

MINUTES OF A REGULAR MEETING OF THE MAYOR AND COUNCIL
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,
MONDAY, JANUARY 13, 1986, 7:30 P.M.

Mayor James C. Wallace called the meeting to order. Council Members present were:

Julie Andresen
David Godschalk
Jonathan Howes
David Pasquini
Nancy Preston
R. D. Smith
Bill Thorpe
Arthur Werner

Also present were Town Manager David R. Taylor, Assistant Town Managers Sonna Loewenthal and Ron Secrist, and Attorney Ralph Karpinos.

Petitions

Steve Bernholz, speaking as a resident of the Hillview neighborhood, petitioned Council to purchase the open space between Roosevelt Drive and Franklin Street as Town open space in an effort to prevent any development of this strip of land. He introduced a petition requesting the Council to investigate this possibility and the possibility of any illegalities in subdivision approvals for property in this area. (For a copy of petition, see Clerk's files).

Council Member Preston asked for clarification on the question of the legality of recent subdivision approval. Mr. Bernholz replied that he petitioned Council to see if indeed there was any discrepancy between what was proposed to Council and adopted and what was actually being developed.

Council Member Andresen asked the group if they had any other ideas of ways to preserve this strip of land without having the Town purchase it. Mr. Bernholz replied that the neighborhood group had looked at other alternatives, and in fact were involved in a legal suit regarding the issue, but that the group had concluded that the best assurance for prevention of development and preservation of the site as green space was for the Town to purchase the site.

Council Members Preston and Smith asked for the dimensions of the site. Dr. Billy McDonald of the neighborhood group estimated that the site was 12 to 20 feet wide at its narrowest point and 70 to 90 feet wide at its widest point, and ran from Plant Road to Howell Lane along Franklin Street.

Mayor Wallace asked Mr. Bernholz if part of his petition was for clarification of the right-of-way owned by the North Carolina Department of Transportation and the Town of Chapel Hill along this site, and whether or not this right-of-way was being ignored for development purposes. Mr. Bernholz agreed that this was part of the petition.

COUNCIL MEMBER THORPE MOVED, SECONDED BY COUNCIL MEMBER SMITH TO RECEIVE THE PETITION AND REFER IT TO THE MANAGER. THE MOTION PASSED UNANIMOUSLY, (9-0).

Council Member Pasquini asked that the Hillview residents be notified when the Manager would report back to the Council, and he hoped that it would not be a considerable time before the Manager reported on this issue.

Dusty Penta, speaking as a resident of Estes Hills, petitioned Council to change the Development Ordinance to require notification of nearby property owners when site plan reviews are held. She cited the recent Planning Board site plan approval of a hotel in a commercial zone which is adjacent to a Residential-1 zone. (For a copy of the petition, see Clerk's files).

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Kerry Jacobson, speaking as a resident of Burlage Circle, spoke regarding bad traffic conditions along Franklin Street from Plant Road to Elliott Road. He pointed out that the quantity and quality of traffic along this route had become dangerous with congested conditions and conflicting turning movements. Mr. Jacobson stated that these conditions would probably worsen with further development along Franklin Street. He petitioned Council to demand that statements of traffic impact be required when new commercial developments are reviewed. (For copy of text, see Clerk's files).

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER HOWES TO ACCEPT THE PETITIONS AND REFER TO THE MANAGER. THE MOTION PASSED UNANIMOUSLY, (9-0).

John McAdams, representing Mill Race Associates, petitioned Council to consider reassessing the start of construction date for the Special Use Permit (SUP) granted on July 8, 1985. He said that one of the conditions of the Mill Race SUP was for a variance from the Board of Adjustment to build in the Resource Conservation District, and that this variance had just been granted on November 6, 1985. He asked Council to consider having the SUP read that construction had to begin by November 6, 1986, one year from the granting of the variance instead of one year from the granting of the SUP. Mr. McAdams said that the developer would like the additional time to reconsider using the site for single family development instead of multi-family development. (For copy of petition, see Clerk's files.)

Council Member Thorpe said that the dates on the SUP were set as they were for a purpose and that Council had spent a great deal of time reviewing the project last spring and summer and that it should stand by its original decision.

Council Member Pasquini questioned whether or not there was a specific process for modifying the SUP with regard to construction starting dates. Manager Taylor replied that the Council had had a process for this issue but that it had changed the Development Ordinance to remove this procedure. Now, if projects are not begun by the one year time period, SUP's are considered void.

Council Member Werner asked if there were any special conditions as to why the developer needed the delay and asked the Manager for a full report when he brought this back to Council.

COUNCIL MEMBER THORPE MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO REFER TO THE MANAGER. THE MOTION PASSED UNANIMOUSLY, (9-0).

Ms. Sarah Carter, representing the Chapel Hill-Carrboro Interfaith Task Force for Central America, petitioned Council to take an active part in the group's peace initiative for Central America and making Chapel Hill a haven for Central American refugees. She presented Mayor Wallace with a T-shirt with the group's symbol. (For copy of Proposition Paz statement see Clerk's file.)

Minutes

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT THE MINUTES OF DECEMBER 2, 1985 AS CIRCULATED. THE MOTION PASSED UNANIMOUSLY, (9-0).

Affordable Housing

Council Member Smith introduced Mr. Rick Walters of Champion Home Builders to give a presentation on an alternative for affordable housing in Chapel Hill. Mr. Smith said he had been impressed by the examples of attempts by other municipalities to provide affordable housing at recent meetings he had attended.

Mr. Walters introduced Tom Lindfesty, Divisional Manager for Champion Homes, who would give a slide presentation, and Patsy Morton, Executive Director of the North Carolina Manufactured Housing Institute.

Tom Lindfesty presented a slide program on manufactured housing as an affordable alternative for housing for low and moderate income persons.

Council Member Godschalk asked what kind of changes would be needed in the Town's ordinance to allow for manufactured housing within the Town limits. Council Member Smith said that he was not sure, but that it was something the staff and Council needed to investigate.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO REFER TO THE MANAGER AND AFFORDABLE HOUSING COMMITTEE. THE MOTION PASSED UNANIMOUSLY, (9-0).

Partin Rezoning Request

COUNCIL MEMBER THORPE MOVED, SECONDED BY COUNCIL MEMBER SMITH TO REMOVE THIS ITEM FROM THE AGENDA AT THE APPLICANT'S REQUEST.

Ralph Karpinos, Town Attorney, stated that the site in question was in the joint planning area and therefore under the joint planning agreement with Orange County. He said this agreement provided that the County may not issue a permit or act on a permit until it hears from the Town Council or until the expiration of thirty (30) days after the joint planning hearing, whichever occurred first. Mr. Karpinos said he found no provision in the joint planning agreement for Council to delay.

Council Member Godschalk commented that this meant the County could act without any recommendation from the Town. Attorney Karpinos agreed.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER PRESTON FOR A SUBSTITUTE MOTION TO ADOPT RESOLUTION 86-1-13/R-1A, TO DENY THE PROPOSAL.

Ms. LeAnn Nease, attorney representing the applicant, said that the applicant had requested the delay in order to reassess the property with regard to potential development.

Mayor Wallace asked if the Town and County staffs were recommending denial of the proposal and if so why. Manager Taylor replied that both staffs were recommending denial. Roger Waldon, Planning Director said the primary reason was that they felt the proposal for rezoning of this property in an urban manner was premature.

Council Member Smith commented that a resolution to deny from both the Town and County should send a message to the developer that his proposal for rezoning in the suggested manner was not acceptable.

Council Member Howes commented that the Council, in the past, generally abided by the applicants' request to remove their item from the agenda.

Council Member Preston asked if the Council denied the proposal would it preclude the applicant from doing anything else with the property for a year. Manager Taylor replied that since the property was in the joint planning area and the Town could only "recommend" a motion, then it would not affect the applicant.

THE SUBSTITUTE MOTION PASSED UNANIMOUSLY, (9-0), BECOMING THE MAIN MOTION.

THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION DENYING A REZONING APPLICATION IN THE JOINT PLANNING AREA (86-1-13/R-1a)

BE IT RESOLVED by the Council of the Town of Chapel Hill that it hereby recommends that the Orange County Board of Commissioners deny the application for a Zoning Map Amendment to rezone approximately 80 acres of the Partin property, identified as Chapel Hill Township Tax Map 128, Block B, part of Lot 20, from R-1 to R-4. This denial is based on the finding that development of the site to urban intensities is premature because of:

- a. the site's lack of water and gravity-flow sewer service necessary to serve development of the site to urban intensities;

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- b. the inadequacy of the existing U.S. 15-501 roadway to handle the traffic generated by development of the site to urban intensities;
 - c. the lack of facilities necessary to ensure adequate fire protection to an urban-type development of the site;
 - d. the lack of facilities necessary to ensure that the recreational needs of an urban-type development of the site are met;
 - e. the unlikelihood that the requisites for urban development noted above will be available to the site in the near future; and
 - f. the inappropriateness of allowing urban development to "leap-frog" beyond the area currently served by urban services, thereby encouraging urban development of intervening properties before the infrastructure necessary to provide urban services to them is available.

This the 13th day of January, 1986.

Oaks II - Phase IV

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER SMITH TO ADOPT RESOLUTION 86-1-13/R-2A.

Council Member Godschalk asked for clarification from the staff on the proposal.

Roger Waldon, Planning Director, gave a brief presentation on the Oaks II - Phase IV application for preliminary plat approval. He said the site was located at the east end of Sheffield Circle. If approved, the subdivision would add 23 lots to the 92 already approved. He said one of the primary considerations was the necessity for a combination of 15-foot-deep sewer lines and individual sewer pumps for four lots. Mr. Waldon also stated that the applicant was meeting the recreation space requirement largely through a payment-in-lieu of land dedication.

Council Member Thorpe expressed concern about the sewer pumps and questioned whether or not the owners of the four lots requiring individual pumps would be able to attach to a sewer line, if one became available, in the future. Mr. Waldon replied that the four lots would be able to access a sewer line located to the east as that property develops, but that the connecting fees would have to be paid by the owners.

Council Member Godschalk also expressed concern about the convenience/trouble of individual sewer pumps.

Council Member Pasquini suggested using those four lots as part of the recreation space instead of payment-in-lieu.

Council Member Smith asked whether or not this project was within the Town limits and if not, whether or not there had been a suggestion of annexation of the property. Manager Taylor replied that the property was not within the Town limits and that the developer had not been willing to request voluntary annexation of the entire site.

Council Member Smith stated that he felt there should be some notification to potential owners of those lots requiring individual sewer pumps. Manager Taylor said that this stipulation could be added to the final plat.

Council Member Smith asked if it were possible to require annexation as part of the approval process. Mayor Wallace replied and the Town Attorney concurred that this was not within the Town's authority.

Council Member Pasquini asked if an amendment could be added to the resolution requiring the owners of the four lots needing individual sewer pumps to connect to a gravity sewer, if the property adjacent to the Oaks II site in Durham County was ever developed. Attorney Karpinos said he did not think the Town could require this.

THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

RESOLUTION APPROVING AN APPLICATION FOR PRELIMINARY PLAT APPROVAL FOR THE OAKS II, PHASE IV (86-1-13/R- 2a)

BE IT RESOLVED by the Council of the Town of Chapel Hill that The Oaks II Subdivision, proposed by Goforth Properties on property identified as Chapel Hill Township Tax Map 135, Lot 10, if developed according to the preliminary plat dated October 22, 1985 and the conditions listed below, would comply with the provisions of the Development Ordinance:

1. That Sheffield Circle be constructed with a 27-foot-wide roadway cross-section with curb and gutter, and a sidewalk on its south side.
2. That a 30-foot-wide utility easement be provided along the site's southern boundary between the proposed storm drainage and sanitary sewer easement at the end of Fraser Place and the site's eastern boundary.
3. That any final payment in lieu of recreation area required for The Oaks II Subdivision be made before application for final plat approval or final plan approval.
4. That before paving streets, utility service laterals be stubbed out to the front property line of each lot. Sanitary sewer laterals shall be capped off above ground.
5. That easements as required by the Town Manager and for utilities be dedicated and shown on the final plat.
6. That final street plans and profiles, grading plans, and stormwater management plans (with hydrologic calculations) be approved by the Town Manager before issuance of a Zoning Compliance Permit or application for final plat approval, and that such plans conform to the preliminary plat approval and demonstrate compliance with all applicable conditions and the design standards of the Development Ordinance and Design Manual.
7. That the final utility plans be approved by OWASA, Duke Power, Public Service Company of N. C., Southern Bell, Village Cable, and the Town Manager before issuance of a Zoning Compliance Permit or application for final plat approval.
8. That the continued validity and effectiveness of this approval is expressly conditioned on the continued compliance with the plans and conditions listed above, and upon compliance with applicable provisions of the Chapel Hill Development Ordinance and regulations thereunder.
9. That if any of the above conditions is held invalid, this approval shall be void.

BE IT FURTHER RESOLVED that the Council hereby approves the application for preliminary plat approval for The Oaks II, Phase IV Subdivision in accord with the plans and conditions listed above.

This the 13th day of January, 1986.

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Morgan Bend

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 86-1-13/R-3A.

Pat Evans, representing the Planning Board, and referring to the December 10 minutes of the Planning Board stated that the Board had recommended approval of the preliminary plat for Morgan Bend on November 19 but that there had been an error in the required stipulations and that the item was reviewed again on December 10. She said the original recommendation included stipulations for dedication of a greenway easement. The staff reported that this was not agreeable with the developer and was therefore removed from the list of stipulations. Ms. Evans said the Board discussed whether or not a dedication of a greenway easement for pedestrian access along Morgan Creek was necessary. The Planning Board by a vote of 5-3 voted to delete the stipulations regarding dedication of greenway easements.

COUNCIL MEMBER ANDRESEN MOVED, SECONDED BY COUNCIL MEMBER WERNER FOR A SUBSTITUTE MOTION TO REFER THE MATTER TO THE GREENWAYS COMMISSION FOR THEIR CONSIDERATION PRIOR TO COUNCIL ACTION, AND TO REPORT TO COUNCIL WITHIN 45 DAYS.

Council Member Andresen said that she offered this motion because of the confusion among the Planning Board members and the real desirability of the portion of this property bordering Morgan Creek as a greenway easement.

Council Member Werner agreed with Council Member Andresen saying that the Council should utilize the services of the newly created Greenways Commission.

Council Member Godschalk asked for clarification of what, if any, of the property in this area along Morgan Creek was dedicated as a pedestrian greenway. Roger Waldon replied that there was no dedicated pedestrian greenway easement in this particular area of Morgan Creek, but that the area of the utility easement was currently being used as a pedestrian pathway.

Council Member Pasquini asked why the staff was not requiring curb and gutter for the proposed proposed roadway in the development. Mr. Waldon replied that the staff generally recommended curb and gutter in newly developed areas, but that the area surrounding the proposed development was already well developed with out curb and gutter and that this project represented a short length of road, relative to the developed area surrounding it so it was determined requiring curb and gutter would not be logical.

Council Member Smith asked if the project met the requirements of the Resource Conservation District (RCD). Mr. Waldon stated that all the lots had buildable area outside of the RCD.

Mr. Lou Shook, speaking as the applicant, stated that if the Council required a dedicated greenway easement he could not afford to develop the property as he had intended. He said that although the pedestrian easement was desirable for the Town, it would be undesirable to a potential property owner. He commented that a requirement of dedicating an easement was not now a part of the Development Ordinance and he hoped the Council would not require it.

THE SUBSTITUTE MOTION CARRIED, (6-3), TO BECOME THE MAIN MOTION, WITH COUNCIL MEMBERS GODSCHALK, HOWES, AND WALLACE VOTING AGAINST.

THE MOTION CARRIED, (6-3), WITH COUNCIL MEMBERS GODSCHALK, HOWES, AND WALLACE VOTING AGAINST.

Request for Public Hearings on Development Ordinance Text Amendments

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 86-1-13/R-4. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

RESOLUTION SETTING PUBLIC HEARING ON DENSITY CAPS (86-1-13/R-4)

BE IT RESOLVED by the Council of the Town of Chapel Hill that a public hearing is hereby scheduled for February 10, 1986, to consider amending the Chapel Hill Development Ordinance, as follows:

Amend Section 5.8 to change maximum densities for residential development to the following:

| Zoning District | Maximum Number of Dwelling Units per Acre of Gross Land Area | |
|--------------------|--|----------|
| | Existing | Proposed |
| R-1 | 3 | 2 |
| R-2 | 7 | 4 |
| R-3 | 12 | 7 |
| R-4, OI-1, NC | 15 | 10 |
| R-5, R-6, OI-2, CC | 20 | 12 |

BE IT FURTHER RESOLVED that consideration of these changes includes consideration of changes reducing maximum allowable densities to standards less restrictive than those proposed.

This, the 13th day of January, 1986.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER WERNER TO ADOPT RESOLUTION 86-1-13/R-5. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

RESOLUTION SETTING PUBLIC HEARING ON HEIGHT LIMITS (86-1-13/R-5)

BE IT RESOLVED by the Council of the Town of Chapel Hill that a public hearing is hereby scheduled for February 10, 1986, to consider amending the Chapel Hill Development Ordinance, as follows:

Amend Section 5.11.1 to change secondary height limits to forty (40) feet in the following zoning districts: CC, NC, OI-2, OI-1, I, R-6, R-5, R-4, R-3, and R-2.

BE IT FURTHER RESOLVED that consideration of these changes includes consideration of changes reducing maximum allowable height limits to standards less restrictive than those proposed.

This, the 13th day of January, 1986.

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COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER HOWES TO ADOPT RESOLUTION 86-1-13/R-6. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

RESOLUTION SETTING PUBLIC HEARING ON LAND USE INTENSITY RATINGS
(86-1-13/R-6)

BE IT RESOLVED by the Council of the Town of Chapel Hill that a public hearing is hereby scheduled for February 10, 1986, to consider amending the Chapel Hill Development Ordinance, as follows:

Amend Section 5.11.1 to change Land Use Intensity Ratings and Ratios, as proposed in the attached tables 1 and 2.

BE IT FURTHER RESOLVED that consideration of these changes includes consideration of changes reducing Land Use Intensity Ratings and Ratios to standards less restrictive than those proposed.

This, the 13th day of January, 1986.

Effective Date of Proposed Development Ordinance Text Amendments

Council Member Godschalk commented that in the interest of fairness the Council needed to be extremely careful not to change the development rules on those projects already approved and accepted by the Town.

Council Member Andresen commented in support of adopting the resolution in the memorandum which would make all projects adhere to the proposed changes in the Development Ordinance. She stated Council would study further and be less restrictive at a later date.

Council Member Pasquini asked what this would do to any project in the interim between the present and time of possible adoption of Development Ordinance Text Amendments. Attorney Karpinos replied that if the Council adopted the proposed resolution it would mean reviewing any new applications as well as those already in the approval process to see if they met the proposed amendment requirements, and if they did not then there would be a delay in the project until direction from the Council as to how to proceed.

Mayor Wallace stated that there needed to be flexibility in the process until any adoption of changes in the Development Ordinance. He said that those projects already in the approval process should not be delayed if they meet the current requirements.

Council Member Thorpe agreed that the Council should not change the rules under which the original applications were made.

Council Member Werner said he wanted to advocate fairness, but fairness cut both ways. He pointed to the petitions received earlier in the meeting from residents of Estes Hills and Burlage Circle who did not receive notice of a pending development that greatly affected them.

Council Member Howes said it was important Council give the staff direction as to what to do with developments pending and those applications that might be received prior to a public hearing on the proposed amendments.

Mr. Sam Longiotti, a resident of Chapel Hill for 21 years, said he felt it would not be proper for Council to stop projects now in the pipeline because they did not meet any proposed new requirements.

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COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER THORPE TO ADOPT RESOLUTION 86-1-13/R-7 WITH A CHANGE IN THE WORDING OF THE FIRST PARAGRAPH TO STATE THAT "...PROPOSES TO MAKE THE DEVELOPMENT ORDINANCE TEXT AMENDMENTS SCHEDULED FOR HEARING ON FEBRUARY 10, 1986 APPLICABLE TO SITE PLAN APPROVALS, SPECIAL USE PERMITS, SUBDIVISION REQUESTS, AND REZONINGS FOR WHICH APPLICATIONS HAVE NOT BEEN ACCEPTED AS OF THE DATE OF ADOPTION OF THIS RESOLUTION; AND...". THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION SETTING EFFECTIVE DATE FOR PROPOSED DEVELOPMENT ORDINANCE TEXT AMENDMENTS CHANGING DENSITY LIMITS, LUI RATINGS, AND HEIGHT LIMITS (86-1-13/R-7)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council proposes to make the Development Ordinance Text Amendments scheduled for hearing on February 10, 1986 applicable to site plan approvals, special use permits, subdivision requests, and rezonings for which applications have not been accepted as of the date of adoption of this resolution; and

BE IT RESOLVED that consideration of this proposed effective date includes consideration of an effective date later than the date of this resolution; and

BE IT FURTHER RESOLVED that consideration of this effective date includes considering making the ordinance amendments effective as to development ordinance applications in earlier stages of development than those awaiting issuance of building permits.

This the 13th day of January, 1986.

Request for Extension of Extraterritorial Jurisdiction

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER THORPE TO ADOPT RESOLUTION 86-1-13/R-8. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION REGARDING 3-MILE EXTRATERRITORIAL PLANNING JURISDICTION (86-1-13/R-8)

WHEREAS, areas of Orange County in the vicinity of the present corporate limits will be annexed by actions of the Town Council of Chapel Hill from time to time; and

WHEREAS, the development, appearance and character of such areas now outside the Town limits affect and will affect the natural environment and the overall quality of life in the Town of Chapel Hill; and

WHEREAS, representatives residing in the area outside Chapel Hill and appointed by the Orange County Commissioners serve on the Chapel Hill Planning Board and Board of Adjustment;

NOW, THEREFORE, BE IT RESOLVED that the Council of the Town of Chapel Hill hereby requests the Orange County Board of Commissioners to grant to the Town extraterritorial planning jurisdiction for an area of the County 3 miles from the corporate limits of Town.

This the 13th day of January, 1986.

Planning Board Annual Report

Alice Ingram, representing the Planning Board, said that the Board was concerned with the Comprehensive Planning Program, and the Long Range Plan and that the Board offered a work plan for improving these items as well as possible stop gap changes to the Development Ordinance in the interim.

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Don Francisco, representing the Planning Board, stated that the Board had developed a Long Range Development Schedule and introduced this schedule into the record. He said that it was essentially a rough outline from which to work and that refinements were expected.

Al Rimer, representing the Planning Board, reviewed the proposed work plan with the Council.

Pat Evans, representing the Planning Board, gave a brief presentation on the Board's short term recommendations which included calling for public hearings to discuss possible changes to the Development Ordinance.

Council Member Andresen asked for clarification of specific changes the Planning Board felt were needed to the site plan review process. Alice Ingram replied that the Board had discussed several options and that they needed further guidance from the Council on this issue.

Council Member Godschalk commented that the workplan was laudable but that he felt it was probably an overly ambitious schedule. He felt that a more strategic review of the categories should occur to arrive at a more reasonable schedule for the upcoming year.

Council Member Howes suggested that the Council and the Planning Board needed to have a joint worksession to discuss the issues in depth.

Council Member Preston thanked the Planning Board for their report saying she was pleased with it and asked if the consultant recommended by the Board was something that was already funded or that needed to be funded. Ms. Ingram replied that it was already funded.

Council Member Smith cautioned against letting the time and work put into the workplan go to naught by Council using the completed plan as a "guide" rather than as a rule.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO ACCEPT THE REPORT WITH APPRECIATION AND REFER IT TO THE MANAGER. THE MOTION PASSED UNANIMOUSLY, (9-0).

Rosemary Square - Proposed Changes

Council Member Werner said he felt there had been a significant change in the hotel market in Chapel Hill in recent months and that the changes proposed by the developer were significant and warranted further discussion.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO DELAY COUNCIL ACTION FOR FOUR WEEKS IN ORDER TO HOLD A PUBLIC HEARING TO CONSIDER THE PROPOSED CHANGES IN THE ROSEMARY SQUARE DEVELOPMENT AGREEMENT.

Mayor Wallace spoke in support of holding another public hearing saying it had been some time since the public had had an input into the process. He pointed to the change in the number of required hotel rooms and parking spaces as further examples of changes which the public should have a chance to discuss.

Council Member Smith said that in the Council's January 6 worksession it was agreed that the Council would ask the Manager to negotiate based on the changes that were proposed. He said there was nothing at all said about a public hearing and most of the changes that have been made, have been made at the suggestion of this Board. He said that if it had not been for the Board's suggestions, and if the developer had thought there would be another public hearing the developer would not have proposed the changes. Council Member Smith questioned if this is a sly way of some of the Council wanting a public hearing on the issue he said he would not vote for it. He said he thought there had been enough public hearings on the matter, and that there was not that much of a

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significant change to the proposal. He said that all the changes that had been made, had been made to improve the project, not to make the project worse. Council Member Smith said the proposed changes had been made on the Council's recommendations and wishes, and the things that had been suggested were the result of the Council's discussions on the project over a period of two years. He said that he would not vote for another public hearing on this project.

Council Member Howes said that the developer still had the option to go to closing at the present deadline with no changes in the plans at all. He said this would mean that holding a public hearing would not be a realistic endeavor. Council Member Howes agreed with Council Member Smith that the proposed changes were the result of the developer trying to be responsive to desires expressed during the recent elections.

Council Member Godschalk said that the proposed changes would reduce the density, increase the open space and parking and that he did not think the public would disagree.

Council Member Andresen said she felt there were still questions on the actual number of parking spaces between public and private and that she had questions as to the constitutionality of using public funds for private purposes.

Council Member Thorpe said that he was not generally in favor of voting against holding a public hearing but he felt that there was no need for another public hearing. He suggested that the question to be debated should be whether or not the Council wished to continue with the project, and if so then the Council should not make delays.

Mayor Wallace said the real issue at stake was the number of parking spaces in the project and he questioned whether a valid contract existed between the Town and the developer in light of new information regarding the number of parking spaces required for the hotel.

Council Member Preston asked for clarification of what the public hearing, if adopted, would address. Council Member Werner stated that the public hearing would address the proposed changes and any other citizen concerns regarding the Rosemary Square project.

Council Member Pasquini spoke in support of holding another public hearing.

Mayor Wallace commented that the question should be whether or not the Town had ever entered into a valid contract because of the discrepancy in the actual number of parking spaces and hotel rooms involved.

Council Member Smith said that there had been a considerable amount of public hearings on the project over the two year period. He asked how many of those present had attended those hearings. Mr. Smith said the entire matter of Rosemary Square was not brought up by people in the community who did not understand it, because those who wanted to understand it, came to the public hearings. The whole Rosemary Square conflict was brought up by the candidates themselves. He said that if the parking was the gist of the current conversation, that question of parking, in his opinion, had been settled by the Board of Adjustment, and the Council did not need to be discussing that issue. He said he felt it was a waste of his time, especially at that time of night (11:15 p.m.). Mr. Smith said that Mayor Wallace brought the issue up in the campaign by appealing the decision to the Board of Adjustment. He said at that point all of the other candidates picked the issue up. Mr. Smith said that if Mayor Wallace had not appealed to the Board of Adjustment then the conflict would never have entered the campaign. He said that very few of the candidates had attended the public hearings. Mr. Smith said that Council Member Pasquini was the only candidate who attended the hearings and could have introduced the subject. He said that Mr. Pasquini had voted in favor of the proposal all through the hearing process until the campaign began and then he started voting against the proposal. Council Member Smith said he wanted the point made that it was not the citizens of Chapel Hill

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who initiated the discussion of Rosemary Square. He said the developers had gone out into the community and talked about the project, as well as in the Council's public hearings. He said that if the people were interested in the issue they would have attended the public hearings, and if they weren't interested in it they would not come to a public hearing even if one was held the very next day. He said that in his opinion they were not really that interested in it. Mr. Smith said the merchants downtown knew everything about it and that it had been discussed in their meetings, and he was sure they had discussed it throughout the community.

THE MOTION FAILED, (4-5) WITH COUNCIL MEMBERS ANDRESEN, PASQUINI, WERNER, AND WALLACE VOTING IN FAVOR.

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER SMITH TO ADOPT RESOLUTION 86-1-13/R-9. THE MOTION CARRIED, (6-3), WITH COUNCIL MEMBERS PASQUINI, WALLACE, AND WERNER VOTING AGAINST.

The resolution, as adopted, reads as follows:

A RESOLUTION REGARDING THE ROSEMARY SQUARE DEVELOPMENT AGREEMENT AND GARAGE UTILIZATION AGREEMENT (86-1-13/R-9)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby authorizes the Town Manager to negotiate and to submit to the Council proposed amendments to the Rosemary Square Development Agreement and Garage Utilization Agreement; the Manager shall be guided in the negotiation by the Council's discussion of a letter from the Fraser Development Company of North Carolina dated December 23, 1985 and the Council's direction to the Manager.

This the 13th day of January, 1986.

Payments-in-lieu of Dedication of Recreation Space

Ordinance 85-O-77a was on the floor for a second reading.

THE MOTION PASSED, (8-1), WITH COUNCIL MEMBER THORPE VOTING AGAINST.

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING THE CHAPEL HILL DEVELOPMENT ORDINANCE (85-O-77a)

BE IT ORDAINED by the Council of the Town of Chapel Hill that the Chapel Hill Development Ordinance be amended as follows:

SECTION I

AMEND Subsection 5.7.10, Payments in Lieu of Improved Recreation Space, to read as follows:

5.7.10 Payments in Lieu of Improved Recreation Space

In lieu of providing recreation space required pursuant to this section, a developer of a multi-family dwelling or planned development may, with the approval of Council, make a payment to the Town whereby the Town may acquire or develop recreation land to serve the development. A developer may make a partial payment in combination with the partial provision of recreation space if Council determines that the combination is in the best interests of the citizens of the area to be served.

The Town shall use such payment only for the acquisition or development of recreation, park, or open space sites to serve residents of the development or residents of more than one subdivision or development within the immediate area.

The amount of the payment shall be the product of the minimum amount of recreation space required multiplied by the fair market value of the land being developed. The fair market value of the land being developed (including streets, utilities and other related improvements) shall be the expected fair market value of the land after it is developed in the manner proposed by the developer and approved by the Town. The cost associated with appraisal of the fair market value of the land shall be borne by the developer.

If the Town disagrees with the developer's appraisal of the land's fair market value, fair market value shall be determined by a special appraisal committee made up of one professional appraiser appointed by the developer, one professional appraiser appointed by the Town, and one professional appraiser appointed by the initial two committee members. The committee shall view the land and hear the contentions of both the Town and the developer. The committee shall determine its findings by majority vote and shall certify them to Council within thirty (30) days of the time of the third member's appointment. The costs of the committee shall be borne by the developer.

The Town's Community Facilities Report of the Comprehensive Plan, as adopted by Council establishes park standards, classifications, and service areas for recreational facilities, and shall serve as the basis for Town use of a payment to meet the recreation, park, and open space needs of the residents of the development for which the payment is made.

The developer shall make the payment before issuance of a Zoning Compliance Permit for the development, provided, however, that the Town Manager may allow phasing of payments consistent with the approved phasing of the development.

SECTION II

AMEND Subsection 7.9.5, Payments In Lieu of Provision or Dedication, to read as follows:

7.9.5 Payments In Lieu of Provision or Dedication

In lieu of providing or dedicating recreation area required pursuant to this section, a developer of a subdivision may, with the approval of Council, make a payment to the Town whereby the Town may acquire or develop recreation land to serve the subdivision. A developer may make a partial payment in combination with the partial provision of recreation space if Council determines that the combination is in the best interests of the citizens of the area to be served.

The Town shall use such payment only for the acquisition or development of recreation, park, or open space sites to serve residents of the subdivision or residents of more than one subdivision or development within the immediate area.

The amount of the payment shall be the product of the minimum amount of recreation area required multiplied by the fair market value of the land being subdivided. The fair market value of the land being subdivided (including streets, utilities and other related improvements) shall be the expected fair market value of the land after it is subdivided in the manner proposed by the developer and approved by the Town. The costs associated with appraisal of the fair market value of the land shall be borne by the developer.

If the Town disagrees with the developer's appraisal of the land's fair market value, fair market value shall be determined by a special appraisal committee made up of one professional appraiser appointed by the developer, one professional appraiser appointed by Council, and one professional appraiser appointed by the initial two committee members. The committee shall view the land and hear the contentions of both the Town and the developer. The committee shall determine its findings by majority vote and shall certify them to Council within thirty (30) days of the time of the third member's appointment. The costs of the committee shall be borne by the developer.

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The Town's Community Facilities Report of the Comprehensive Plan, as adopted by Council establishes park standards, classifications, and service areas for recreational facilities, and shall serve as the basis for Town use of a payment to meet the recreation, park, and open space needs of the residents of the subdivision for which the payment is made.

The developer shall make the payment before approval of a final plat for the subdivision, provided, however, that the Town Manager may allow phasing of payments consistent with the approved phasing of the subdivision.

SECTION III

That all ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 25th day of November, 1985.

Second Reading January 13, 1986.

Vehicle License Fee

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER SMITH TO ADOPT ORDINANCE 86-1-13/O-1.

Council Member Smith asked if the proposed ordinance would allow for stricter enforcement. Manager Taylor replied that the vehicle license fee would become a part of the County tax system and therefore all those citizens who listed their cars on their property tax forms would pay the license fee.

THE MOTION PASSED UNANIMOUSLY, (9-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING CHAPTER 21-1 OF THE TOWN'S TRAFFIC CODE OF ORDINANCES (86-1-13/O-1)

BE IT ORDAINED by the Town Council of the Town of Chapel Hill that the Council hereby amends Chapter 21-1 of the Town Traffic Code of Ordinances as follows:

SECTION I

ARTICLE I. IN GENERAL

SECTION 21-1 REGISTRATION OF VEHICLES

Each motor vehicle owned by a resident owner or operated by a business establishment located within the town limits which is registered for property taxes in the Town shall be billed an annual vehicle license fee of five dollars (\$5.00).

SECTION II

That all ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 13th day of January, 1986.

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COUNCIL MEMBER THORPE MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 86-1-13/R-10. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION AUTHORIZING THE MANAGER TO ENTER INTO AN AGREEMENT WITH ORANGE COUNTY TO BILL AND COLLECT THE MOTOR VEHICLE LICENSE FEE (86-1-13/R-10)

BE IT RESOLVED by the Town Council of the Town of Chapel Hill that the Council hereby authorizes the Town Manager to enter into an agreement with Orange County to bill and collect the motor vehicle license fee in conjunction with annual consolidated property tax bills beginning in fiscal year 1986-87, and for each fiscal year thereafter. The license fee may be remitted to the County or the Town in the same manner as property taxes are remitted.

This the 13th day of January, 1986.

Police/Fire Study Interim Report

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER HOWES TO ADOPT RESOLUTION 86-1-13/R-11.

Council Member Thorpe commented that he felt the Council needed to spend more time reviewing the report and recommendations. He cited items 2 and 24 from the memorandum as examples.

Council Member Pasquini agreed with Council Member Thorpe.

Manager Taylor encouraged any Council Member to come to him individually or as a small group for further explanations and review since the report was so late on the agenda.

Council Member Werner said he felt most of the matters being reviewed and implemented at this time were administrative and should be left to the Manager's discretion.

THE MOTION CARRIED, (8-1), WITH COUNCIL MEMBER THORPE VOTING AGAINST.

The resolution, as adopted, reads as follows:

A RESOLUTION RECEIVING THE MANAGER'S INTERIM REPORT ON THE MANAGEMENT STUDY OF THE POLICE AND FIRE DEPARTMENT AND REQUESTING FURTHER PROGRESS REPORTS (86-1-13/R-11)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby receives the Manager's Interim Report on the Management Study of the Police and Fire Department as presented on November 25, 1985 and January 13, 1986 and requests the Manager provide additional progress reports on this subject to Council as a part of the quarterly reporting process and in the consideration of the 1986-87 operating budget.

This the 13th day of January, 1986.

Consent Agenda

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 86-1-13/R-12. THE MOTION PASSED UNANIMOUSLY, (9-0).

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The resolutions, and ordinances, as adopted, read as follows:

A RESOLUTION APPROVING VARIOUS ORDINANCES AND RESOLUTIONS
(86-1-13/R-12)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby adopts the ordinances and resolutions submitted by the Manager in regard to the following:

- a. Appreciation for gift (86-1-13/R-13)
- b. Budget amendment for gift (86-1-13/O-2)
- c. Bids for asphalt supply contract (86-1-13/R-14)
- d. Taxi Franchise Amendment (86-1-13/O-3) First reading

This the 13th day of January, 1986.

A RESOLUTION ACCEPTING WITH APPRECIATION A GIFT OF \$6,500 FOR THE PURCHASE OF TWO MICRO-COMPUTERS FOR YOUTH COMPUTER CLASSES (86-1-13/R-13)

WHEREAS an anonymous gift of \$6,500 has been given to the Town of Chapel Hill for the purchase of two micro-computers, printers, software and supplies and;

WHEREAS this gift will provide the equipment and supplies necessary to conduct computer classes for the youth of the community through the Town Parks and Recreation Department;

NOW THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council accepts with appreciation the \$6,500 gift and gratefully acknowledges the benefits of this gift to the community.

This the 13th day of January, 1986.

AN ORDINANCE TO AMEND "THE ORDINANCE CONCERNING APPROPRIATIONS AND THE RAISING OF REVENUE FOR THE FISCAL YEAR BEGINNING JULY 1, 1985 (86-1-13/O- 2)

BE IT ORDAINED by the Council of the Town of Chapel Hill that the Budget Ordinance entitled "An Ordinance Concerning Appropriations and the Raising of Revenue for the Fiscal Year Beginning July 1, 1985" as duly adopted on June 10, 1985, be and the same is hereby amended as follows:

ARTICLE I

| <u>APPROPRIATIONS</u> | <u>CURRENT BUDGET</u> | <u>INCREASE</u> | <u>DECREASE</u> | <u>REVISED BUDGET</u> |
|------------------------------------|---------------------------|-----------------|-----------------|---------------------------|
| Parks & Recreation General Rec. | 291,405 | 6,500 | | 297,905 |
| <u>REVENUES</u> | | | | |
| Other Revenues | 15,200 | 6,500 | | 21,700 |

This the 13th day of January, 1986.

A RESOLUTION AWARDING A CONTRACT FOR 1-2 ASPHALTIC CONCRETE, H-B ASPHALT AND TACK COAT (86-1-13/R- 14)

WHEREAS, the Town of Chapel Hill has solicited formal bids by legal notice in The Chapel Hill Newspaper on December 1, 1985 in accordance with G.S. 143-129 for the supply of 1-2 asphaltic concrete, H-B asphalt and tack coat for street patching; and

WHEREAS, the following bids have been received and opened on December 17, 1985:

| <u>Item</u> | <u>Nello Teer Durham</u> | <u>C. C. Mangum, Raleigh</u> | <u>Lee Paving Co., Sanford</u> |
|-------------------------------------|------------------------------|----------------------------------|------------------------------------|
| 2200 Tons 1-2 Asphaltic Concrete | \$28.40/ton \$62,480 | \$31.00/ton \$68,200 | \$27.50/ton \$60,500 |
| 300 Tons H-B Asphalt | \$24.25/ton \$7,275 | \$31.00/ton \$9,300 | \$24.00/ton \$7,200 |
| 6500 Gallons Tack Coat | \$1.90/gal. \$12,350 | \$1.00/gal. \$6,500 | \$1.80/gal. \$11,700 |

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Town accepts the bid by Nello L. Teer Company of December 17, 1985 in the amount of \$28.40/ton for 1-2 asphaltic concrete, \$24.25/ton for H-B asphalt and \$1.90/gallon for tack coat in response to the Town's request for bids published December 1, 1985 and opened on December 17, 1985, in accordance with G.S. 143-129.

This the 13th day of January, 1986.


Executive Session

The Executive Session was cancelled.

A MOTION WAS DULY MADE, AND SECONDED TO ADJOURN THE MEETING. THE MOTION PASSED UNANIMOUSLY, (9-0).

The meeting adjourned at 11:30 p.m.

Mayor James C. Wallace


Nancy J. Wells
Town Clerk

