

MINUTES OF A REGULAR MEETING OF THE MAYOR AND COUNCIL  
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,  
MONDAY, FEBRUARY 24, 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 Town Attorney Ralph Karpinos.

Petitions

Gina Cunningham, representing the Entranceways Task Force, asked to speak to item #15, Nominations to the Community Planning Task Force.

Don Francisco, representing the Planning Board, presented a memorandum to the Council to be added to the minutes of the February 5 work session of the Council and Planning Board.

Don Francisco, speaking as a resident, asked to speak to item #4, Morgan Bend Subdivision.

Michael Brough, an attorney representing Robert Eugene Faye, asked to speak to item #4, Morgan Bend Subdivision.

Joyce Garrett, an attorney representing Louis Shook, asked to speak to item #4, Morgan Bend Subdivision.

Watts Hill, Jr., speaking as a resident, asked to speak to item #3, Development Ordinance Text Amendments.

Minutes

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER WERNER TO DEFER ACTION ON THE MINUTES OF FEBRUARY 5, 1986 UNTIL THE NEXT REGULAR COUNCIL MEETING IN ORDER TO REVIEW THE MEMORANDUM PRESENTED BY THE PLANNING BOARD. THE MOTION PASSED UNANIMOUSLY, (9-0).

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO ADOPT THE MINUTES OF FEBRUARY 10, 1986 AS CIRCULATED. THE MOTION PASSED UNANIMOUSLY, (9-0).

Density Caps

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO ADOPT ORDINANCE 86-2-24/0-1B.

Council Members Godschalk and Preston spoke in favor of the motion stating the proposed ordinance would probably create the least number of nonconformities and seemed an acceptable interim solution to the current growth problems.

Council Member Smith commented that he was sympathetic with the desire to control growth through reducing densities but that he was concerned over the potential affect this proposed ordinance would have on affordable housing in Chapel Hill. He felt by reducing density caps the Town would in essence be severely reducing the possibility of providing affordable housing. He said there were other ways to achieve manageable growth and still allow for affordable housing.

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Council Members Werner and Andresen commented that they felt the Town needed to take more positive steps in the affordable housing issue but that density caps and growth management and providing affordable housing were separate issues and the Council would have to address affordable housing in other ways.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN FOR A SUBSTITUTE MOTION TO ADOPT ORDINANCE 86-2-24/0-1A.

Watts Hill, Jr., speaking as a resident and member of the Affordable Housing Task Force, spoke against reducing the density caps saying he did not feel one could separate the availability of affordable housing from the proposed reduction in density caps. He commented that he felt the Council was reacting as a result of a growth situation which was correcting itself. Mr. Hill said that the growth in multifamily housing had slowed and that occupancy rates in these developments was low. He urged the Council to consider the current situation before attempting to correct a problem which seemed to be correcting itself.

Council Member Howes spoke in support of the main motion pointing out that the difference between the main motion and the substitute motion was in the number of allowable units per acre in the R-1 and R-5 and higher zones. He felt the primary motion was more in line with what the residents and Council wanted. Council Member Howes agreed that there was a connection between affordable housing and density caps and said the Council needed to work on methods to ensure affordable housing existed in Chapel Hill.

Council Member Werner stated he felt the number of dwelling units per acre for R-5 and higher zoning should be less than 15 because he felt those current developments with 15 or more units per acre were taxing the Town's resources.

Council Member Howes pointed out that there was only one current development with over 15 units per acre which could be considered to have the potential according to Council Member Werner's assertion to tax the Town's resources.

Council Member Thorpe spoke in support of the primary motion saying he felt the substitute motion was too extreme. He asked the Manager to prepare a statement on the definition of affordable housing, so everyone would be speaking of the same thing.

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

THE MOTION TO ADOPT ORDINANCE 86-2-24/0-1B CARRIED, (7-2), WITH COUNCIL MEMBERS SMITH AND WALLACE VOTING AGAINST.

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING THE CHAPEL HILL DEVELOPMENT ORDINANCE (86-2-24/0-1b)

WHEREAS, the Town of Chapel Hill has experienced changing conditions in the last five years in the form of increased rate of growth leading to overcrowding of roads and other public facilities; and

WHEREAS, there exists increased public concern over these changed conditions, and with the pace and type of new development, as evidenced by public dialogue in recent municipal elections, and by the appointment of a Growth Management Task Force in 1984 to study these issues; and

WHEREAS, a recent Traffic Signalization Study confirmed the existence of congested traffic conditions in Chapel Hill; and

WHEREAS, the Growth Management Task Force in September, 1984 recommended reconsideration of the densities allowed under the Development Ordinance;

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 Section 5.8's table of maximum number of dwelling units per acre of gross land area to read as follows:

Zoning District	Maximum Number of Dwelling Units Per Acre of Gross Land Area
R-1	3
R-2	4
R-3	7
R-4, OI-1, NC	10
R-5, R-6, OI-2, CC	15

AMEND the first paragraph of Section 5.8 to read as follows:

In addition to the maximum floor area requirement established in Section 5.7, a limitation on the number of dwelling units shall also apply to residential developments. These limitations shall not apply to single-family dwellings outside of a planned development.

SECTION III

That these limitations shall be applicable to all applications for Site Plan Review, Special Use Permits, and subdivision plat approvals accepted by the Town after January 13, 1986, the date of scheduling of Public Hearing to consider these amendments.

SECTION IV

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

This the 24th day of February, 1986.

Land Use Intensity Ratios

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER WERNER TO ADOPT ORDINANCE 86-2-24/O-2C.

Council Member Andresen said she felt having the area where Eastowne Office Park was located zoned as OI-2 was okay but felt other Office/Institutional-2 zones should not be adjacent to residential areas. She suggested creating another zoning designation to encourage developers to utilize those areas not near neighborhoods as office parks.

Council Member Smith spoke against the motion citing the potential harm to the availability of affordable housing in Chapel Hill.

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

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING THE CHAPEL HILL DEVELOPMENT ORDINANCE (86-2-24/O-2c)

WHEREAS the Town of Chapel Hill has experienced changing conditions in the last five years in the form of increased rate of growth leading to overcrowding of roads and other public facilities; and

WHEREAS there exists increased public concern over these changed conditions, and with the pace and type of new development, as evidenced by public dialogue in recent municipal elections, and by the appointment of a Growth Management Task Force in 1984 to study these issues; and

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WHEREAS a recent Traffic Signalization study confirmed the existence of congested traffic conditions in Chapel Hill;

NOW, THEREFORE 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 the LUI Rating, Floor Area Ratio, Open Space Ratio, Livability Space, and Recreation Space Ratio columns in Subsection 5.11.1 (Schedule of Intensity Regulations for Use Group A) to read as follows for the indicated zoning districts and bonus levels:

Land Use Intensity (LUI) Ratios						
District	Bonus Level	LUI Rating	Floor Area (FAR)	Open Space (OSR)	Livability Space (LSR)	Recreation Space (RSR)
CC	0	47	.328	.74	.46	.046
	1	49	.357	.73	.44	.049
	2	50	.373	.73	.43	.050
NC	0	42	.230	.75	.51	.039
	1	44	.264	.74	.48	.042
	2	45	.283	.74	.48	.042
OI-3	0	45	.283	.74	.48	.042
	1	47	.325	.73	.46	.046
	2	48	.348	.73	.45	.049
OI-2	0	.47	.328	.74	.46	.046
	1	.49	.357	.73	.44	.049
	2	.50	.373	.73	.43	.050
OI-1	0	42	.230	.75	.51	.039
	1	44	.264	.74	.48	.042
	2	45	.283	.74	.48	.042
I	0	37	.162	.77	.53	.032
	1	39	.187	.77	.52	.036
	2	40	.200	.76	.52	.036
R-6	0	46	.303	.78	.50	.050
	1	48	.348	.78	.50	.050
	2	49	.373	.78	.50	.050
R-5	0	46	.303	.78	.50	.050
	1	48	.348	.78	.50	.050
	2	49	.373	.78	.50	.050
R-4	0	42	.230	.75	.51	.039
	1	44	.264	.74	.48	.042
	2	45	.283	.74	.48	.042
R-3	0	37	.162	.77	.53	.032
	1	39	.187	.77	.52	.036
	2	40	.200	.76	.52	.036
R-2	0	29	.093	.81	.66	.025
	1	31	.107	.80	.62	.026
	2	32	.115	.79	.60	.026
R-1	0	26	.076	.89	.75	.025
	1	28	.087	.89	.75	.025
	2	29	.093	.89	.75	.025

## SECTION II

AMEND the LUI Rating, Floor Area Ratio, Open Space Ratio, and Livability Space Ratio columns in Subsection 5.11.2 (Schedule of Intensity Regulations for Use Group B) to read as follows for the indicated zoning districts and bonus levels:

Land Use Intensity (LUI) Ratios					
District	Bonus Level	LUI Rating	Floor Area (FAR)	Open Space (OSR)	Livability Space (LSR)
CC	0	51	.429	.76	.27
	1	53	.492	.76	.27
	2	54	.528	.76	.27
NC	0	44	.264	.74	.27
	1	46	.303	.73	.27
	2	47	.325	.73	.27
OI-3	0	49	.373	.72	.27
	1	51	.429	.72	.27
	2	52	.459	.72	.27
OI-2	0	44	.264	.74	.27
	1	46	.303	.73	.27
	2	47	.325	.73	.27
OI-1	0	44	.264	.74	.40
	1	46	.303	.73	.40
	2	47	.325	.73	.40
I	0	31	.107	.80	.50
	1	33	.123	.79	.50
	2	34	.132	.78	.50
R-6	0	44	.264	.74	.40
	1	46	.303	.73	.40
	2	47	.325	.73	.40
R-5	0	44	.264	.74	.40
	1	46	.303	.73	.40
	2	47	.325	.73	.40
R-4	0	38	.174	.77	.52
	1	40	.200	.76	.52
	2	41	.214	.76	.51
R-3	0	31	.107	.80	.62
	1	33	.123	.79	.58
	2	34	.132	.78	.55
R-2	0	23	.062	.89	.76
	1	25	.071	.89	.75
	2	26	.076	.89	.75
R-1	0	20	.050	.87	.75
	1	22	.058	.87	.74
	2	23	.062	.86	.73

## SECTION III

AMEND the LUI Rating, Floor Area Ratio, Open Space Ratio, and Livability Space Ratio columns in Subsection 5.11.3 (Schedule of Intensity Regulations for Use Group C) to read as follows for the indicated zoning districts and bonus levels:

## Land Use Intensity (LUI) Ratios

District	Bonus Level	LUI Rating	Floor Area (FAR)	Open Space (OSR)	Livability Space (LSR)
CC	0	52	.425	.72	.27
	1	54	.528	.71	.27
	2	55	.566	.70	.27
NC	0	38	.174	.77	.27
	1	40	.200	.76	.27
	2	41	.214	.76	.27
OI-3	0	43	.246	.75	.27
	1	45	.283	.74	.27
	2	46	.303	.73	.27
OI-2	0	44	.264	.74	.27
	1	46	.303	.73	.27
	2	47	.325	.73	.27
OI-1	0	38	.174	.77	.40
	1	40	.200	.76	.40
	2	41	.214	.76	.40
I	0	25	.071	.89	.50
	1	27	.081	.83	.50
	2	28	.087	.82	.50
R-6	0	37	.162	.77	.53
	1	39	.187	.77	.52
	2	40	.200	.76	.52
R-5	0	37	.162	.77	.53
	1	39	.187	.77	.52
	2	40	.200	.76	.52
R-4	0	31	.107	.80	.62
	1	33	.123	.79	.58
	2	34	.132	.78	.55
R-3	0	25	.071	.89	.75
	1	27	.081	.83	.68
	2	28	.087	.82	.67
R-2	0	17	.041	.90	.80
	1	19	.047	.90	.78
	2	20	.050	.90	.77
R-1	0	13	.031	.90	.80
	1	15	.035	.89	.78
	2	16	.038	.88	.78

## SECTION IV

That these amendments shall be applicable to all applications for Site Plan Review and Special Use Permits accepted by the Town after January 13, 1986, the date of scheduling of Public Hearings to consider these amendments.

## SECTION V

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

This the 24th day of February, 1986.

### Height Limits

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO ADOPT ORDINANCE 86-2-24/0-3B.

Council Member Pasquini asked for clarification of what constituted a "story" in a building. Manager Taylor replied that the staff felt a "story" was that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. Council Member Pasquini said that this meant a story could be any height. Manager Taylor concurred.

Council Member Andresen spoke in support of the motion saying it gave developers flexibility and still reduced the height limits.

Council Member Werner suggested amending the motion to state that the third story of habitable space could not exceed 40 feet.

Council Member Godschalk spoke in support of the motion also saying it allowed for flexibility of design.

Council Members Howes and Thorpe commented that they were not sure the present height limits needed to be reduced.

Council Member Pasquini spoke against the motion citing that with the proposal there would be no height limit in number of feet and therefore present height limits would actually raised with the adoption of the motion, not lowered which he perceived was the consensus of the Council.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER WERNER FOR A SUBSTITUTE MOTION TO ADOPT ORDINANCE 86-2-24/0-3C WITH A FORTY FOOT HEIGHT LIMIT FOR HABITABLE SPACE OR 3 STORIES WHICHEVER WAS MORE RESTRICTIVE.

Council Member Howes said he felt the Staff and Planning Board should further review this issue taking into consideration the concern for allowing flexibility in design and having a specific height limit.

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER THORPE TO TABLE THE SUBSTITUTE THE MOTION. THE MOTION CARRIED, (7-2), WITH COUNCIL MEMBERS ANDRESEN AND WERNER VOTING AGAINST.

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER THORPE TO TABLE THE ORIGINAL MOTION. THE MOTION PASSED (9-0).

### Morgan Bend Subdivision

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 86-2-24/R-4B.

Council Member Andresen asked where the proposed active recreation space was for the subdivision. Mr. Waldon replied that the recreation space proposed bordered Morgan Creek and by ordinance was intended for the use of property owners of the development. He said the staff recommended having a note be placed on the final plat for the subdivision and recorded in the Register of Deed's Office stating the possibility of future Town greenway acquisition along Morgan Creek.

Council Member Smith commented that a 30' sewer easement already existed along Morgan Creek and therefore he felt there might not be a need for further land acquisition for a greenway trail.

Council Member Andresen spoke in support of designating the area as a potential greenway trail.

Don Francisco, speaking as a resident, spoke against having a greenway trail along this segment of Morgan Creek. He introduced a memorandum into the record in which he cited several reasons ranging from the existing topography to demands for maintenance as to why it might not be practical or feasible to include this section of Morgan Creek in the greenway system. (For copy of text, see Clerk's Files)

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Michael Brough, an attorney representing Robert Eugene Faye, spoke in support of approval of the subdivision but against the inclusion of any conditions requiring notice being placed on the final plat of the possible intent of acquiring portions of the property for greenway purposes. He said it was an unfair burden to place on the potential land owners since the Town had never required this condition prior to this application and that it created a permanent cloud on the title of the land even if the Council never acquired the land. Mr. Brough also complained of the indefiniteness of the condition pointing out that it represented an open ended statement in that it did not indicate specifically how much land was involved in the potential for greenway acquisition. He suggested that if the Council adopted the proposal they could add a statement to the effect that if the land were ever taken through condemnation proceedings that the plat would not have the statement of possible intention so as to ensure fair market price were obtained for the land.

Joyce Garrett, an attorney representing Louis Shook, the developer, urged the Council to approve the subdivision. She said the developer agreed to the condition of notice of possible intent to acquire for greenways because the Greenways Task Force final report identified this area as a potential greenway, but would prefer for this condition not to be included. She said she also represented several other property owners along Morgan Creek who were against the inclusion of this area in the Town's Greenway system.

Mayor Wallace said he was in favor of a greenway system but that putting a notice on the final plat of possible intent to acquire portions of the property for a greenway represented an undue encumbrance on the property and felt the Council should not require this.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER THORPE FOR A SUBSTITUTE MOTION TO ADOPT RESOLUTION 86-2-24/R-4A. THE SUBSTITUTE MOTION FAILED TO PASS, (3-6), WITH COUNCIL MEMBERS SMITH, THORPE, AND WALLACE VOTING IN FAVOR.

THE MOTION TO ADOPT RESOLUTION 86-2-24/R-4B CARRIED, (6-3), WITH COUNCIL MEMBERS SMITH, THORPE, AND WALLACE VOTING AGAINST.

The resolution, as adopted, reads as follows:

**RESOLUTION APPROVING PRELIMINARY PLAT FOR MORGAN BEND SUBDIVISION (86-2-24/R4b)**

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Morgan Bend Subdivision proposed by Louis L. Shook on property identified as Chapel Hill Township Tax Map 131, Lot 1, if developed according to preliminary plat sheet #1 dated August 8, 1985; preliminary plat sheets #2 and #3 dated October 17, 1985; and the conditions listed below, would comply with the provisions of the Development Ordinance.

1. That the current terminus of the Morgan Creek Road roadway be improved so as to provide a smooth and safe transition to its extension.
2. That the extension of Morgan Creek Road be constructed to Town standards for a class "A" Local Street, without curb and gutter.
3. That the final utility plan be approved by OWASA, Duke Power, Southern Bell, and Village Cable before issuance of a Zoning Compliance Permit or application for final plat 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 utility and drainage easements as required by the utilities and the Town Manager be dedicated and shown on the final plat.



6. That the boundary of the Resource Conservation District be shown on the final plat, along with notation that development may be restricted within the district.
7. That a note be placed on the final plat stating: "The Town of Chapel Hill has identified the area along Morgan Creek within this subdivision as a possible future location of a public greenway system."
8. That any restrictive covenant applicable to the lots not call for a greater street setback called for by the Development Ordinance.
9. That a soil erosion and sedimentation control plan be approved by the Orange County Erosion Control Officer before issuance of a Zoning Compliance Permit.
10. That final street plans, 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.
11. 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.
12. That if any of the above conditions is held invalid, this approval shall be void.

This the 24th day of February 1966.

#### Oxford Hills

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER HOWES TO ADOPT RESOLUTION 86-2-24/R-5B.

Roger Waldon, Planning Director, gave a presentation on the proposal for a cluster subdivision of 28.3 acres for 52 residential building lots and 6.3 acres of recreation area. The site was located on the southeast side of Old Oxford Road opposite its intersection with Ridgecrest Drive. Mr. Waldon said the staff proposed that if the subdivision were approved, Old Oxford Road should be improved to Town standards including having a sidewalk along the southeast side. He stated the Resource Conservation District (RCD) severely impacted four proposed lots and as such the staff recommended combining these four lots with adjoining lots so that a variance would not be needed in order to use the lots.

Council Member Godschalk commented that the four lots severely impacted by the RCD could be used without invoking the conditions of the RCD. He suggested that bridges could be built spanning the area covered by the RCD from the internal road to the house sites.

Council Member Werner asked what conditions would have to be met in order for a variance to be granted by the Board of Adjustment. Mr. Waldon replied that there had to be a decision made that there was no reasonable use of the property without the variance.

Council Member Pasquini asked why the staff recommended having the lots only meet the minimum required allowable space but recommended having a large recreation space. Mr. Waldon replied that the staff had determined that since the plat as drawn met all of the required standards they would prefer to have the developer dedicate easements along Booker Creek for greenway purposes. Council Member Pasquini expressed further concern about the small lot sizes and the amount of land affected by the RCD.

John McAdams, representing the applicant, Chapel Hill Electric, Inc., urged support of resolution A because he felt the proposal could adhere to the Development Ordinance and still have use of all the lots. He said the Ordinance allows for ground level driveways to be built without a variance if there were no cut or fill involved which would change the hydraulic characteristics of the watercourse. He also said the cars could be left on the street side of the property without a driveway to the house. He introduced a memorandum into the record with the developer's exceptions to the staff recommendations. (For copy of text, see Clerk's Files)

Council Member Godschalk expressed concern about not having driveways to the houses for access by emergency vehicles.

Council Member Smith expressed concern about the number of proposed lots which would be affected by the RCD and the potential for variances.

Council Member Werner expressed concern about the active recreation space waiver saying the present Town-operated recreation areas were too far away for ease of access.

Council Member Howes spoke against the need to combine the four lots as recommended by the Manager and said he felt the small lots size should make them more affordable.

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN FOR A SUBSTITUTE MOTION TO ADOPT RESOLUTION 86-2-24/R-5A.

Council Members Pasquini and Smith expressed concern about the amount of area affected by the Resource Conservation District.

THE SUBSTITUTE MOTION CARRIED, (6-3), WITH COUNCIL MEMBERS PASQUINI, SMITH AND WERNER VOTING AGAINST.

THE MOTION TO ADOPT RESOLUTION 86-2-24/R-5A CARRIED, (6-3), WITH COUNCIL MEMBERS PASQUINI, SMITH, AND WERNER VOTING AGAINST.

The resolution, as adopted, reads as follows:

**RESOLUTION APPROVING AN APPLICATION FOR PRELIMINARY PLAT APPROVAL FOR OXFORD HILLS SUBDIVISION (86-2-24/R-5a)**

BE IT RESOLVED by the Council of the Town of Chapel Hill that it finds that the subdivision proposed by Chapel Hill Electric, Inc. on property identified as Chapel Hill Township Tax Map 27, Block A, Lot 3A, if developed according to the preliminary plat and utilities plan dated January 10, 1986, the street profiles dated October, 1984 (for part of Oxford Hills Drive) and December 19, 1984 (for part of Oxford Hills Drive, Timber Place, Wilder Place, and Ivy Place), and the conditions listed below, would comply with the provisions of the Development Ordinance.

1. That Old Oxford Road be improved to Local Class A street standards, with a 33-foot-wide roadway, curb-and-gutter on both sides, a sidewalk on the southeast side, and a 60-foot-wide right-of-way.
2. That the names of Ivy Place and Timber Place be changed to names approved by the Town Manager as not similar to the names of existing or approved streets.
3. That a paved sidewalk be constructed to Town standards along the south and east side of Oxford Hills Drive.
4. That a type C buffer be provided along the site's common boundary with the adjacent McClamroch property and that type B buffers be provided along the site's common boundaries with the adjacent Elliott Woods and Summerfield Crossing development sites. Buffer easements shall be dedicated on the final plat and a buffer planting plan, including a plan for the continued maintenance of plantings, shall be approved by the Town Manager as part of final plan approval. The approved buffer planting shall be in place before issuance of any Certificate of Occupancy for a dwelling in the subdivision.

5. That the recreation area suitability requirements of Subsection 7.9.3 that require location on dry land be waived in accord with the provisions of Subsection 7.9.6.b) to allow the proposed recreation area.
6. That Timber Place be relocated or redesigned to avoid any associated placement of fill within the adjacent Resource Conservation District.
7. That all variances necessary for development within the Resource Conservation District be obtained before application for final plan or final plat approval. Lots 31, 32, 37 and 38 may be combined with adjacent lots to avoid driveways across the Resource Conservation District that require variances.
8. That the boundaries of the Resource Conservation District be shown on the final plat.
9. That any restrictive covenant applicable to lots adjacent to the Resource Conservation District not require greater setbacks than those required by the Development Ordinance.
10. That final street plans, grading plans, utility plans, stormwater management plans (with hydrologic calculations), and buffer planting plans be approved by the Town Manager before issuance of the Zoning Compliance Permit or application for final plat approval, and that such plans conform to plans approved as part of this application and demonstrate compliance with all applicable conditions and the design standards of the Development Ordinance and the Design Manual.
11. That the final utility plan be approved by OWASA, Duke Power, Public Service Company of N.C., Southern Bell, and Village Cable before issuance of the Zoning Compliance Permit or final plat approval.
12. That utility service laterals from utility lines located in streets be stubbed out to the front property line of each served lot before paving of the streets. Sewer laterals shall be capped off above ground.
13. That the continued validity and effectiveness of this approval is expressly conditioned on the continued compliance with the plans and conditions listed above.
14. 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 Oxford Hills Subdivision in accord with the plans and conditions listed above.

This the 24th day of February, 1986.

#### Site Plan Review Process Report

Manager Taylor stated that this report was in response to a citizen petition asking that notification be sent to nearby property owners when a site plan was being reviewed. He said the staff now requires all applications for Site Plan Review be accompanied by a mailing list of all property owners within 500 feet of proposed development, and two sets of stamped addressed envelopes for that mailing list. Manager Taylor said the staff was also studying additional potential changes to the Site Plan Review process to be presented to the Council in March.

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Response to Petition about Land Between Roosevelt Drive and Franklin Street

Manager Taylor stated the staff had reviewed the property in question and determined that there were no irregularities in the subdivision of the three lots into eight lots and that all were done according to Town procedures and standards. He said all lots had buildable areas outside of existing rights of way and easements, and outside of required setbacks.

Mayor Wallace asked for clarification of the right-of-way belonging to the State and the Town along Franklin Street. Manager Taylor replied that registered surveyors had performed the survey work and signed the subdivision plats. The Mayor suggested that the Town Attorney fully acquaint himself with the litigation now underway with regard to a portion of this property and advise if the Town should play any role.

Community Planning Task Force

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 86-2-24/R-6 AS AMENDED ON THE FLOOR. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

**A RESOLUTION ESTABLISHING THE COMMUNITY PLANNING TASK FORCE  
(86-2-24/R- 6)**

BE IT RESOLVED by the Town Council of the Town of Chapel Hill that the Council establishes a Community Planning Task Force to consist of 12 members appointed by the Mayor and Council; and that these 12 members shall all be residents of the Town of Chapel Hill or its extraterritorial jurisdiction, and

BE IT FURTHER RESOLVED that the charge of the Task Force is to:

1. Work with the Planning Board to understand the draft interim Land Use Plan prepared by the Board and the assumptions and reasoning behind it.
2. Organize meetings and informal gatherings to both present the draft interim plan and the reasoning and assumptions behind it and to listen to the reactions of the people.
3. Prepare a report to the Planning Board and Council concerning the citizen participation process and recommendations regarding the draft interim Land Use Plan and how it should be revised. This report shall be presented at or before a Public Hearing on July 7.

This the 24th day of February, 1986.

Joint Planning Public Hearing

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER PASQUINI TO ADOPT RESOLUTION 86-2-24/R-7. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

**A RESOLUTION SCHEDULING A PUBLIC HEARING (86-2-24/R-7)**

BE IT RESOLVED by the Council of the Town of Chapel Hill that a Joint Public Hearing be scheduled with Orange County, to consider a Land Use Plan for the Joint Planning Area; this Hearing is to be held at 7:30 p.m., on Thursday, April 17, 1986, at the Chapel Hill High School Performing Arts Center.

This the 24th day of February, 1986.

Procedure For Filling Vacancies on the Council

COUNCIL MEMBER THORPE MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT ORDINANCE 86-2-24/O-4A.

Council Member Thorpe said this proposal was an attempt to help in filling unexpected vacancies on the Council.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER HOWES TO AMEND THE MOTION TO DELETE PARAGRAPH TWO OF SECTION 2-28. THE MOTION PASSED UNANIMOUSLY, (9-0).

Council Member Howes expressed concern about requiring the appointment for the vacancy to be automatically placed on the agenda.

Mayor Wallace questioned the need for applications for vacancies on the Council but felt establishing a time period in which the Council could act would be beneficial.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN FOR A SUBSTITUTE MOTION TO ADOPT ORDINANCE 86-2-24/0-4B.

Council Members Werner and Andresen said this proposal would allow for the vacancy to be filled by a candidate who had been involved in the election process and previously reviewed by the citizens of Chapel Hill.

Council Member Smith spoke against the substitute motion saying it did not allow for Council discretion.

Council Member Howes said the Council had been elected to make judgement decisions and felt the primary proposal was better. He said that if those candidates involved in the general election were still interested in serving on the Council they could apply for the vacancy.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER HOWES FOR THE PREVIOUS QUESTION. THE MOTION CARRIED, (6-3), WITH COUNCIL MEMBERS ANDRESEN, PASQUINI, AND WERNER VOTING AGAINST.

THE SUBSTITUTE MOTION FAILED, (3-6), WITH COUNCIL MEMBERS ANDRESEN, PASQUINI, AND WERNER VOTING IN FAVOR.

THE MOTION TO ADOPT ORDINANCE 86-2-24/0-4A, AS AMENDED, CARRIED, (6-3), WITH COUNCIL MEMBERS ANDRESEN, PASQUINI, AND WERNER VOTING AGAINST.

The ordinance, as adopted, reads as follows:

AN ORDINANCE CONCERNING APPOINTMENTS TO VACANCIES IN THE OFFICES OF THE MAYOR AND TOWN COUNCIL (86-2-24/0-4a)

BE IT ORDAINED by the Council of the Town of Chapel Hill:

#### SECTION I

Chapter 2 of the Code of Ordinances is hereby amended as follows:

ADD a new Article II to Chapter 2 as follows:

#### Article II. Appointments to Vacancies

##### Sec. 2-23. Applicability

This Article shall govern the filling of vacancies in the offices of Mayor and Town Council members.

##### Sec. 2-24. Provisions Pursuant to the Charter and General Statutes

A vacancy on the Council which occurs in the first year of a 4-year term of office, or during a portion of the second year, which ends on the fortieth day before the next regular biennial Town election, shall be filled by appointment of the Town Council only until the next general election, at which time the candidate receiving the fifth highest number of votes (and, if necessary, the 6th, 7th and 8th highest number) shall be declared elected for the remainder of the unexpired term. A vacancy occurring at any other time shall be filled for the remainder of the term.

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A vacancy in the office of Mayor shall be filled for the remainder of the term.

If the number of vacancies is such that a quorum of the Council cannot be obtained, the Mayor shall appoint enough members to make up a quorum and the Council shall fill the remaining vacancies; and, if the office of Mayor is also vacant, the Governor may fill the vacancies, as provided by N.C. General Statute 160A-63.

**Sec. 2-25. Announcement of Vacancy; Publication of Notice**

When a vacancy occurs, the Mayor shall announce the vacancy at the next regular or special meeting of the Council. The Council shall at the same meeting set a deadline for applications for the vacant seat, which deadline shall be no less than 7 days and no more than 30 days after publication of a notice of the vacancy. The Mayor shall direct the Clerk to have the notice of the vacancy published in a newspaper of general circulation by the seventh day after the date on which the Mayor announced the vacancy. If the office of the Mayor is vacant, the Mayor Pro-tempore shall perform the duties of the Mayor under this section.

The notice of a vacant office shall invite residents who are registered voters and otherwise qualified to hold the office to file an application with the Town Clerk by the deadline set by the Council. If the Mayor fills the vacancies under G.S. 160A-63 because a quorum of the Council cannot be obtained, the Mayor shall determine an application deadline which shall be no less than 7 and no more than 30 days after publication of the notice of vacancy.

**Sec. 2-26. Applications**

Applications for a vacancy shall include the name, residence address, and signature of the applicant. The applicant may include information in support of the application if the applicant wishes. The application may but need not be on a form provided by the Town Clerk. Applications shall be submitted to the Clerk's office.

**Sec. 2-27. Consideration of Applications; Nominations**

Promptly after the deadline for applications, the Mayor shall cause copies of the applications to be distributed to the Council.

At the next regular meeting of the Council, or at a special meeting which may be called at the discretion of the Council, the Council shall review the applications and Council Members may make nominations. All nominations under this Article shall be made only from applications received by the application deadline.

**Sec. 2-28. Appointments**

At the next regular meeting or at a special meeting which shall be at least 6 days after the meeting at which nominations may have been made as provided in Sec. 2-27, the Council may make additional nominations and may make an appointment to fill the vacancy. If the Council does not make the appointment at such a meeting, the Council shall make nominations and vote on the appointment at each subsequent meeting, whether regular or special, in which the appointment may be made under the Council's rules of procedure.

**SECTION II**

All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 24th day of February, 1986.

Planning Board's Recommendations for Changes to the Development Ordinance

Council Member Preston asked the Council to review the Planning Board's recommendations in greater detail and decide what the Council wished to be done.

The general consensus of the Council was to refer the listed items to the Manager for staff review and a preliminary timetable for accomplishing the recommendations.

Village Companies Foundation, Inc.

Manager Taylor said the recent changes in the new tax exempt status of the Village Companies Foundation would be placed on the next Council meeting agenda for discussion.

Lease of Portion of Post Office/Court Building to Teen Center, Inc.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 86-2-24/R-9.

Council Member Smith asked if there had been any problems with the Teen Center being located in the Post Office facility on Franklin Street. Assistant Manager for Community and Human Services Ron Secrist replied that as far as he new there had been no serious problems at the Center, however he pointed out that the Center had not been in operation for a long time and that attendance was just now picking up.

THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION DIRECTING PUBLICATION OF A NOTICE OF INTENT TO LEASE A PORTION OF THE POST OFFICE/COURT BUILDING TO TEEN CENTER, INC. (86-2-24/R- 9 )

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council directs the Town Manager to publish a notice of the Council's intent to enter into a lease with Teen Center, Incorporated for approximately 2,400 square feet in the basement of the Post Office/Court Building at 179 E. Franklin Street for the operation of a Teen Center, said lease being substantially in the form presented by the Town Manager in his report on this matter on February 24, 1986, a copy of which shall be kept with the records of this meeting.

This the 24th day of February, 1986.

Noise Permit for Pi Kappa Phi Burn-out Party

COUNCIL MEMBER THORPE MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO ADOPT RESOLUTION 86-2-24/R-10.

Council Member Howes stated that he was not against the fundraising efforts of the fraternity but that he was against the resolution because of the problems with parking along N.C. 54 and the potential for accidents. He cited problems associated with the last event as having the potential for a serious accident.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER HOWES FOR A SUBSTITUTE MOTION TO DELAY COUNCIL ACTION TO THE NEXT REGULAR MEETING SO THAT THE MANAGER AND THE POLICE DEPARTMENT COULD DISCUSS THIS ISSUE. THE MOTION PASSED UNANIMOUSLY, (9-0) TO BECOME THE MAIN MOTION.

THE MOTION PASSED UNANIMOUSLY, (9-0).

A representative of Pi Kappa Phi Fraternity said that the Fraternity hired off-duty police officers to help with traffic control and security.

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Nominations to the Community Planning Task Force

Gina Cunningham, representing the Entranceways Task Force, asked that a member of the Entranceways Task Force be included on the Community Planning Task Force. She said Raymond Burby was willing to serve on the new Task Force.

Council Member Andresen said the Council committee set up to help establish this new Task Force felt the task force should have representatives from the University, League of Women Voters, Black residents, real estate segment, Chamber of Commerce, Downtown merchants, Sierra Club, Alliance of Neighborhoods, and the Home Builder's Association.

Council Member Pasquini said there needed to be flexibility in the make up of the task force to allow for those citizens who wished to serve to be able to serve.

Pat Evans, representing the Planning Board, suggested that the members of the task force needed to be knowledgeable of the issues to be able to present them to the community.

Council Members Smith and Werner said that the task force should be an aid to the Planning Board but that the Planning Board should also be involved in taking the interim Land Use Plan to the community.

Nominations will be considered at the March 3 meeting of the Council after Council Members have had an opportunity to ask several citizens if they were interested in serving on the Task Force.

Executive Session

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO ADJOURN TO EXECUTIVE SESSION TO DISCUSS LITIGATION. THE MOTION PASSED UNANIMOUSLY, (9-0).

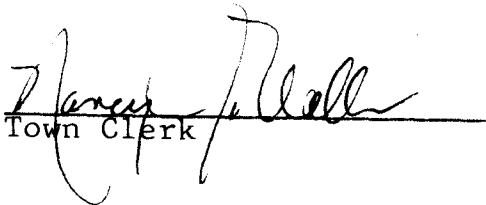
A MOTION WAS DULY MADE AND SECONDED TO RETURN TO REGULAR SESSION. THE MOTION PASSED UNANIMOUSLY, (9-0).

By consensus the Council reaffirmed its previous authorization of the settlement of the Wilbur Kutz will litigation. Under the terms of that settlement, entered by the Orange County Superior Court February 24, 1986, Court number 85SP309, the Town will receive up to \$100,000 for use by the Town and its Police Department.

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

The meeting adjourned at 11:40 p.m.

\_\_\_\_\_  
Mayor James C. Wallace

  
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Town Clerk