen, requested that adequate sewer provisions be made for University Heights. He supported the proposed development.

Mr. Brown responded to Councilmember Thorpe that the completion date of 1991 would allow for varying circumstances and conditions in the development process of all six phases.

Mr. Brown responded to Councilmember Pasquini that the Standish Drive stub-out had originally been proposed on the Bronson property, but had since been moved east twice, and now was proposed at approximately 300 feet from the Bronson property line. He also stated that there were no plans for lights on the softball fields.

Mr. McAdams responded to Councilmember Pasquini that he felt that a secondary back-up dam would cause additional loss of trees and excessive cost, and was not necessary as there would be sufficient safety precautions in the construction of the dam.

Mr. Barrett responded to Councilmember Broadfoot that the condominium statute of the state of North Carolina provided homeowners' associations with the right to impose a lien on property for assessments and to collect assessments. He did not know if the Town could "step into the shoes of the homeowners' association to collect the assessment."

Councilmember Broadfoot expressed concern that homeowners' associations often did not have the ongoing interest or funds to meet requirements, resulting in a decline in the quality of neighborhoods.

Mr. Vick responded to Councilmember Broadfoot that the 6.1 trip generation ratio figure was for all trips generated for residential apartments and was a reasonable estimate. Councilmember Broadfoot requested that the following information be entered into the record: (from the 1976 report from the Department of Transportation used in the 1971-72 Kimley-Horn traffic survey) "The white, above-average housing condition trip generation was 8.5 and...by 1991 that figure would move to 13.5."

Mr. Jennings responded to Councilmember Broadfoot that the proposed development exceeded the number of parking spaces required in the Development Ordinance.

Councilmember Broadfoot stated that he would like to have the following information entered into the record: "Land Use Intensity ratio = 34; floor area ratio = 132; open space ratio = .78; livability space = .55; and recreation space = .029."

Mr. Jennings responded to Councilmember Broadfoot that the proposed addition of basements to some of the units had increased the floor area ratio from 390 sq.ft. to 409 sq.ft. Floor area ratio was determined by the amount of heated livable floor space, as defined in the Building Code.

Mr. Jennings also stated that the Town regularly advised the Carrboro/Chapel Hill School Board of proposed developments. He responded to a third question that he did not believe that traffic from other subdivisions would be a problem because of the proposed stub-out.

Mr. Jennings responded to Councilmember Preston that OWASA was aware of proposed developments in Chapel Hill. Councilmember Preston felt that the Council should have some form of recommendation from OWASA re proposed developments. Councilmember Kawalec stated that OWASA invited elected officials to specially scheduled meetings which reviewed their policies and plans. Mayor Nassif stated that the courts had awarded eminent domain to OWASA, and that OWASA had purchased a dam site. Solutions to water problems seemed to be nearing.

Councilmember Preston commended the developers for revising their plans to address citizens' concerns. She stated that she hoped that part of the motion would include that the Planning Board and Manager consider a further compromise to address concerns of the owners of Pine Knolls Stables.

Mr. Brown responded to Councilmember Smith that the restrictive covenants would include the requirement for and power to enforce the maintenance of common areas by the homeowners' association or by an individual property owner. He stated that he could work out requirements to maintain the quality of the development with the Town Attorney.

Councilmember Smith asserted to Mr. Vick of Kimley-Horn and Associates that he felt that the projection of 140 vehicles during morning peak hours for the area was low. Councilmember Smith also reasserted his concern for the safety of children in the vicinity near the proposed lake, and for the safety of riding students on the Bronson property.

Mayor Nassif requested that (1) information re the existing and final contours of the proposed development be provided to the Council; (2) dumpsters be placed in less visible locations; and (3) proposed sewer connections and easements be provided to the Council. Mayor Nassif stated that he approved of the approach of no curb and gutter, but would like to know what the design standards would be. He also felt that the proposed lake should be prohibited, as it was a potential danger to downstream developments. He asserted that the development could be just as nice without the lake by retaining the trees and pedestrian trails. He also felt that the design and construction of the dam should be assured.

Mr. Jennings responded to Mayor Nassif that Standish Drive would be completed before the onset of construction of Phase III.

Mayor Nassif expressed concern for residents who would live in Phase II during the construction of the lake and requested information re how the lake would be constructed. Mayor Nassif also felt that a mix of housing within the development would have been more desirable.

COUNCILMEMBER KAWALEC MOVED, SECONDED BY COUNCILMEMBER THORPE, THAT THE ITEM BE REFERRED TO THE MANAGER, PLANNING BOARD, AND TOWN ATTORNEY, WITH THE REQUEST THAT EVERY EFFORT BE MADE TO BRING THIS ITEM BACK BEFORE THE COUNCIL BY FEBRUARY 27, 1984. Councilmember Kawalec added that the Planning Board need not hear citizens' comments again, but that Mr. Reeve should convey these concerns to the Board, and in particular the concerns expressed re the close proximity of the proposed development to Pine Knolls Stables.

Mr. Taylor requested that the Parks and Recreation Commission also review this proposal and submit a recommendation to the Council.

COUNCILMEMBER KAWALEC AND COUNCILMEMBER THORPE AGREED TO MAKE THIS A PART OF THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Wachovia Branch Bank (Estes and Willow Drive)--Request for a Special Use Permit to add 1,290 sq.ft. of floor area

Citizens wishing to speak on this matter before the Council were sworn by the Deputy Town Clerk.

Mr. Taylor requested that the following items be entered into the records (please refer to the Clerk's files):

- Agenda #2, January 16, 1984, "Wachovia Bank, Request for Modification of Existing Drive-In Window Special Use Permit"
- Applicant's Project Fact Sheet
- Applicant's Statement of Justification
- Applicant's Traffic Impact Report

Mr. Jennings, Planning Director, stated that the property was located on the northwest corner of the intersection of Willow Drive and South Estes Drive and consisted of 1.12 acres of gross land area, zoned Community Commercial (Chapel Hill Tax Map 47, Lot 12D, Block A).

Wachovia Bank and Trust Co. requested to modify the existing Drive-In Window Special Use Permit to construct 1,290 sq.ft. of additional floor area. Three additions were proposed:

1. One addition would be located on the north side of the building. The additional floor area would replace the existing sidewalk and the existing parking area would be reduced for use by compact vehicles only. It was not felt that the deletion of the sidewalk would create problems. The existing entrance would be relocated on the east side of the property.
2. A second addition would be located next to the drive-in tellers.
3. A third addition (for a vault) would be located on the east side of the building (and would be partially located in the floodway).

Mr. Jennings stated that the additions would not alter the existing drives or driveway entrances. The majority of the additions was in the floodway fringe. The Town's Flood Damage Prevention Ordinance required that all construction in the floodway fringe be elevated one foot above the base flood elevation, or be flood-proofed. Staff recommended that the detailed plans for building elevations be approved by the Community Appearance Commission. It was felt that the proposed additions would not obstruct the flow of flood water, nor significantly increase the amount of debris, should a flood occur. The Board of Adjustment had granted a variance on January 4, 1984, for the construction of the addition that would be located in the floodway.

Staff recommended additional shade trees to more closely comply with requirements of the Development Ordinance. Staff recommended that the Council exempt Wachovia from the requirements to screen parking since the proposed additions did not increase its non-conformity. Staff did not feel that the proposed additions would negatively affect adjacent property values.

Mr. William O'Brien, Jr., applicant, stated that similar proposals had been successfully completed.

Mr. Roscoe Reeve, Chair of the Planning Board, stated that the Planning Board carefully considered traffic circulation, parking, and landscape plans, and was convinced that these concerns had been sufficiently addressed. The proposed construction within the floodway was not thought to be a problem.

No one spoke for the Community Appearance Commission.

Mr. Taylor stated that the Manager's Preliminary Recommendation was that the Council approve the request for a modification of the Special Use Permit, subject to the proposed stipulations.

In response to concerns expressed by Councilmember Smith, Mr. O'Brien stated that the bank currently conformed to ordinance requirements for handicapped parking spaces. The relocation of the entrance and Teller II would permit accessibility by handicapped. Councilmember Smith felt that the addition to the building might necessitate another handicapped parking space, making entrance to the building more accessible. Mr. O'Brien stated that he would consider this.

COUNCILMEMBER KAWALEC MOVED, SECONDED BY COUNCILMEMBER PRESTON, THAT THE MATTER BE REFERRED TO THE MANAGER AND TOWN ATTORNEY. THE MOTION CARRIED UNANIMOUSLY.

Proposed Amendment to Section 18.39 of the Development Ordinance (re definition of duplexes to require that duplex units be attached)

Mr. Jennings stated that the current Development Ordinance did not require that two-family dwelling units be attached (as there had been no distinction between accessory apartments and duplexes). There were many detached accessory apartments in town and there did not appear to be any valid reason to prohibit detached duplexes.

In September 1983, the Council received a petition from the Elkin Hills residents re concern for a second detached unit proposed for a lot in their neighborhood. Residents had expressed concern for the visual impact and loss of privacy in adjacent rear yards of these modest sized lots due to the removal of vegetation.

In December 1983, the Council amended the Development Ordinance to designate two classes of two-family dwelling units: (1) accessory apartments, and (2) duplexes.

Staff felt that the proposed amendment would achieve the purposes of the Comprehensive Plan. It would affect only duplexes, not attached apartments. The proposed amendment would require standards for structural attachment.

Mr. Roscoe Reeve, Chair of the Planning Board, stated that the Board supported the proposed amendment which included standards whereby a structure would qualify as an attached unit.

Mr. Taylor stated that the Manager supported the proposed amendment to require that duplex units be attached.

Mr. Timothy Denny, representing the residents of Elkins Hills, expressed his appreciation for the efforts made by the Planning staff and Manager in offering the proposed amendment that would address their concerns re the detrimental affects of detached duplexes on existing stable neighborhoods.

Mr. Jennings explained to Councilmember Preston that an accessory building could be built provided the two units were attached according to proposed standards.

Mayor Nassif did not feel that the required surface area of "at least 100 sq.ft." was necessary, as the requirement could be avoided by designers.

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER PRESTON, TO REFER THE MATTER TO THE MANAGER AND TOWN ATTORNEY. THE MOTION CARRIED UNANIMOUSLY.

Proposed Amendment to Section 4.3, 4.6(d), and 18.31 of Development Ordinance (re day care centers for adults in all zoning districts)

Mr. Jennings stated that adult day care centers were non-existent when the Development Ordinance was adopted. Staff felt that adult day care centers would have less impact on areas than day care centers for children.

Mr. Roscoe Reeve, Chair of the Planning Board, stated that the Board unanimously recommended adoption of the proposed amendment. The Board had been assured that an adult day care center could not be expanded to a nursing home.

Mr. Taylor stated that the Manager's recommendation was to adopt the proposed amendment to the Development Ordinance to allow for adult day care centers.

Mr. George Taylor, Chair of the Chapel Hill Homeowners' Association, expressed concern re whether the desirable place for adult day care centers was in residential neighborhoods. He felt that permitted uses in residential neighborhoods were already quite diverse and that the Council should carefully consider whether such facilities might further encroach on residential neighborhoods. he suggested that it might be wise to require a Special Use Permit for a public service facility in residential zones, allowing residents a chance to express their views.

Ms. Betty Bradford, a Chapel Hill citizen, stated that she had requested the proposed amendment, because she felt that there were persons in Chapel Hill who needed adult day care centers. This would serve as an extension of the home and would offer assistance for relatives who needed to work, etc. She felt that child care centers would be more disruptive in residential areas than adult day care centers. Traffic would not be a problem, as vans would be used to transport persons to and from the center. Patients would be ambulatory and she anticipated that 12-16 persons would use a facility.

Councilmember Pasquini requested that the Manager bring direction to the Council re a limit on the number of persons would could be cared for.

Councilmember Broadfoot concurred with Councilmember Pasquini re the need for a limit of persons receiving care at a center. In response to Councilmember Broadfoot, Ms. Bradford stated that the State required staff support of 1:8 persons. She felt that 1:6 would be more ideal.

Mayor Nassif felt that a Special Use Permit for accessory use should be required for centers in residential areas.

Ms. Bradford assured Councilmember Smith that adult care centers were in no way meant to replace skilled nursing care facilities.

Councilmember Broadfoot requested information re State requirements for structural differences necessary for adult care facilities.

COUNCILMEMBER PRESTON MOVED, SECONDED BY COUNCILMEMBER PASQUINI, TO REFER THE MATTER TO THE MANAGER AND TOWN ATTORNEY. THE MOTION CARRIED UNANIMOUSLY.

Proposed Amendmet to Section 8.3 of the Development Ordinance (to amend the wording of the fourth finding necessary for approving a Special Use Permit request)

Mr. Jennings stated that the proposal was to modify the fourth finding of the Special Use Permit by returning to the original wording of the previous Zoning Ordinance. The words "in harmony with the area in which it is located" had been deleted from the previous Zoning Ordinance, as it was difficult to define what was harmonious and what was compatible. Staff felt that it was preferable that the fourth finding refer to conformity to the Town's plan for physical development and to the Comprehensive Plan.

Mr. Roscoe Reeve, Chair of the Planning Board, stated that the Planning Board felt that the intent of the current wording was to maintain a continuing relation to the Comprehensive Plan and reduce ambiguity. The Board supported the continued use of the existing words in the fourth finding.

Mr. Taylor stated that the Manager's recommendation was that the Council retain the wording of the present fourth finding.

Mr. George Taylor, Chair of the Chapel Hill Homeowners' Association, felt that the previous deletion of the phrase had been a loss of security to homeowners and their neighborhoods. He did not feel that "compatible" was the same as "harmonious." A homeowner wanted harmony of taste, of mood, and of quality of life. He stated that compatible was more elusive than harmonious. He felt that homeowners in Chapel Hill supported the restoration of the original phrase.

Mr. Barrett stated that from the legal standpoint it would be preferable for the Council to add findings that were more specific to problem areas. He felt there was a problem with the use of the word "harmony," as it was ambiguous. Approving a Special Use in a particular district was, in essence, saying that the use was in harmony because certain facts had been found.

Councilmember Broadfoot questioned if either the wording of the old Zoning Ordinance or the wording of the new Development Ordinance was adequate.

Mr. Barrett stated that North Carolina state laws were clear that if there was no uncertainty in the specific provisions, there was no room for the "intent" section to operate. He felt that the fourth finding could be strengthened by strengthening the under lying documents (Comprehensive Plan and Development Ordinance).

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER THORPE, TO REFER THE MATTER TO THE MANAGER AND TOWN ATTORNEY. THE MOTION CARRIED UNANIMOUSLY.

Proposed Amendment to Section 8.4.6 of the Development Ordinance (to amend applicant's burden of evidence for a Special Use application to require "persuasive" rather than "conclusive" evidence)

Mr. Grainger Barrett stated that the present Special Use standards required that an applicant demonstrate "conclusively" that all the findings could and should be made. This had been challenged in court, and he recommended that the word "conclusive" be changed to "persuasive"--the burden of persuasion being on the applicant.

Mr. Roscoe Reeve, Chair of the Planning Board, stated that the Board voted unanimously to support staff recommendation.

Mr. Taylor stated that the Manager's recommendation was to adopt the proposed amendment.

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER PASQUINI, TO REFER THE MATTER TO THE MANAGER AND TOWN ATTORNEY. THE MOTION CARRIED UNANIMOUSLY.

As there were no additional items to come before the Council, the meeting was adjourned at 11:07 P.M.



Joseph L. Nassif, Mayor

James M. Baker, Interim Town Clerk