

MINUTES OF A PUBLIC HEARING OF THE MAYOR AND COUNCIL
OF THE TOWN OF CHAPEL HILL,
MUNICIPAL BUILDING, MONDAY, JUNE 18, 1984, 7:30 P.M.

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

Marilyn Myers Boulton
Winston Broadfoot
Beverly Kawalec
David Pasquini
Nancy Preston
R. Dee Smith
Bill Thorpe

Council Member Jonathan Howes was absent-excused. Also present were Town Manager David R. Taylor, Assistant Town Managers Sonna Loewenthal and Ron Secrist, and Town Attorney Grainger Barrett.

Town Manager David R. Taylor announced that this series of hearings would be Mike Jennings' last as Planning Director of the Town of Chapel Hill. Mr. Taylor wished Mr. Jennings well in his endeavors. Mr. Taylor also announced that Mrs. Liz Rooks will be the Interim Planning Director after Mr. Jennings leaves.

Mr. Taylor introduced the new Town Engineer, Mr. George Small; and welcomed him as an employee. Mr. Taylor thanked Mr. Mike Neal for serving as Interim Town Engineer for the past six months.

Woodlyn Tower--Request for a Planned Development-Housing Special Use Permit for 206 Units for the Elderly

Citizens wishing to speak to Council about this proposal were sworn in by the Interim Deputy Town Clerk.

Town Manager Taylor requested that the following documents be entered into the record of this hearing: (Please refer to the clerk's files)

- Agenda #1, June 18, 1984, "Woodlyn Towers--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, described the request to Council as follows. The staff is concerned about the alignment of the driveway between Kingston Road and Westminster Drive, and the staff memorandum requests that the drive be made more circuitous. He said that the applicant has brought in a plan to this meeting which he proposes to handle the problem.

Westminster is designed as a collector road. The staff does not anticipate a traffic signal at its intersection with NC 86, but there are turn lanes being constructed as a part of the subdivision. The staff does anticipate needing a signal at the intersection of NC 86 and Weaver Dairy Road. The traffic impact of this proposal would be less than that of a different use of the same size building. The applicant's engineer has estimated that this use would add about 442 average daily trips onto Westminster, and about 238 onto Kingston.

The site plan includes vehicular access to four of the six sides of the building. The Fire Department finds this access acceptable, but placement of fire hydrants will need to be reviewed by the Town.

The application meets the dwelling unit cap as adopted by the Council; but the floor area in the proposal exceeds the floor area cap adopted last week by Council by 19,681 square feet. The staff is requesting a stipulation that the floor area be reduced to comply with Town requirements.

The ordinance allows a reduction for elderly parking in Section 6.6.7; but to allow this the Council must make two findings: sufficient assurance may exist that this project will always be used as a project for elderly; and that sufficient livability space exists on the property, so that if it were ever converted to a use other than elderly housing, there would be enough livability space once the parking requirements are met. The staff finds that there is enough livability space to provide for the parking, but has not received the assurances from the applicant as stipulated. The applicant must provide the adequate parking if assurances are not provided.

In the future the Council will be asked to make those two findings before allowing a reduction in parking.

The Parks & Recreation Commission has recommended shuffleboard courts and picnic facilities. Picnic facilities are shown on the plans; the applicant has no objection to the shuffleboard courts as recommended.

The proposal would have about 21% of its land area covered in impervious surface. The applicant proposes to retain existing vegetation on the site's periphery from 20 to 100 feet in depth from property lines. This proposal is a part of the Timberlyne activity center. High density is defined as appropriate in activity centers, and this subcommunity includes 81% low-density housing and 19% high-density. The applicant has provided sight-line drawings.

Robert Page, representing the developer and landowner, said that this is the next-to-last tract in the 200-acre Timberlyne project of 30 acres to be approved for development. The original Special Use Permit was for 180 condominiums. In 1981 the site was rezoned in accordance with the uses approved in the special use permits. The multifamily portion was zoned R-5. Mr. Page stated that he doesn't think this particular type of development will adversely affect any of the areas surrounding.

Mr. Page said that the recreational area will have to be reduced if they have to conform to the Development Ordinance text amendment as passed by Council June 11, 1984. When they filed for this project, there was more square footage allowable in the buildings, which allowed more land for recreation space.

Mr. Robyn Boscoe, architect for this project, explained that this project is for people at least 62 years of age. Travel distances must be kept to a minimum, centralizing the amenity packages. A large amenity package is provided which includes workshops, studios, and a library. He said the developer is concerned with environmental issues, and that they feel it better to maintain open space/green space landscaping than to provide buildings that are spread out, parking lots, etc. The actual population of this project is substantially lower than another community of 206 units would be, because there will be, at most, an average of 1.5 residents per unit. This causes less traffic to and from the site, and therefore a smaller amount of asphalt to accommodate the reduced number of automobiles.

Mr. Boscoe said the structure is 7 stories, with living units in the top six, and the kitchen, courtyard, and educational facilities on the ground floor. He said they had originally applied for a building that met the zoning criteria of 90 feet, but were told by the Planning staff that there is a concern in Chapel Hill about the height of buildings. They decided to put residential units on the ground level, in order to reduce the height, but a prime concern of the elderly is security, that these people are losing some mobility and are concerned about being on the ground level where intruders could enter through windows.

Mr. Boscoe explained the building elevations on the sight-line drawings, and said the trees are estimated conservatively at 45 feet tall. He said surrounding property owners will not be aware of the construction on this property. The developers have driven around the site to look at it from all vistas, and feel secure that the building will not be seen from the nearby streets, except for the ridge of a roof; and that the roofs are a traditional style to blend with the area. He said traffic circulation from Kingston Drive to Westminister Drive has been revised to improve circuituity.

Mr. Bruce Ballentine said the plan submitted at this meeting addresses the staff's concern of circuituity of the access drive. He said the primary access for this site is Westminster Drive, and the alternate is Kingston. The parking lots and the drives will be constructed to town standards and designed with curb and gutter. He said there is a system of interconnecting sidewalks between the parking lots and the entrances to the building, as well as to the recreation facilities. The utilities will be underground, and will be constructed to Town and OWASA standards, with water and sewer easements dedicated to OWASA on completion.

Mr. Ballentine said the water system will be looped between Kingston Drive and Westminster, providing a grid system, that there will be a series of fire hydrants around the building, the building will be fully sprinklered, a fire flow report will be submitted to the Town Manager for review, and a fire test will be conducted on the site prior to issuance of a Certificate of Occupancy. He said the site is located approximately $\frac{1}{2}$ mile from the Fire Station at intersection of NC 86 and Weaver Dairy Road.

Mr. Ballentine said a lighting plan will be submitted to the Town Manager, and the storm water management plan will be prepared in accordance with the Town's Design Manual. He said the drainage from this site will be to the north. There is a bus stop proposed for Westminster Drive, and bulk garbage containers are proposed on the site in accordance with Town standards.

Mr. Ballentine said the proposal is for a building 80 feet tall, which is in accordance with the Design Manual and Development Ordinance which allows a height of 90 feet. He said that by locating the density into one structure, they have preserved the existing wooded site. 21% of the site will be covered with an impervious surface. He said this building will be approximately the same height as the Blue-Cross and Blue-Shield, and will be screened from traffic in a similar manner.

Mr. Ballentine said this site is located within the Timberlyne activity center; and the Comprehensive Plan calls for multi-family developments to be located adjacent to activity centers. He said this project complies with the Comprehensive Plan by providing mixed residential units. The subcommunity is 81% low density; but this project would change that ratio to 72% low density.

He said the Comprehensive Plan recommends that multi-family residential developments be located on a street thoroughfare network to support the additional traffic, and that Westminster Drive and NC 86 provide an adequate network for this project. He said the site is not located in the Chapel Hill Floodway or fringe; and is not along the greenway.

Mr. Bill Horn, Principal at Kimley-Horn Associates, said that traffic generated by the proposed development is relatively minor. The Westminster and Kingston Drive access total in a peak hour would generate approximately 50 vehicles entering, and 30 vehicles leaving.

Roscoe Reeve spoke for the Planning Board. The Planning Board recommends approval of this project by majority vote. The single building would take up less space on the property, thus allowing use of surrounding property for natural and recreational areas, and would allow for unified accessibility.

This project qualifies under the second finding as the Town has approved the shopping center, an office development, and multi-family living for this site. The Planning Board feels the building is visible through the shopping center and this could detract from existing development.

He said the distribution of parking to provide recreation facilities of many difference choices, passive and active, and the support the project might give to activities for the retirement community, brings a positive recommendation from the Planning Board. One member voted against the project in the belief that the form and scale are not appropriate for the area.

David Pasquini asked how many members were at that Planning Board meeting, and how many voted for this project. Mr. Reeve said that 6 members were present; 5 voted in favor of the project and one voted against. Mr. Pasquini asked how many members are there on the Planning Board. Mr. Reeve said 9.

Jane Norton spoke for the Appearance Commission. The Appearance Commission did not make a recommendation on this project because at the time the proposal was presented to them, members did not feel they had enough information to effectively evaluate the elevations and the visual impact. These elevations were not available to the commission, and the applicant was not at the meeting, so the Commission could not have concerns addressed. The Commission has requested that the applicant submit elevations, which has been done, and members would like to see sight-line drawings from Weaver Dairy Road and Airport Road. The Commission would like to consider elevation drawings from a distance, and has requested a site plan showing existing topography, and vegetation. The Commission has asked for the proposed changes to evaluate the effectiveness of the buffer. Ms. Norton said the Commission also suggested that the applicant provide a model.

Mayor Nassif asked Ms. Norton what plans the Appearance Commission had to consider at their meeting. She said they had one site plan. Mayor Nassif asked if the Appearance Commission was supposed to have grading plans. Mike Jennings said that the applicant submitted the grading plans along with the application, and they should have been available to the Appearance Commission at their meeting.

Town Manager David Taylor said his preliminary recommendation is that Council approve this development request subject to the proposed stipulations.

Mr. Scott Wallace, an area resident, said that Timberlyne residents do not object to the intended use of the property for elderly housing, but that area residents purchased their homes with the understanding that the adjacent area would allow an office complex, an apartment complex, duplexes, and a shopping center. He said the residents have reservations that the building will be over 80 feet tall, and will be the most conspicuous structure in the area, among buildings of less than 3 stories, and will be built on the highest part of the area. He said residents feel this building is an eye-sore and a physical intrusion for most of Chapel Hill. The property owners are concerned about the property values of the houses close to the structure; most people would not buy a home next to a seven-storey building. He said they feel the building is too tall to be considered reasonable, architecturally incompatible with the existing nature and design of the area, and is out of character with the area and the Town of Chapel Hill in general. He said they feel the structure is just an unnecessary as it is unattractive and they feel no structure higher than currently-existing structures in the area should be permitted on the site in question.

Mr. Wallace said the residents are concerned about density. He said they ask the Council to consider all the units under construction in the same general area of Chapel Hill when considering this project. He said the most serious effects of this project will be additional traffic, that Weaver Dairy Road has not been improved to handle the rising volume of traffic, yet traffic is being added by development. He said residents feel the overflow and impatient traffic will travel Kingston Drive, through Cedar Hills, to Weaver Dairy Road to Carol Woods, where it will go through Lake Forest to East Franklin Street.

Mr. Wallace said there is still an unresolved water shortage problem, and that additional housing units will generate additional demand for a scarce community resource. The same is true for fire protection, sewer, waste treatment, and drainage; which services are barely adequate to meet the demands of current density.

Mr. Wallace requested that the Town improve the Town's capacities for these services before adding strains on the services. He asked the Town to consider the fire safety of a high-rise building occupied by elderly people, and asked if this project would necessitate the tax payers buying expensive equipment to serve this project.

He said the 160 units first proposed for this property is now in excess of 350 units within the small confines of the Timberlyne area. The density already exceeds that originally approved; however, as a community, residents are not objecting solely to the disregard for these plans and the original intention for the area. He said the residents are concerned with the community and the Town's physical capacity to adequately respond to the demands imposed by the population explosion of all the proposed projects in combination. Mr. Wallace asked that Town officials ensure that services are expanded at the same rapid pace as the growth, so that criteria such as death counts on the roads do not become a prerequisite for response to legitimate problems and needs.

Mr. Wallace said the residents of the Timberlyne community do not want a seven-story high-density building within 500 feet of their homes. He said they're concerned not only about this specific building proposal, but also about the future development direction that proposal represents. If constructed, Woodlyn Tower will certainly establish a precedent for future rapid high-rise construction throughout Chapel Hill.

Mr. David Clark said he decided to purchase a home in Timberlyne based on the presentation the developers made, which did not include Woodlyn Tower. He requested that the developers return to the plan of one-, two-, and three-story buildings in this community.

Mr. Dick Johnson said he is concerned about the drastic change in the appearance of Timberlyne within the past five years, including the removal of all the vegetation around the Shopping Center; and he is concerned about Kensington Trace, on which vegetation has been mostly cleared. He said that unless some sort of organized plan is used, the appearance in Timberlyne and other areas of Chapel Hill will continue to go down; and that it does not appear to be in the best interest to continue to approve developments which are so extensive and make such drastic changes in the area.

Mr. Peter Anderson said that he is a resident of Kingston Drive, and that he is concerned about the traffic in the area where there are many small children. He said that people will use Kingston Road as a convenient thru-way; that residents on Piney Mountain have already noticed an increase in traffic. He asked Council to consider the traffic increase that this project will cause.

Mr. Albert Ehle said he is concerned about the height and density of this project; and that he feels the impact of this structure, in terms of this area of town, is inappropriate.

Mr. George Taylor, Chairman of the Chapel Hill Homeowners Association, said that nearby residents deplore the building's height. He said the residents are concerned that they might be able to see the building from their neighborhood; and they are concerned that their homes might be observed from the top of the Tower. He said that Dr. Joseph Capowski has calculated that, at the current rate of approval, the projects authorized by the Council since March 1, 1983, plus those now pending, will add nearly 10,000 people to the population of Chapel Hill, an increase of 29%. He said these projects will be on line before any substantial addition to our water supply becomes available.

Mr. Taylor said that the Comprehensive Plan calls for legal controls to keep the facilities in the Town abreast of the new demand created by development, and that these controls have not been provided. The Development Ordinance also provides that no Special Use Permit shall be recommended by the Town Manager or Planning Board for approval, nor approved by the Council unless the Council finds that the development is located, designed, proposed to be operated so as to maintain or promote the public health, safety, and general welfare. He said that for Council to proceed to authorize these projects of exceptional density without being able to show at the same time that the water supply, wastewater disposal facility, and thoroughfare provisions are adequate for the population level to which they will raise the Town, is contrary to the public health, safety, and general welfare of the people of Chapel Hill.

Mr. Capowski declined to speak.

Mrs. Rolland disagreed that elderly people do not want to live on a ground floor. She said that her main concern about projects like this one is that there is not enough water and sewer capacity for the current density of population, and she feels these things should be planned for first. She suggested that Council not approve any development until water and sewer problems are corrected. She said she feels this project allows no place for people to walk.

Council Member Broadfoot said the Council held a public hearing last September to reconsider the allowable height of buildings throughout the Town. The Planning Board and the Manager recommended against setting the height at 50 feet. Mr. Broadfoot said when Council met on October 24 to take action, that he made a motion to hold building heights to 50 feet, and there was not a second.

Council Member Broadfoot said that he believes there is some lack of clarity as to what the power and responsibility of Council is. He said the Town's ordinance has a statement in it that the burden stays with the proponent; but the language of the Woodhouse case leads him to believe that would not be upheld.

Mr. Broadfoot said his concern is to follow what the General Statute gives Council as grant of power, promoting health, safety, morals, and general welfare; and the purpose in reviewing zoning, which is to prevent the overcrowding of land, undue concentration of population, to facilitate the adequate provision of transportation of water, sewerage, schools, parks, and other public requirements.

Council Member Broadfoot requested that the following documents be entered into the record of this meeting. (Please refer to the Clerk's files)

- American Law of Zoning 2d, Robert M. Anderson, Volume 3, Section 19.23.--"Inadequacy of Municipal Services." (pages 438 and 439)
- How To Win The Zoning Game, Stanley D. Abrams, Esq., 3. "Affected Public Resources and Facilities": Water Sources and Facilities.
- "Water Framework Study" (1977, Revised), Department of Natural Resources and Community Development, Chapter 3 "Existing Water Resources Situation, Problems, Needs and Opportunities" Table 3-7
- "Orange Water and Sewer Authority Joint Meeting with Local Government Officials and Community Leaders," February 22, 1984
- The Citizen's Guide to Zoning, by Herbert H. Smith, Page 146 only

Mr. Broadfoot pointed out that the "Water Framework Study" table shows that there are 82 public systems on the chart exceeding 1,000,000 gallons daily, and that Chapel Hill is shown as having the least capacity of any of these systems in North Carolina. He quoted from a part of the Orange Water and Sewer Authority Joint Meeting record which was not submitted for public record, which said: "...Land Use Plans need to be related to a time frame in order to coordinate with water and sewer planning." Mr. Broadfoot said that the Triangle J Council of Governments has projected the same population growth of the Chapel Hill Township for the past three years. He said these figures are not a fair projection.

Mr. Broadfoot said that the Chapel Hill Newspaper has reported that school planners are beginning to seek information about new development and how it affects the crowding in the schools. Mr. Broadfoot said that he has asked before about communication between the Town and schools. He asked that the record show that the Manager has been consistent in the last year in recommending--under finding one: effect on public health and safety--that "the applicant proposes to provide public water and sewer facilities as part of the OWASA system," etc. Mr. Broadfoot said he has the impression that once OWASA is brought in, the Town no longer concerns itself with potential water supply problems.

Town Manager Taylor said that OWASA participates in the Town's development review of these projects, and have not yet indicated to the Town that they do not have, nor think they will not have, the adequate water capacity to serve the projects when built.

Mr. Broadfoot asked Mr. Taylor if he thinks OWASA has the water capacity. Mr. Taylor said that in the drought of this past year, the lake reached the level of about $63\frac{1}{2}$ inches below full. He said that had all of the units for which the Town had issued building permits or certificates of occupancy since last summer been occupied and on line, that the lake would have been six inches lower, or something like $69\frac{1}{2}$ inches below full. He said that the peak period in 1968, the lake got down to $99\frac{1}{2}$ inches below full, so the Town has to go on the assumption at this time that every time someone has opened a water faucet there has been water there, and that there will continue to be until we are told different by OWASA.

Mr. Broadfoot asked if it is appropriate for the Town to try to get water consumption projections for particularly large projects. Mr. Taylor said that that would be no problem to do, that the staff could compute it based on average usage figures, and this information could be added to each memorandum about development projects.

Mr. Broadfoot said the Chapel Hill Newspaper has run an article recently encouraging conservation of water. He said that this may become a difficult thing for people to have to continue to do. He asked Town Manager Taylor what the Town is now doing to work with OWASA to assure that water and sewer will be provided to new projects. Mr. Taylor said that OWASA representatives are invited to meet and review each project so they will know what size water mains will be required, the fire hydrants and valves, and all the technical aspects; and they also consider the amount of water that will be consumed.

Mr. Broadfoot asked if Mr. Taylor thought it would be appropriate for the Town to be concerned about the school systems and the impact of developments on the schools. Mr. Taylor said that the school systems are notified of all the projects that are proposed, and they are given the opportunity to have representatives attend all meetings/discussions and to participate in the consideration of the projects.

Mr. Broadfoot asked the Manager if he does not feel that it is up to this municipality to turn down development requests based on either water or schools. Mr. Taylor said the Council should look at all factors when making their decisions about what to allow and not to allow; and certainly that all of these services are valid points to be reviewed by the Council in reaching decisions on development requests. Mr. Broadfoot said that the Manager has never recommended that the Town do anything about this. Council Member Boulton said the Manager has begun looking into this. Mr. Taylor said that members of Council have requested that he begin looking into some facts and figures along this line, but as of this point no reports have been prepared.

Mr. Broadfoot asked the Attorney if the Town has any less obligation in public health, safety, and welfare because we don't own and operate a water and sewer system. Mr. Barrett said that the obligation is no less.

Council Member Smith said he could not read the plans in his packet because they are not legible, and there is no orientation as to where the location is.

Mr. Smith asked what plan would be used to evacuate an 80-foot building in case of elevator failure. He asked if parking would have to be provided in the intended buffer areas if the building were ever converted to a different use. Mike Jennings said parking would definitely have to encroach the buffer area.

Council Member Smith asked Mr. Boscoe what security measures are provided in the building. Mr. Boscoe said there is one controlled point of entry. He said that staff in the administrative offices would have vocal communication with visitors. Mr. Smith asked what means would they use to clear and check visitors. Mr. Boscoe said the central offices would call the rooms to clear that visitors are welcome.

Council Member Smith asked Mr. Boscoe what the neighbors would see during the winter months when there are no leaves on the trees. Mr. Boscoe said he doesn't know. Mr. Smith asked about the drainage basin draining to the north. Mr. Ballentine said it does drain to the north, through a drainage basin, and into a pond northeast of the project. Mr. Smith asked where the water would end up eventually. Mr. Ballentine said Lake Jordan. Mr. Smith said that means it would have some effect on the drainage basin coming through the Town of Chapel Hill. Mr. Ballentine said that is correct; but that the volume of run-off from this site would not be any more for a 10-year storm after development than before development.

Council Member Smith said that he is amazed at some of the statements made about the elderly. He said that to imply that elderly people do not use automobiles is a ridiculous statement, and he doesn't see that as a basis on which to design a project. Mr. Smith said he is concerned that the Town is continuously impacting traffic on an already overfilled road.

Council Member Preston asked if there is a health-care facility proposed in this project. Mr. Boscoe said there is a nurse on staff for emergency of short-term illnesses, but not for long-term illness.

Council Member Preston asked if the marketing study showed that this project is really needed in Chapel Hill. Mr. Boscoe said he thought so. Ms. Preston asked if he is concerned about empty units. Mr. Boscoe said no. Ms. Preston asked if they really wouldn't accept residents under 62 years of age. Mr. Boscoe said no, that that facility is for a certain type of person; that it is a point just before a nursing home. Ms. Preston said she is concerned about conversion. Mr. Boscoe said the project could only be converted downward to residential.

Council Member Preston thanked the staff for including the impervious coverage in the Council's material. Ms. Preston said that she wishes the developer had covered up to the 30% allowable with impervious material and had not designed such a high building.

She asked Mr. Barrett about the fifth finding that he had suggested was not necessary. Mr. Barrett said that what was added to the Development Ordinance was incorporated by reference into Finding Two. That the design section of the Development Ordinance was amended and that section, in turn, is incorporated into finding Two: that a development must comply with all applicable regulations and standards.

Council Member Preston said that she understands that, even if a project complied with all the findings, if Council felt a project was not compatible with the general character of Chapel Hill it could turn down the project. Mr. Barrett said his understanding of the Council's intention is that a specific site be developed in a way that is sensitive to the site and to the area immediately adjacent to it.

Council Member Preston said that several Council Members did go out to the site, to try to visualize the project. She said they felt the building would be about 4 stories above the trees, and this would be a mis-step for Chapel Hill to allow a building of this type in this particular area where prevailing types of buildings are only 2 stories.

Council Member Boulton asked how many units are allowable on the ten acres. Town Manager Taylor said the site is zoned R-5, which allows 20 units per acre, so the proposed project is the exact minimum allowable. Ms. Boulton asked Mr. Boscoe if they had considered building two 3-story buildings. Mr. Boscoe said their major concern was to maintain a maximum amount of vegetation. He said the building would not at any point be 4 stories above the surrounding trees, and that the majority of trees on the site are evergreens. He said he didn't think that building 3-story buildings would make the project feasible.

Council Member Thorpe said he is still concerned with the dates proposed to begin construction. He said he feels the developer of this property should be planning ahead in terms of construction before the neighbors get there, and they should decide exactly what the plans are for the entire area to be developed, rather than selling off part of the property, then changing plans for the adjacent property. Council Member Thorpe asked that groups in Town try their best to get the right information when they have something published in the paper, because it is very hard for the Council Members to try to answer bad information. He said that he would talk with any member of the community about correct information.

Mayor Nassif asked Mr. Broadfoot if he had ever talked with the Chairman of the OWASA Board about the progress OWASA is making. Mr. Broadfoot said no. Mayor Nassif asked if Mr. Broadfoot had talked with any member of the board. Mr. Broadfoot said that he was at an OWASA meeting on February 22.

Mayor Nassif said that OWASA is in negotiation with the owners of property in and around Cane Creek; that much of that deals with legal matters, and therefore OWASA is not permitted at this time to talk about the matter. He said that all elected officials would be welcome to talk with the OWASA Board Chairman or members about the progress that is taking place. He said the information can't be discussed publicly, but that the knowledge may shed a different light on some of the things being said.

Council Member Boulton said that Council should be apprised of any information that the Mayor or the Manager may have about this matter. Mayor Nassif said he could not do that in a public meeting.

Council Member Broadfoot said he has used OWASA's figures as of February, and that he would be uncomfortable making any decision with information not on public record.

Mayor Nassif said he wouldn't want statements made that give the impression that OWASA is not doing anything, because that simply isn't the case. Council Member Broadfoot said that he thinks OWASA is doing the best job that they possibly can; that he was criticizing the Town, not OWASA.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER KAWALEC, TO REFER THIS MATTER TO THE MANAGER AND ATTORNEY. THE MOTION CARRIED UNANIMOUSLY. (8 to 0)

Coker Woods--Request for Planned Development--Housing Special Use Permit

Town Manager Taylor requested that the following documents be entered into the record of this meeting. (Please refer to the Clerk's files)

- Agenda #2, June 18, 1984, "Coker Woods - Request for Planned Development--Housing Special Use Permit"
- Applicant's Project Fact Sheet
- Applicant's Statement of Justification
- Applicant's Traffic Impact Report

Mike Jennings, Planning Director, described the site of the proposal. He said the request is for a Planned Development--Housing Special Use Permit for 65 dwelling units on 12.4 acres of land which is zoned R-5. The proposal has 500 feet of frontage on Piney Mountain Road; and the applicant, in a private agreement with the residents, has agreed to keep a 100-foot buffer on existing vegetation between the power lines and the units. The property has 500 feet of frontage on Piney Mountain Road. This frontage, as reduced by the 100-foot buffer is not enough to provide a two-way entrance/exit in two places. To provide dual access, the applicant proposes a one-way system of internal drives. He said the staff finds this acceptable because it has a relatively small number of units for this kind of system, it includes cross-over points, and because the applicant has angled the parking to discourage people from coming in the out drive.

Mr. Jennings said that Piney Mountain Road now has an average daily traffic of about 1500 vehicles per day. This project would add 390, and 415 would be added by Misty Woods were that to be approved. He said the staff estimates a total of these projects' traffic generation to be about 2250; and if all other proposed projects are approved it would be no more than 3000, as compared to a capacity of about 8000 to 10,000 as estimated by the applicant.

He said Misty Woods has been required to provide turn lanes at the intersection of Piney Mountain and NC 86. He said that one of the major points of consideration of the proposal is the staff recommendation that pedestrian easements be provided both along the public service gas easement and along the Coker Woods half of the power line easement which abuts the Coker Hills property. The residents of Coker Hills West have objected to this, as has the applicant. They are concerned about vandalism, littering, burglaries, and the loss of privacy in back yards.

They've also questioned the safety of the path through the woods for children going to school, as opposed to on-street sidewalks. They've also questioned the need for the off-street pedestrian way with the potential for on-street sidewalks. He said that staff is recommending that the Council require the easement, principally to keep the Town's options open. The same objections were raised in the Glendale area. He said the Town has previously decided to test the experience of using greenways before expanding the system.

Also, the Raleigh greenways system has not had these problems. Mr. Jennings said that staff is recommending this to keep the options open. Raleigh's experience with greenways shows that there is not the vandalism and other problems that have been alluded to. He said the Town has the option of not creating the greenways. If the experience shows that they don't have these problems and the Town doesn't get the easement, then we wouldn't have the option of getting the greenways later on--it would be much more difficult to do at that time.

The design of the project is in two-story townhouses, similar to Village West. The design does try to minimize clearing; there is a natural buffer 50 to 70 feet wide in the median of the circular drive. 25% of the property would be paved over with impervious surfaces. The Land Use Plan shows this area as low-density. It was zoned high-density, but the developer proposes to use it as low-density.

Phillip Post, Engineer for the applicant, said that the Duke Power easement is along the eastern boundary and is 68 feet wide. He said there is a 50-foot public service gas company easement that bisects the tract.

Mr. Post said that the internal circulation is by a system of one-way drives, with parking spaces at 70° angles to assure one-way use; there are several turnarounds, access to dumpster pads, and several crossover points. He said the Planning staff has decided that good access has been provided to dumpster pads, and the system will provide a safe way of getting traffic on and off Piney Mountain Road without interfering with one another.

Mr. Post said the project is on public water and sewer, and that storm water management features have been incorporated into the plan: a dry basin, and the use of an internal bay system. He said that the property is well over 1000 feet from Booker Creek; and there is no part of the site within any designated floodway area.

Mr. Post said he does believe there is a better way to provide pedestrian access other than using the utility easement. He said that the project does meet development ordinance regulations and standards. He said they will submit a detailed shading plan.

Mr. Post said the general outline of this project is: the building is centered on the central courtyard; the focus of activity in this development will be the central courtyard. He described the green areas which will be left. He said some auxiliary landscaping will be provided in several places in order to buffer. He said that nearby residents have requested that the developer try to block vehicular access to the easements, and that will be done by the curb and gutter extended across the easement.

Mr. Post said the buffers that are provided are: 100-foot buffer between the development and existing single-family homes; and 45-foot buffer and 35 feet of trees between Piney Mountain Road and the development; 40-feet of buffer and approximately 30 feet of trees on the Misty Woods side; and a 20-foot buffer from the south parking to the nearest unit. He said part of the area is zoned airport hazard zone, and under the current zoning is not developable. He said that in the central core area there are about 50 to 70 feet of trees that will remain undisturbed; and the units will face the central core of existing trees.

Mr. Post said the existing zoning for this site is R-5. He said maximum utilization of R-5 zoning would provide a density of about 20 units per acre. The developer has proposed 65 units on the site, which is a density of about 5.2 units per acre, 26% of allowable use. He said the developer has entered into some formal agreements with neighbors to use the site as a transition use between the higher-density Misty Woods project apartment, and the existing single-family large-lot Coker Hills West Section 9 Subdivision. He said they feel the design provides adequate buffers, and set-backs of 140 feet, and this kind of design provides the type of transition necessary between high-density apartments and single-family.

Mr. Post requested that a document dated March 25, 1984, re Special Use Permit Application, Misty Woods Apartments, Southeast Corner of Piney Mountain Road and Airport Road, signed by 29 property owners of Coker Hills, be entered into the record of this meeting (please refer to the Clerk's files), which document attests to the "...cooperation that has been possible between our neighborhood and the developers with results that are mutually satisfactory."

Mr. Post also requested that a document entitled EASEMENT, dated March 28, 1984 be entered into the record of this meeting (please refer to the Clerk's files). Mr. Post read into the records a portion of a communication from the neighbor: "...in general we support the Coker Woods Project as the best use of that particular piece of property."

He pointed out that there are two resolutions presented to Council: one supported by the Planning Board which incorporates two utility easements, as pedestrian. It is the developer's strong opinion, and those of neighbors that these easements will permit unwanted traffic in an area that does not now have pedestrian traffic. He said they recognize that there is a need to move pedestrians, particularly students, from the school area in a northwesterly direction, but thinks there is a better way. He said there is a need for a formal sidewalk system continued northward along Airport Road rather than using an undeveloped utility easement. He said he doesn't think the utility easements will be a good substitute for the proper improvements along Airport Road, that the easements will not moved pedestrian traffic as well as his proposed sidewalk system. Mr. post said he believes, and the staff report indicates, that this project meets the Development Ordinance regulations. He said islands within the parking lots at frequent intervals have been provided which provide the ability for internal shading of the parking lot. A detailed shading plan will be submitted.

Mr. Post said the maximum width of the proposed individual townhouse units would be about 70 feet, which would be equal to or slightly smaller than some of the existing homes in this neighborhood. The buildings will be clustered in groups of no more than four units, many times three, and sometimes two units, and they will therefore be modest-sized units with respect to the existing homes in the area. He said that this will enable them to leave open space and trees between buildings. This design and this use provides the kind of needed transition between apartments and single-family homes.

Mr. Tom Heffner, a real estate appraiser, said he has examined the plan for the development of Coker Woods, and that the houses most affected by the development are the ones that back up to it. He said the development doesn't add any traffic to Huntington Drive. He said the area homes are compatible in size to the clusters in the Coker Woods development. Also the buffer between the units in Coker Woods and the existing houses on Huntington Drive is significant; it is probably greater than in other sections of Coker Hills IX, where houses back up to each other. Mr. Heffner said that in his opinion the project is a good transition between the denser Misty Woods development and the existing residential areas in Coker Hills West Phase IX, and in his opinion does not have a harmful effect on surrounding property values.

Mr. Post said the 100-foot buffer will be on the east side, not on the west as he said earlier. He said turning traffic onto Piney Mountain Road, and from Piney Mountain Road onto Airport Road, will increase about 10% at peak-hour rates.

Jane Norton spoke for the Appearance Commission. The Commission feels there is not enough buffer along the southern property line. It appears that the applicant has addressed this. It was suggested to the developer that they consider a less uniform arrangement of the building. However, the Commission did recommend that the Council approve the project with the stipulation that the buildings be set back 20 feet from the south property line; that the development not include a pedestrian easement through its center; and that they consider some special treatments to the entrance to the site.

Roscoe Reeve spoke for the Planning Board. The Board recommends approval of this project. He said the Board focused on three concerns: the impact of traffic on Piney Mountain Road and the intersection with NC 86; the uniformity of design of the project; and the pedestrian easement issue as to whether or not there should be an easement. He said the Planning Board is beginning to put together several of these projects to look at the intersection and traffic on Piney Mountain Road. The Town will need to encourage the appropriate design of this road where a developer can contribute, and should encourage DOT to provide a traffic signal on Airport Road. He said the Planning Board is recommending that the turn lanes be available on Piney Mountain Road so that traffic can disperse more easily.

He said the step-down effect is one that the Planning Board would have accrued as a benefit of a Master Plan that would happen for the area.

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Mr. Reeve said the 100-foot buffer restricts how much you can move the buildings. He said he'd like to see some design variation, to break up the uniformity. In this case, the uniformity is offset by the potential savings of greenway and vegetation in the central areas, which will be an important contribution. He said the trees and shrubbery will provide some relief from the uniformity of the plan.

He said the Planning Board strongly believes the Council should adopt the easements. The Town should be sensitive to a neighborhood and its security and concerns, and Mr. Reeve said he believes the Town can take the easement, and at the same time be sensitive to residents' concerns and to make sure that adverse things do not happen as a result of the existence of that easement. The Planning Board perceives the use of the easement as a sidewalk easement. He said he thinks the children will use the most direct route through the woods. The Town does need the network of easements either to enhance in the future or to maintain in a natural state in perpetuity. He said he doesn't believe there would be a mass of traffic in this pedestrian trail. He said it would be used, and would be a choice in different directions, which is what the Town hopes to achieve throughout the community. He said the Town should have these kinds of networks, yet the Council ought to do them with their eyes open. He said he would not recommend that Chapel Hill duplicate the Raleigh experience, nor profess to maintain guards or marshalls or rangers to ride these easements. But Chapel Hill should take the Raleigh experience simply in the context of the ability of the Town to keep an eye on its easements, keep an eye on what's happening there, and the ability to do something about it if problems occur.

Town Manager David Taylor said his preliminary recommendation is that Council approve this development request subject to proposed stipulations.

Ms. Judy Jones, a resident of Coker Hills West, said that the residents are concerned about the rapid growth in Chapel Hill. She said they are concerned also about limited resources and thoroughfares. They felt that proposal being made by the developer is one that residents could work with, and they have faith in the developer as being willing to work with the residents to produce something that they could live with. They are very satisfied with the buffer that has been offered, and with the kind of concessions that have been made to the residents.

Ms. Jones said the developer has promised to deed to the Town 45 feet along Estes Drive, which is needed to build a sidewalk on the school side of Estes. She said this sidewalk would serve many more people than an easement behind their properties.

Ms. Jones said the residents do support the Coker Woods development; however, they do not support turning the easements into pedestrian walkways. She said they are concerned that the high density of the development will encourage use of the easement, as well as other developments proposed for the area. She said if the Town feels no one will use the easement, it shouldn't be declared public. She said the residents expect their front yards to be public, but that they feel they have the right to privacy in their back yards.

Ms. Joan Bettman, resident of Coker Hills West, showed a picture of the subject easement and the view of this easement from her back yard deck. She said that even with the 100-foot easement, the proposed buildings will be seen. Ms. Bettman said the only current access to the easement is through the Bettman property. She said that if the easement is made public, the access must be taken care; and that she doesn't want to be liable for the people using their land to reach the easement. She said it is the Town's responsibility not to increase the risk of liabilities to homeowners, and it is the Town's responsibility not to take away their privacy.

The photograph was entered as part of the record. (Please refer to the Clerk's files)

Mr. Watson Bowes said that the easement is presently unpassable. He said this raises the problem of liability of homeowners when people must pass onto private property to access the easement. He said that until the easement is improved, the liability issue will be a serious problem to all adjacent landowners.

Mr. Thomas Huber, an adjacent property owner, said he is concerned about the cost of developing the easement to make it a pedestrian walkway. He said there should be a privacy screen constructed to keep pedestrians off private property, and that it will be costly to maintain the easement. He suggested that an engineering study be made to show all the costs before a decision is made. Mr. Huber suggested that the money might be better spent on the Estes Drive sidewalk which would serve more people, and would improve the appearance of this very important street.

Mr. Guido DeMaere, an attorney, and representative of the residents, said the residents' understanding was that all vegetation between their properties and the project, within a 137-foot easement, would remain intact, and that the easements could not be used for anything except the utility service; but now the Town wants to clear out the easement for a pedestrian path. He said the neighbors feel put upon because the Town is requiring something different from what they had negotiated with the developers. He said that now, if someone is loitering in the easement, the neighbors can call the Police, but they will have no control if the Town opens the areas as a public pedestrian easement. He said if people will not use the sidewalks, it should not be opened up to the public.

Ms. Adele Thomas said she is concerned about the sum of the water use of all the new and proposed developments in Chapel Hill. She said that since July 1 there have been 200 Certificates of Occupancy issued, which means 200 more families with an average of two people in each, with each person using an average of 110 gallons of water per day. She said that there are 886 housing units under construction today; and that at this rate it doesn't take long to use up the water. She said OWASA says it's the Council's job to control the developments which will use the water; and she feels the Council should ask the legislature to give OWASA the power of eminent domain.

Mr. Joe Capowski said that during the past year-and-a-half the Town has approved permits to construct thousands of new residences in Chapel Hill. Last Monday night, by a 6-3 vote, Council approved a project of 379 dwelling units, a 2.4% population increase for Chapel Hill, including 23 acres of asphalt. He said to approve this SUP Council must find that this project promotes the general welfare. The dwelling units in this project, along with the thousands of dwelling units recently approved without additional infrastructure, certainly do not maintain or promote the general welfare. He asked Council to deny this special use permit.

Mr. Richard Gittleson said that he uses Weaver Dairy Road frequently; and that he feels the Town needs to request a traffic signal at the intersection of NC 86 and Piney Mountain Road. He also said the Town should take the responsibility to build bike paths in this area. He said that he would use the pedestrian/bike paths proposed by the Planning staff, and he hopes the kids would use it instead of the road.

Council Member Smith asked if there are only 3 parking spaces for handicapped out of 130 total spaces. He asked if this number is sufficient. Mr. Post said that this number meets the development guidelines. He said there are no steps between the parking spaces and the units; that almost every unit should be accessible to handicapped persons.

Council Member Pasquini left the meeting.

Council Member Smith said there are no pedestrian walkways suggested except for those in the utilities easements, and asked if the developer had considered extending sidewalks through the Airport Hazard District portion of the project so that children could walk through to the Junior High School. Mr. Post said that they had made that proposal to the Town Staff, and it wasn't acceptable to them.

Council Member Smith asked if the staff's recommendation to use the utility easement for pedestrian walkway is in keeping with the Town's easements procedure. Mike Jennings said this land belongs to the owner, that the gas company has an easement from the owner, that no structure is built on either utility easement.

Council Member Smith asked why the Town staff didn't consider the pedestrian paths through the easements as access for the nearby schools, assuming that the trails will be maintained. He said he had walked the easement; and that unless it is maintained in some way, children shouldn't be allowed to use it. He said the Town should make some definite plans to maintain the easement in view of all the developments proposed for the area. He asked the Manager what plans the Town is anticipating for developing the easements on this project. The Manager said that at this time the Town has not developed any plans for developing the easements into active pedestrian easements. He said the staff is recommending that the Town reserve the right-of-way for that use. Council Member Smith asked if the Parks and Recreation Department has plans for developing the easement. He said that since there is a need for sidewalks, he feels the Town should consider developing the easement so that pedestrians can use the easement and not the bordering private property. Mike Jennings said the staff is following Council's decision several years ago not to create greenways other than the one in the Tanyard Branch until Chapel Hill has experience in that one. He said the Town did ask the applicant if he was willing to allow the easement to go along the jogging trails as an alternative to the easement, but staff has not received a response. Council Member Smith said he hoped the staff would pursue that before it's brought back to the Council.

Council Member Broadfoot asked that the documents from Agenda #1 be incorporated into this item. (Please refer to Clerk's files)

Council Member Broadfoot asked Mr. Post how they had estimated the figure given in the application of 26,000 gallons per day of wastewater drainage. Mr. Post said that the figure is based on 450 gallons per day per unit, which is the accepted State figure used to size wastewater facilities, according to the State Division of Natural Resources and Community Development, Division of Environmental Management. He said this is not representative of actual usage.

Council Member Broadfoot said that the 2/19/84 document he submitted for the record states that the wastewater treatment plant capacity is 8,000,000 gallons per day. He said publicity, at that time, said this would last to the year 2000. The peak day flow given in that same document for a day in January, 1984 was 12.2 million gallons. Town Manager Taylor said in his opinion that would indicate substantial infiltration of the system; but that OWASA would have to answer.

Council Member Broadfoot asked if the Town would be interested in tracking the sewerage capacity based on what Council is approving, what is being built, and what is being discharged, on a per-day basis, in order to get some projection into the future. He said he he thinks there is a vacuum of information. He said he is worried that the sewer system will not serve Chapel Hill to the year 2000. Town Manager Taylor said he would anticipate that OWASA would be making those calculations on a regular basis. Council Member Broadfoot asked if OWASA knows what developments the Town is approving, and times of construction. Town Manager Taylor said that all the information is available to them, but he doesn't know what use they are making of the information. Council Member Broadfoot asked Town Manager Taylor if he thinks this is OWASA's problem, not the Town's. Town Manager Taylor said that Council should consider all these matters when considering whether or not to approve a project. But the day-to-day operations of OWASA as to their capacity, should be reported to us by OWASA.

Mike Jennings said OWASA is looking to future because the staff has had discussions with OWASA about whether they should create another treatment facility in the northern part of the planning jurisdiction.

Council Member Broadfoot asked if OWASA is given Chapel Hill's development decisions as they are made so that they can build them into their projections. Mike Jennings said that they get the project proposals as a member of the Development Review Staff, and the staff does not follow up to tell them whether or not projects are approved as a formal matter. Council Member Broadfoot said he is dissatisfied with that.

Council Member Broadfoot asked Mr. Heffner if, when he stated that this project has no harmful effects on values, he was talking about the third of the four findings. Mr. Heffner said that in the case of this project, it does maintain or enhance the value; that to say that the project has no harmful effect is synonymous with saying it maintains the value. Council Member Broadfoot asked Attorney Barrett for a ruling. Mr. Barrett said he would research that issue.

Council Member Broadfoot asked if the Town approved the project but decided against the dedication of the easement, could the Town pursue the easement at a later date. Mike Jennings said that at this point the Council could stipulate dedication of the easement; but that later the Town would have to negotiate with the homeowners' association to obtain the same thing. Council Member Boulton asked if the Town has any stipulation on how close greenways can be built to the back of a house. Mike Jennings said that the Town is still in the infancy of the Greenways program, that it is not in the Design Manuals, and that the Greenways Task Force may be considering this. Council Member Broadfoot asked when the Council could expect a report from the Task force. Mike Jennings said he believed it would be in September.

Council Member Preston asked that when the project comes back to Council, could they have some guidance on whether private property can be fenced or a barrier of some sort can be built in the easements. She said she feels that it is a very legitimate concern of the residents. Attorney Barrett said that would require the Town to review the easement document; and he asked Mr. Post to provide the Town with the document. Mr. Post said that he will provide the exact wording, but that in his experience, Duke Power's interpretation of the easement is that they want the surface of the ground exactly as it is now so that they can get in with a mower and bucket trucks to maintain their lines, and that they are very possessive about their rights to traverse across the whole 68-foot width. Council Member Preston asked if he is saying that there would be no way to have a barrier. Mr. Post said that would be his interpretation. Attorney Barrett said in general, easement documents would prohibit such barriers.

Council Member Preston asked if the Town could improve the easement as is under consideration now. Mike Jennings said Duke Power would generally allow roadways to run parallel with the easements, but they would not want people to cross the easement. Mr. Post said it is his understanding that they will allow crossing at a 90° angle. Attorney Barrett said that the staff would confirm that this use is consistent as proposed.

Council Member Preston asked how the stormwater retention basin proposed next to the basketball court will be built. Mr. Post said that this is a dry-bottom basin, that it will be mostly dry, and will fill up only during large storms temporarily for several hours. Council Member Preston asked if this will be the catch basin for Misty Woods also. Mr. Post said yes. Council Member Preston asked if this basin is adequate to take all the water. Mr. Post said no, that there is also a natural depression on the site that will fill up during a large storm.

Council Member Thorpe asked if the Town can have Duke Power clean up the utility easement at least once each year. Town Manager Taylor said he will look up the information.

Mayor Nassif said the Council has nothing that shows the relationship between buildings as they are occurring. He said he endorses the concept of cul-de-sac's in Chapel Hill but doesn't think it was ever envisioned that Chapel Hill would be all cul-de-sacs off of a few main streets. He said that if this project was compared side-by-side with Misty Woods, one couldn't tell they were in the same general area. He said the Town should consider how properties are going to develop, what kind of roads and interconnections they may have, and tell applicants how the Town anticipates the area to develop. Mayor Nassif said the Town considers footprints of different projects as though they have nothing to do with each other; that the only transition from one project to another is the property line. He said the Town needs to pay more attention to this, that when adjacent properties are undeveloped, the Town should have some way of coordinating the development in them, so that they flow from one to another.

Mayor Nassif requested the staff to look at Misty Woods, compare it to this one, and consider if there's any relationship whatsoever to them except the gas easement. He said he is not saying these may not be acceptable projects, but they may not be acceptable because they do not relate to each other as adjacent neighborhoods.

Mayor Nassif said he hopes that with future developments the Town will either ask or project what that piece of land can do and how it will go with the rest of the area. He said he thinks it's important to do that, rather than trying to look at it as an entity by itself.

COUNCIL MEMBER THORPE MOVED, SECONDED BY COUNCIL MEMBER SMITH, TO REFER THIS ITEM TO THE TOWN MANAGER AND ATTORNEY.

THE MOTION CARRIED UNANIMOUSLY. (6 TO 0)

COUNCIL MEMBER BOULTON MOVED, SECONDED BY COUNCIL MEMBER PRESTON, THAT PUBLIC HEARING ITEMS 3, 4, AND 5 BE CONTINUED AT THE PUBLIC HEARING ON WEDNESDAY, JUNE 20.

THE MOTION CARRIED UNANIMOUSLY. (6 TO 0)

At 11:35 the meeting was adjourned to Wednesday, June 20, 1984, at 7:30 p.m. in the Municipal Building Meeting Room.

Joseph L. Nassif, Mayor

Robin G. Rankin, Deputy Town Clerk