

MINUTES OF A CONTINUATION OF THE MARCH 23, 1987 REGULAR  
MEETING OF THE MAYOR AND COUNCIL, TOWN OF CHAPEL  
HILL, MUNICIPAL BUILDING, TUESDAY,  
MARCH 31, 1987, 7:30 P.M.

Mayor Pro-tem Bill Thorpe called the meeting to order. Council Members present were:

Julie Andresen  
David Godschalk  
Jonathan Howes  
David Pasquini  
R. D. Smith  
Arthur Werner

Mayor Wallace arrived late. Council Member Preston was absent, excused. Also present were Manager David R. Taylor, Assistant Town Manager Sonna Loewenthal, and Town Attorney Ralph Karpinos.

Two-Step Process for Subdivision Review

Council Member Andresen said that this agenda item had been deferred from the last meeting because of a lack of consensus from the Council on how to proceed. She said however, that it had been evident that the Council appeared reluctant at this time to change the procedure for reviewing subdivisions. She said it had been pointed out that the Council always had the option of deferring an item for further information. Ms. Andresen said she would remove this item from Council consideration at this time.

Northwood V

Manager Taylor stated that at the February 25th meeting of the Council, all of the questions relating to this proposal had been addressed except for the placement of the three-phase power line underground. He said that since that meeting the developer had agreed to place all the power lines underground and away from Weaver Dairy Road, and that revised Resolution 6B in the agenda packet reflected this change.

Council Member Andresen said she was pleased to see that the staff had decided to review the Development Ordinance with the possibility of requiring that all power lines be placed underground.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER SMITH TO ADOPT RESOLUTION 87-3-23/R-6B. THE MOTION PASSED UNANIMOUSLY, (7-0).

The resolution, as adopted, reads as follows:

A RESOLUTION APPROVING AN APPLICATION FOR PRELIMINARY PLAT APPROVAL FOR NORTHWOOD V SUBDIVISION (87-3-23/R-6b)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Northwood V Subdivision proposed by Goforth Properties, Inc., identified as Chapel Hill Township Tax Map 18, Lot 13, if developed according to the preliminary plat dated October 7, 1986, and the conditions listed below, would comply with the provisions of the Development Ordinance:

1. That Weaver Dairy Road be constructed to major arterial standards with curb and gutter from N.C. 86 to the property's southwest corner; and, that the entire 4 lanes, with turning lanes and landscape median be constructed as part of each phase of the development.
2. That the portion of the Town's Fire Station property needed for the Weaver Dairy Road right-of-way be acquired prior to issuance of the Zoning Compliance Permit.
3. That all electric lines be placed underground.
4. That the recreation area be designated on the final plat for "Public Access-Pedestrian and Non-Motorized Vehicles Only," and that all recreation and open space areas be labeled on the final plat as "Dedicated Open Space to the Town of Chapel Hill for Parks and Recreation Purposes Only" and deeded to the Town.
5. That the public water system and sanitary sewer system be approved as recommended by OWASA prior to issuance of the Zoning Compliance Permit.
6. That all utility connections being made from the east side of Airport Road to the site be of "bore-and-jack" construction under Airport Road.
7. That sanitary sewer and water line easements be provided to the existing Northwood Subdivision to the north.
8. That a 50-foot buffer be provided along the property's frontage with the existing Northwood Subdivision; and that any new plantings necessary to meet Town buffer requirements be installed prior to issuance of any Certificates of Occupancy.
9. That tree protection fences be installed prior to construction activity as specified by the Town Manager.
10. That an erosion control permit be obtained from the County Erosion Control Officer prior to issuance of a Zoning Compliance Permit.

11. That any agreement necessary to ensure responsibility for and maintenance of buffer easements be provided and approved prior to approval of the final plat; and that evidence that these agreements have been recorded be submitted before issuance of a Zoning Compliance Permit.
12. That the Town Manager approve a work zone traffic plan for work along/near N.C. 86 prior to issuance of a Zoning Compliance Permit.
13. That any restrictive covenants applicable to lots adjacent to the Resource Conservation District not require greater setbacks than those required by the Development Ordinance.
14. That utility service laterals from utility lines located in streets be stubbed out to the front property line of each served lot before pavement of the streets, and that sanitary sewer laterals be capped off above ground.
15. That final street plans, grading plan, utility/lighting plan, stormwater management plan (with hydrologic calculations), and buffer planting plan 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 plans approved as part of this application and demonstrate compliance with all applicable conditions and the design standards for the Development Ordinance and the Design Manual.
16. That the final utility/lighting plan be approved by OWASA, Duke Power, Public Service Gas Company of N.C., Southern Bell, and Carolina Cable before issuance of a Zoning Compliance Permit or final plat approval.
17. That no lot be created that would require a Resource Conservation District variance in order to be built upon.
18. That the final plat indicate, on all lots that contain portions of the Resource Conservation District, the buildable area(s) on those plats.
19. That the final plat provide a note indicating that "Development is restricted within the Resource Conservation District."
20. That all variances necessary for development within the Resource Conservation District be obtained before application for final plan or final plat approval.
21. That sight triangle easements be provided on the final plat.
22. That the developer shall be responsible for placement and maintenance of temporary regulatory traffic signs upon issuance of any Certificate of Occupancy, until such time that the street system(s) are accepted for maintenance by the Town.

23. That the names of the development, its streets, and building numbers be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
24. That the development may be phased in accord with a phasing plan approved by the Town Manager.
25. That a bus pull-off with full amenities shelter be provided at the intersection of Weaver Dairy Road and Road A; and that a bus pull-off with a bench be provided at the intersection of Weaver Dairy Road and Road D.
26. That no Certificates of Occupancy be issued until all required public improvements are completed; and that a note to this effect shall be placed on the final plat.

If the Town Manager approves a phasing plan, no Certificates of Occupancy shall be issued for a phase until all required public improvements for that phase are complete; no Building Permits for any phase shall be issued until all public improvements required in previous phases are completed to a point adjacent to the new phase; and that a note to this effect shall be placed on the final plat.

27. That the continued validity and effectiveness of this approval is expressly conditioned on the continued compliance with the plans and conditions listed above.
28. That if any of the above conditions is held invalid, this approval shall be void.

BE IT FURTHER RESOLVED that the suitability criteria for recreation areas be waived, according to Section 7.9.6 of the Development Ordinance, in the following manner:

The central recreation area and the parcel adjacent to the Fire Station are exempted from the requirement that all recreation area be provided in one parcel.

BE IT FURTHER RESOLVED that the Council hereby approves the application for preliminary plat approval for Northwood V subdivision in accord with plans and conditions listed above.

This the 23rd day of March, 1987.

Mayor Wallace arrived at this point, 7:40 p.m.

Cameron Avenue Subdivision

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER HOWES TO ADOPT RESOLUTION 87-3-23/R-7A REVISED.

Roger Waldon, Planning Director, gave a presentation on the application proposing the subdivision of a 2.5 acre parcel into 12 residential lots. He said the proposal was for a cluster subdivision and included provisions for one public street and two private drives. He said the key issue was the street design. Mr. Waldon stated that the staff, after much deliberation and discussions with the applicant, had decided to recommend the inclusion of two private drives in this subdivision proposal. He commented that the staff had made this recommendation because of the small site and because only 5 lots would access onto the private drives. He stated that a condition of approval was the agreement that a Homeowner's Association would be established and that the Association would be responsible for all the maintenance and repairs necessary for the private drives and landscaped medians. Mr. Waldon said some concern had been expressed that the public street could become a perfect place for commuters to the University to park. He said the staff recommended that if the subdivision were approved, the Town should consider making the public street a no parking zone. Mr. Waldon concluded by stating that the Manager, Planning Board, and Parks and Recreation Commission all recommended adoption of Resolution A.

Council Member Andresen asked if stipulation #4 regarding the issuance of a Certificate of Occupancy (CO) rather than the Zoning Compliance Permit was correct and if the staff felt this could present problems. Mr. Waldon said there could be problems with the stipulation but that the staff felt that failure to comply with the stipulation should result in withholding the CO.

Council Member Andresen asked in what manner would the private drives not meet Town standards. Mr. Waldon replied that the private drives would be narrower and that the construction standards would not be the same. Council Member Andresen said she had talked with the developer who had said he had no problem with dedicating the private streets to the Town. Mr. Waldon said that the Town would not want to accept the private streets since they would not meet Town standards and would therefore require more maintenance.

Council Member Andresen asked Mr. Waldon to point out on the map the location of the UNC Power Plant in relation to the proposed subdivision. Mr. Waldon indicated that the power plant was located next to the northern edge of the proposed recreation space and adjacent to the northeast edge to the site. Council Member Andresen asked if it would be possible for the developer to develop the recreation area to complement the proposed landscaping for the power plant renovation. Mr. Waldon said the Town could not require the applicant to develop the recreation space in a particular manner. He said the recommendation was that the applicant dedicate the recreation area to the Homeowners' Association who would have the responsibility of development and maintenance.

Council Member Andresen offered an amendment to the proposed resolution indicating that an additional stipulation be added stating "That a note be placed on the final plat as follows: The Chapel Hill Town Council has issued a special use permit for additions and renovations to the UNC Power Plant located west of and adjacent to this subdivision. See Book 592, page 362, office of the Orange County Register of Deeds."

Council Members Smith and Howes agreed to add this to their motion.

Council Member Werner stated that since it was accepted Town policy not to encourage the development of private streets why had the staff recommended the inclusion of two private streets in this subdivision. He asked if the streets were only narrower than standard Town streets why the staff did not recommend acceptance by the Town. Mr. Waldon said the staff had tried to figure out a way to have all the streets as public streets but that the site was too small and would require too many flag lots if all the streets were made to Town standards. He said that since the private drives would not be built to Town standards there was the potential for future maintenance problems. Assistant Town Manager Sonna Loewenthal stated that the private drives would not only be narrower but the amount of right-of-way would be greatly reduced. She said the private drives would not be wide enough for circular turnarounds and would be in effect shared driveways.

Council Member Pasquini asked why one of the lots would have access off of Cameron Avenue. Mr. Waldon said this was done in an attempt to reduce the number of lots having access to the private drives and that this proposal represented a net decrease in the number of driveways now connecting to Cameron Avenue.

Council Member Pasquini asked why one of the Planning Board members had felt the proposal did not meet the recreation requirements. Mr. Waldon replied that one of the recreation requirements was that the recreation space have at least 50' of public frontage. He said the recreation space access as proposed fronted onto the private drive. Mr. Waldon stated that as such the staff had recommended and the applicant agreed to having a 50' public access easement along the private drive to the recreation area. Mr. Pasquini asked if the Town would be required to maintain this easement or would the final plat state that the easement would also be maintained by the Homeowners' Association. Mr. Waldon responded that the final plat would include a statement that the Homeowners' Association would be responsible maintenance of the easement.

Council Member Smith asked if emergency vehicles would be able to use the private drives or would they be able to access the properties from the public street. Mr. Waldon said that Town vehicles would generally not use the private streets but would be able to access the properties from the public street. Council

Member Smith expressed concern that in time of snow, those residents living on the private streets would not be able to get into or out of their drives.

THE MOTION TO ADOPT RESOLUTION 87-3-23/R-7A REVISED AND AMENDED PASSED UNANIMOUSLY, (8-0).

The resolution, as adopted, reads as follows:

RESOLUTION APPROVING AN APPLICATION FOR PRELIMINARY PLAT APPROVAL FOR CAMERON AVENUE CLUSTER SUBDIVISION (87-3-23/R-7A)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Cameron Avenue Subdivision proposed by William F. Christian and Associates, identified as Chapel Hill Township Tax Map 86, Block F, Lots 1, 4, 5 and 6, if developed according to the preliminary plat dated November 4, 1986, would comply with the following cluster development requirements from Subsection 7.8.2 of the Development Ordinance:

1. The tract proposed for cluster development is at least two (2) acres in size;
2. Public, separate, water supply and sewerage connections are available for every subdivided lot;
3. The total number of lots proposed, excluding parcels of reserved recreation area, is not greater than the number determined by dividing the total gross land area by the minimum gross land area established in Section 5.11 for the Residential-3 zoning district;
4. The recreation area reserved within the tract conforms to the recreation area standards of Subsection 7.9 of the Development Ordinance; and
5. The land reserved as recreation area exceeds the minimum recreation area reservation identified in Subsection 7.8.2 of the Development Ordinance;

These findings are conditioned on the following:

1. That a five foot wide brick sidewalk be constructed along Cameron Avenue.
2. That the proposed cul-de-sac be built to Class C standards.
3. That the two (2) proposed private streets be built to Class D standards and the design of the T-turn arounds be approved by the Town Manager.
4. That an agreement establishing responsibility for maintenance of the curbed islands, including landscaping, and the private streets by the Cameron Avenue Subdivision homeowners

- association be approved by the Town Manager prior to approval of a final plat and recorded prior to issuance of a Certificate of Occupancy; and that a note be placed on the final plat to define these maintenance responsibilities.
5. That temporary traffic signs approved by the Town Manager be installed prior to issuance of Building Permits.
  6. That final street plans, grading plan, utility/lighting plan, and stormwater management plan (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 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, and that a buffer planting plan be approved before issuance of any building permits.
  7. That the final utility/lighting plan be approved by OWASA, Duke Power, Public Service Gas Company of N.C., Southern Bell, Carolina Cable and the State before issuance of a Zoning Compliance Permit or final plat approval.
  8. 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.
  9. That the names of the development and its streets be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
  10. That an erosion control permit be obtained from the County Erosion Control Officer prior to issuance of a Zoning Compliance Permit.
  11. That a note be provided on the final plat indicating that parking may be prohibited on the public cul-de-sac.
  12. That a fire flow report prepared by a P.E., showing that flows meet the minimum requirements of the Design Manual be approved prior to issuance of a Zoning Compliance Permit.
  13. That all new storm drainage easements be 30 feet wide or contained within a road right-of-way.
  14. That wall maintenance easements at least four (4) feet wide be provided on the final plat on the property abutting the zero lot lines.
  15. That a Class D buffer be provided along the southern boundary of the property adjoining the railroad right-of-way and a Class C buffer be provided along Cameron Avenue. These buffers must be approved by the Town Manager and indicated



on the final plans and as landscape buffer easements on the final plat. Any alternative buffers shall be approved by the Appearance Commission according to the Development Ordinance. A buffer planting plan must be approved before issuance of a building permit.

16. That any agreement necessary to ensure responsibility for and maintenance of buffer easements be provided and approved by the Manager prior to issuance of a Certificate of Occupancy.
17. That the Class D street providing access to the recreation area be dedicated as a public pedestrian and vehicular easement on the final plat.
18. That the recreation area be dedicated to the Cameron Avenue Subdivision homeowners association.
19. That Certificates of Occupancy be issued only after all required public improvements are completed. Development of this subdivision shall not be phased.
20. That a note be placed on the final plat as follows: The Chapel Hill Town Council has issued a special use permit for additions and renovations to the UNC Power Plant located west of and adjacent to this subdivision. See Book 592, page 362, office of the Orange County Register of Deeds.
21. That the continued validity and effectiveness of this approval is expressly conditioned on the continued compliance with the plans and conditions listed above.
22. 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 Cameron Avenue Cluster Subdivision in accord with plans and conditions listed above.

This the 23rd day of March, 1987.

North Street Subdivision

Manager Taylor commented that the staff had received several telephone calls from citizens wishing to speak to this item and that since this was a continuation of the regular meeting of the 23rd there was no provision at this meeting for receiving petitions. He asked that the Council receive the comments from citizens wishing to speak. The Council agreed.

Roger Waldon, Planning Director, gave a presentation on the application for preliminary plat approval for a 7.05 acre parcel into 12 residential building lots at the end of North Boundary Street. He said the primary issue with this proposal were the street standards and the future development of two lots, #24 & 26. He stated that the applicant had requested variances from the street design standards due to the steep and unique topography of the site. Mr. Waldon commented that the staff had agreed that some variance was appropriate; however, the applicant's request was for more than the staff was recommending. He also said the staff had initially recommended that a stipulation be included in the resolution of approval preventing any future subdivision of lots #24 and 26, but that upon further discussions with the Town Attorney it became clear that the Town did not have the authority to require this stipulation. Mr. Waldon said that as such stipulation #21 should be deleted from Resolution 8b.

Mr. Waldon also gave the recommendation from the Planning Board. He said the Board agreed with the applicant's proposal and recommended adoption of Resolution A with the reduced street standards.

Council Member Godschalk asked what would be the affect of the design layout of the site if Resolution B were adopted. Mr. Waldon said adoption of Resolution B would not affect the layout of the site. He said that what would occur would be a larger amount of fill in the middle of the proposd Rose Lane. He stated that Resolution A would result in a deeper curve down and up with less fill.

Council Member Andresen commented that she had walked the site and that the developer had shown a schematic of what the two resolutions, A & B, would accomplish on the site. She said the developer indicated that his proposal would only require two feet of fill while the Town's recommendation would involve 10 feet of fill.

Council Member Howes asked the staff to comment on this statement. Town Engineer George Small said he did not know for sure how much fill would be required, but that it would be a large amount. He commented that he did not feel the schematic provided by the developer was accurate.

Council Member Howes asked Mr. Small to give an example of a road currently in Chapel Hill that would be similar to the proposal. Mr. Small replied that Barclay Road, Burlage Circle, Wesley Drive, and Pritchard at Umstead would be examples of roads which present similar problems. He stated that one of the problems with allowing the roads to have a steeper grade was that during bad weather heavy equipment, much less cars, were unable to access the roads. He also stated that the proposal called for five or six lots at the top of the ridge and that the sight distance coming over the crest of the hill under the applicant's proposal would be extremely limited. He said the Town needed to be concerned with safety of individuals, particularly children who might live on that street.

Mayor Wallace commented that he had no real problem with the applicant's proposal. He said he would prefer to see less road and more area for homes and yards.

Council Member Werner asked how unique was the topography of the site since the request was to waive the street standards because of the uniqueness of the site. Mr. Small said in his opinion the site was not unique and was not as severe as some of the topography in Southbridge and Ironwoods. He commented that it did not represent extraordinary terrain.

Gerry Barrett, speaking as the applicant, urged the Council to adopt Resolution A, granting variances to the street design standards per his request. He showed various charts indicating the differences in the road construction according to his request and the Town recommendation. He stated that his proposal would only require 2 feet of fill while the Town's recommendation would require 10 feet. He said Resolution A was a compromise plan developed with input from the Planning Board and had been endorsed by the Planning Board.

Council Member Werner asked for the rationale for requesting that the cul-de-sac be built narrower than Town standards. Mr. Barrett replied that this was done in an effort to reduce the amount of land disturbance but still meet the needs for Town vehicles. He said he had asked the manufacturers of garbage trucks and measured the distance necessary for a Town garbage truck to turn around and that this distance was only 32 feet. Mr. Werner commented that it appeared that the request for the variance from Town standards might be valid for the curvature of Rose Lane but did not seem to be valid for the cul-de-sac because there was no "uniqueness" to this part of the site.

Council Member Smith expressed concern about the statement in the memorandum that the steepness of the site could result in citizens having to have curbside garbage pickup. He said that it was apparent that the citizens of Chapel Hill did not want curbside garbage collection and to state that residents of this proposed subdivision might need to do that might be setting a precedent. He also said if the roads were too steep, emergency vehicles would be unable to get to the residences in times of bad weather.

Council Member Godschalk asked if the staff and applicant had considered moving the proposed Rose Lane a little to the east to avoid some of the sag in the site. Mr. Barrett commented that the proposed Rose Lane followed a natural saddle ridge on the site and that there were several large trees to the east which might have to be removed if the road location were changed.

Council Member Godschalk asked if a compromise was available between the staff recommendation and the applicant's request. Mr. Barrett responded that there could be but he was not sure why there needed to be if what he proposed met with the Planning Board's approval.

Jack Smyre, representing the John R. McAdams Co., Inc., said that his company had been retained by the applicant to do the engineering study and that the study showed that the proposed location of Rose Lane was the best possible location in that it followed a natural saddle ridge and therefore would require little in the way of improving the drainage conditions. He said the tests the engineering company had performed showed that the road tested and met the criteria for a 15 mile per hour street.

Council Member Werner said that the proposal was for a 15 mph street but that most people drive faster than that. He asked what would happen or what were the potential dangers of driving 25 mph on this street. Mr. Smyre replied that there would be no danger of a vehicle flying off the road but that a car could outrun its headlights in the sag; but if there were street lights this should be mitigated. George Small, Town Engineer, agreed that if one could count on uniform street lighting it would diminish the problem, but he could not guarantee that there would be uniform lighting. He said the Town would be liable for any problems that occurred due to the unsafe design of the road.

Jean Wilkins, speaking as a resident of Tenney Circle, said the neighbors were concerned that there was a possibility that lots #24 and 26 in the proposed subdivision could be further subdivided and that access to these lots would have to occur from the easement next to her property. She expressed dismay that the Development Ordinance allowed the approval of subdivisions without knowing what would be the final outcome of a project, i.e., further subdivision of lots. She asked that the Council not approve the proposal until the question of the future subdivision of lots #24 and 26 had been answered.

Council Member Thorpe asked Ms. Wilkins if she had presented her concerns to the Planning Board when this item had been reviewed by the Board. Ms. Wilkins replied yes.

Council Member Pasquini asked why the stipulation regarding the possible future subdivision of lots #24 and 26 was deleted from the Manager's recommendation and what could be done with the lots. Attorney Karpinos replied that the stipulation was deleted for legal reasons. He said that he did not believe the Town had the authority to require such a stipulation.

Manager Taylor said that under the current ordinance lot #24 could be subdivided into 2 or 3 lots with access off of North Boundary Street without having to go through major subdivision review. He said lot #26, to be further subdivided, would require major subdivision review because of the problem of access. Mr. Taylor also said that lots #24 and 26 could be combined and further subdivided or used for a planned development.

Woodrow Burns, speaking as a resident of North Street, spoke in agreement with Ms. Wilkins' comments regarding the further subdivision of lots #24 and 26. He said that he owned the property adjacent to the Wilkins and that the easement granting access to lot #26 was on his property. He said he had no problem with the easement as long as it was used only for one residential lot.

David Brown, speaking as resident of North Boundary Street, said he agreed that there needed to be some assurance of whether or not lots #24 and 26 would be further subdivided.

James Peacock, speaking as a resident, spoke in support of the concerns addressed by the citizens speaking that evening regarding the further subdivision of lots #24 and 26.

Roland Giduz, speaking as a resident, also expressed concern that what the subdivision would eventually look like was not known. He urged the Council to try to ensure that further subdivision of lots in the proposed subdivision would not occur and that they adopt the Manager's recommendation.

Council Member Andresen said she was also concerned about the possible subdivision of lots #24 and 26. She said the topography of the site led her to believe that the applicant's proposal for Rose Lane was better than the staff recommendation.

Council Member Pasquini suggested sending the item back to the Manager with the instruction that lots #24 and 26 be combined so that any further subdivision would have to come before the Council for approval.

Mayor Wallace asked for clarification of why the Town could not stipulate that further subdivision of lots would not be allowed.

Council Member Howes said that since the Town could not stipulate against further subdivision it should be included as part of the covenants for the property.

Council Member Godschalk said there appeared to be several unanswered questions and that it might be better to refer the matter back to the Manager for further information and possible compromise on the road design.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER WERNER TO REFER THE ITEM TO THE MANAGER TO TRY TO RESOLVE SOME OF THE ISSUES.

Council Member Howes said the Council should give the Manager some consensus of what it wanted with regard to the road design.

Mayor Wallace said he liked the applicant's proposal.

Council Member Pasquini disagreed, saying that he would prefer to see the road moved a little to the left so that so much fill would not be required. He also pointed out that this was the third time in recent weeks that the Council had been asked to deviate from the Design Manual for streets. He said there needed to be more solid evidence that this was the best design for the site if the Council were to throw away the engineering design standards. He said he did not think the road design should be anything less than the Manager's recommendation.

Council Members Thorpe and Andresen said that there needed to be room for flexibility.

Council Member Werner said that flexibility could be taken too far. He said the Town Engineer had implied that building the road to the applicant's proposal could be creating a dangerous situation and that doing so would be an extraordinary variance from the standards.

THE MOTION TO REFER PASSED UNANIMOUSLY, (8-0).

Council Member Andresen encouraged the Council to walk the site.

#### Homeownership Demonstration Policy Issues

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER HOWES TO ADOPT RESOLUTION 87-3-23/R-9.

Roger Waldon, Planning Director, said that the memorandum addressed the questions posed by the Council. He said after further discussions and review, the staff recommended two changes to the attached resolution. He stated that under the recapture provisions the second paragraph should read: "The owner shall be required to pay the Town the 6% interest on the second mortgage to the extent that the fair market value of the house exceeds the original sales price." Mr. Waldon said the second change was under the occupancy provisions. He stated that conversations with the lending institution had resulted in their suggesting and the staff agreeing that the second paragraph be deleted.

Council Members Smith and Howes agreed to these changes in their motion.

Council Member Andresen asked if deletion of the occupancy provision regarding renting meant an owner could not rent the unit for a period. Mr. Waldon said the lending institution had said that as long as the original intent of the purchase had been for owner-occupancy there would be no problem with renting the unit in a case where the owner was transferred in their job to another town and were unable to sell the house prior to moving.

Council Member Andresen said she had discussed the Manager's recommendation with David Kale of the Affordable Housing Task Force who had suggested that the Town might end up in an administrative nightmare in that if all thirty-five houses were sold at one time there would be thirty different arguments about how much those houses were worth. She suggested that instead of talking about how to split appreciation, a fairer and simpler way to make sure the Town recoups its investment would be to simply levy the going rate of interest on the second mortgage and have that returned to the Town and have the owner retain appreciation on the house. Manager Taylor said he would prefer to have the Town share in the appreciation. He said by deferring all of the repayment of the second mortgage until there was a transfer of title or until the first mortgage was paid off, none of the interest was being paid and therefore continues to accumulate. He said the Council would be setting a 6% rate on the second mortgage to help stabilize the amount of interest owed.

Council Member Andresen asked if the Manager felt comfortable that if one price was more than the other the 6% rate would not be charged. Manager Taylor said that when the house was sold, to the extent that the market price exceeds the original sales price, the funds received would first go to pay off the second mortgage. He said if there was enough appreciation to pay off the second mortgage it would pay it off and any money left would be split between the homeowner and the Town according to the initial investment of each. He stated that if when the house were sold it did not gross enough to completely pay off the second mortgage, the funds would be used to pay off as much of the second mortgage as it could and there would be no appreciation realized.

Council Member Andresen said that would be bad and that this was an attractive project and she did not want to discourage buyers.

Manager Taylor said he did not think this was any different than what was happening in many savings and loan businesses where the lender of the money was asking for an equity interest.

Council Member Godschalk commended the staff for the project and the Council for working out the details. He said it was a good proposal but would prefer to see the preference category for individuals who work for public entities removed. He said there was an equal need for housing from others who make the same salaries but do not work for public entities.

Council Member Pasquini agreed with Mr. Godschalk. He also asked the Manager if the resolution under recapture provisions, first paragraph, should be 6% annually. Manager Taylor said yes.

Watts Hill, Jr., speaking as a resident and member of the Affordable Housing Task Force, said the private sector was impressed by the policy, but agreed that there should be no preference for specific work groups.

Manager Taylor said the staff had no problem with eliminating the preference category for specific work groups and that they had only included it because they had thought it was what the Council had wanted.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER SMITH TO DELETE THE PREFERENCE CATEGORY FOR HOUSEHOLDS WHO WORK FOR PUBLIC ENTITIES. THE MOTION PASSED, (7-1), WITH COUNCIL MEMBER ANDRESEN VOTING AGAINST.

Council Member Pasquini asked what the Town was providing other than the land. Manager Taylor said the Town was providing the development costs. Mr. Pasquini asked about the possibility of HUD review of applications if someone who earned over 80% of the median applied to purchase one of the homes. Manager Taylor said that HUD and the Town would prefer to sell the homes to individuals making less than 80% of the median income. He said that under certain circumstances the Town might want to sell to those making over 80% of the median, but that since it was HUD funds, HUD had the right to review.

THE MOTION TO ADOPT RESOLUTION 87-3-23/R-9 AS REVISED AND AMENDED PASSED UNANIMOUSLY, (8-0).

The resolution, as adopted, reads as follows:

A RESOLUTION AUTHORIZING THE MANAGER TO PREPARE AN ADMINISTRATIVE MANUAL FOR THE AFFORDABLE HOMEOWNERSHIP PROGRAM (87-3-23/R-9)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council approves the program concepts on buyer selection criteria and recapture provisions/resale controls as generally outlined in the Manager's memorandum to the Council of March 23, 1987 "Homeownership Demonstration Policy Issues," and directs the Manager to prepare detailed administrative guidelines and legal documents to implement these concepts as approved by the Council.

BE IT FURTHER RESOLVED that the Council approves the program concepts as follows:

Basic Eligibility Criteria

- . Income: Sell homes to buyers with incomes less than or equal to 80% of median area income to the greatest extent feasible; sell homes to buyers with incomes between 81% and 100% of median only as a last resort, after appropriate HUD review.
- . Requirement to Live or Work in Chapel Hill: for one year preceding date of application.
- . Bedroom Size: according to chart in accompanying memorandum.
- . Financial Requirements:
  - a. maximum of 28% of gross income for principal, interest, taxes, insurance.
  - b. maximum 36% debt-to-income ratio.
  - c. Asset limitation.
  - d. Savings; and credit history.
  - e. Lender criteria to determine who is able to purchase homes.

Preference Categories

- . Families who are first-time homebuyers, and who live or work in Chapel Hill.
- . Other families who live or work in Chapel Hill.
- . Other households who live or work in Chapel Hill.



Recapture Provisions

- . Second mortgage from the Town at 6% annually due upon sale; and Town share of market appreciation based on percentage of equity in the property.
- . The owner shall be required to pay the Town the 6% interest on the second mortgage to the extent that the fair market value of the house exceeds the original sales price.

Resale Provisions

- . Include Town right-of-first-refusal to buy back the house or to find another qualified purchaser, with market value setting the purchase price.
- . Include a provision requiring approval by the Town for refinancing of the first mortgage.

Occupancy Provisions

- . Require buyers to be owner-occupants of the homes.

This the 23rd day of March, 1987.

Homeownership Demonstration Status Report:

Manager Taylor said he had discussed most of the issues in the report. He said the staff was in the process of producing a development agreement for the Town and the developers.

Library Committee - Nominations and Appointments

Council Member Andresen nominated Council Member Pasquini.

Council Member Howes volunteered.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER WERNER TO APPOINT THE SLATE OF CANDIDATES ALREADY NOMINATED (COUNCIL MEMBERS HOWES AND PASQUINI, JOE HERZENBERG, LISA PRICE, JANE JOYNER, DANA STAATS, AND RUTH THOMAS) TO THE LIBRARY COMMITTEE. THE MOTION PASSED UNANIMOUSLY, (8-0).

The Library Committee consists of: Council Member Pasquini, Council Member Howes, Joe Herzenberg, Lisa Price, Jane Joyner, Dana Staats, and Ruth Thomas.

Council Member Howes commented that the Planning Board had asked to be represented on this committee. It was agreed that the Council would ask Planning Board Chair, Al Rimer, to suggest a member for the committee.

Municipal Building Expansion Committee - Nominations and Appointments

Council Member Andresen nominated Milton Van Hoy to serve as the neighborhood resident on the committee.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO APPOINT THOSE INDIVIDUALS NOMINATED (COUNCIL MEMBERS PRESTON AND THORPE, PAT EVANS, LARRY TOUCHSTONE, AND MILTON VAN HOY) TO THE MUNICIPAL BUILDING EXPANSION COMMITTEE. THE MOTION PASSED UNANIMOUSLY, (8-0).

Council Members Howes and Pasquini, Pat Evans, Larry Touchstone, and Milton Van Hoy were appointed.

Executive Session

COUNCIL MEMBER THORPE MOVED, SECONDED BY COUNCIL MEMBER SMITH TO ADJOURN TO EXECUTIVE SESSION TO DISCUSS LITIGATION AND INTEREST IN REAL PROPERTY. THE MOTION PASSED UNANIMOUSLY, (8-0).

The meeting adjourned to executive session at 10:00 p.m.

A MOTION WAS DULY MADE AND SECONDED TO RETURN TO REGULAR SESSION. THE MOTION PASSED UNANIMOUSLY, (8-0).

Attorney Karpinos reported that the Council had authorized him to hire Michael Patrick to defend the Town in recent lawsuit brought against the Town.

Council Member Andresen stated that the Council had asked the Manager to prepare a resolution of appreciation to the Affordable Housing Task Force for their support and efforts in establishing and affordable housing policy in the Town.

COUNCIL MEMBER ANDRESEN MOVED, SECONDED BY COUNCIL MEMBER WERNER TO ADJOURN THE MEETING. THE MOTION PASSED UNANIMOUSLY, (8-0).

The meeting adjourned at 10:10 p.m.