

MINUTES OF A WORK SESSION ON PROPOSED CHANGES IN THE RESOURCE CONSERVATION DISTRICT ORDINANCE, HELD BY THE MAYOR AND COUNCIL OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING, TUESDAY, JUNE 23, 1987, 7:30 P.M.

Mayor Pro-tem Bill Thorpe called the meeting to order at 8:15 p.m. Council Members present were:

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

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

Resource Conservation District

Manager Taylor asked Mr. Roger Waldon, Planning Director, to give a brief overview of the proposed changes.

Mr. Waldon stated that in January the Council had called a public hearing to consider proposed changes to the RCD ordinance and that the public hearing had been held on May 18. He said prior to the public hearing discussions were conducted with all relevant advisory boards, an RCD workshop had been held, and the Planning Board had voted to recommend approval of the revised ordinance. He said a citizens' group had presented an alternative set of revisions at the May 18 public hearing. He stated that the ideas contained in the proposal had been considered in the review process and that the Planning Board had included several of the ideas in their recommendation.

Council Member Godschalk commented that he liked the format of the memorandum.

Council Member Pasquini requested that there be options available to the Council when the ordinance was put before the Council for consideration.

Council Member Werner commented that he felt the protection of the RCD was of primary importance and would therefore rather err on the side of conservation than to just facilitate the use of the ordinance. He suggested that if there were to be a Special Use Permit structure or process for the RCD that it should be decided upon by the Council and not by the Board of Adjustment as suggested by the citizen group. He suggested that the use of lakes and ponds and the amount of cut and fill might be areas in which the Council would consider granting SUP's.

Council Member Preston commented that she thought this might overburden the Council's Special Use Permit agendas.

Council Member Smith commented that he did not think the Council really wanted to get involved in SUP applications in the RCD and that such a process would only further prolong both the Council meetings and applications for development within the RCD.

Council Member Godschalk stated that he was opposed to having a SUP process for the RCD under the Board of Adjustment's jurisdiction. He said he might favor Mr. Werner's suggestion if there were some further clarification and definition of what was involved.

Council Member Pasquini said he agreed with Mr. Werner and Godschalk. He said he would prefer to see the SUP process with the Council and that it be rather open in order to allow flexibility.

Council Member Andresen said she liked the SUP idea but not necessarily with the Board of Adjustment. She said it might further complicate the Council's agenda but that it was a price the Council might have to pay.

Council Member Preston said she did not want to see the Board of Adjustment getting involved in the SUP process and that she was open to the idea of having the Council grant SUP's for the RCD but that she hoped the SUP's would be limited to very special cases.

Mr. Waldon said the staff had suggested that if there were to be a Special Use Permit process for the RCD that there be a threshold established i.e. that a SUP was needed for land disturbance of over 20,000 square feet, etc.

Council Member Smith commented that one of the primary reasons for reviewing the RCD ordinance was an attempt to make it more managable. He expressed concern that the addition of a SUP process might not accomplish this goal. He said that the ordinance also ought to address the problem of flooding and propose ways to minimize flooding.

Manager Taylor asked the Council to discuss the options suggested in the memorandum for inclusion into the proposed ordinance.

Option 1: Create New SUP Structure

Council Member Preston commented that she had thought the addition of the SUP process would eliminate the need for certain variances and that if it did not then she was not in favor of this additional step. Manager Taylor and Attorney Karpinos replied that variances which were required due to design standards would still have to be obtained from the Board of Adjustment regardless of the addition of a SUP process.

The consensus of the Council was to include an option for the Council to add a new SUP procedure for the RCD.

Option 2: Buffer Widths

The consensus of the Council was to retain the staff and Planning Board recommendation.

Option 3: Use of term "development"

Mr. Waldon stated that the staff felt the term "development" was broader and therefore better in this instance than the term "structure" which was proposed by the citizen group. He pointed out that the act of subdividing land was defined as "development" but not as a structure and therefore would under the staff proposal have to meet certain RCD requirements.

The Council asked why there was a disagreement over the term. The Town Attorney responded that he believed it to be due to the permitted uses as stated in Section 10.4.3. He said using the term "development" would allow for more permitted uses.

Council Member Preston commented that she preferred the manner (the format) in which the citizen proposal addressed this issue.

Council consensus was to use the term "development".

Option 4: "Expansion"

Discussion centered around the need to include sections b and c in the discussion on limitations on expansion. It was pointed out that it would be difficult to actually demonstrate improved water quality, and it was suggested that expansion limited to 25% of the development's footprint was too much.

The consensus of the Council was to limit the amount of expansion allowed in section b to 10% of the development's footprint and that section c would be deleted.

Option 5: Lakes and Ponds

Mr. Waldon said the staff believed that lakes and ponds could be beneficial and desirable as means of improving stormwater management. He said the proposal would allow the development of lakes and ponds as long as they met the design standards established in Section 10.8.

Council Member Godschalk commented that finding that no reasonable use of the property other than as a lake or pond would be hard to do and therefore a variance would be almost impossible to get. He said it might be better to include the use of lakes and ponds in the RCD as part of any SUP process.

Council Members Werner and Pasquini commented that they were against having lakes and ponds as an allowable use, but were agreeable to consideration of lakes and ponds in a SUP situation.

The consensus of the Council was to include lakes and ponds as a permitted use with a Council Special Use Permit process.

Option 6: Minimum Elevation

Council Members Preston and Andresen commented that they preferred to keep the current minimum floor elevations as a method to help protect homeowners. It was pointed out that Brookwood Condominiums at one time were not located in what was considered the 100' floodplain.

Council Member Godschalk said that Chapel Hill was the only municipality he knew who had the minimum floor elevation 18" above the RCD elevation which was 24" above the 100' flood elevation. He said by doing this, the Town was placing an extra burden on property owners and could require more land disturbance in order to develop properties affected by the RCD.

Council Member Smith questioned whether the proposed deletion of the extra 18" would be sufficient to protect the streets and roads during times of severe flooding.

Council consensus was to set the minimum elevation of the finished floor level at 18" above the RCD elevation and that streets could be built at the RCD elevation.

Option 7: Cut and Fill

Mr. Waldon stated that the proposal included changing the wording of Section 10.8.1 to state that "cutting and filling shall not be permitted if it results in significant net adverse change in the hydraulic characteristics of the watercourse".

Discussion was held on how to determine "significant" changes and whether hydraulic characteristics were the only measure to use. The staff responded that a "significant" change was a change that was more than a little and was detectable by site review.

Council Member Godschalk asked what FEMA requirements were in this instance. Mike Neal, Assistant Town Engineer, replied that FEMA allowed cut and fill in the flood plain if it did not raise the height of the 100-year flood by more than one foot.

Council Member Andresen asked why the staff used the watercourse and not the center of the stream as the basis for measurement. She said that she was concerned with this requirement causing large bridges to be constructed across streams in the RCD. Mr. Neal replied that using the watercourse meant that more area was able to be protected. He stated that by allowing cut and fill if it did not significantly adversely change the watercourse would mean that smaller bridges could be constructed over some streams in the RCD.

Council consensus was that the proposal should include a more finite measure to quantify change in the watercourse.

Option 8: Definition of Perennial Stream

Mr. Waldon stated that there was no current definition and that what was proposed was close to what the staff currently did in determining a perennial stream. He said the proposal was that a perennial stream would be "any watercourse or portion thereof which continually carried water except in times of drought". He said the citizen group offered an alternative definition that a perennial stream was "any watercourse or portion thereof which carried water in all four seasons of the year, except in times of drought".

Discussion was held on the merits of use of the phrase "natural watercourse" and the merits of "carrying water in all four seasons". The staff pointed out that this would mean any place where water flowed at any time of the year would be considered a perennial stream and be subject to the RCD. The staff also questioned how one would measure waterflow of a stream in each season and at what time of the season would the measurement take place, etc.

Questions were asked about how the staff currently determined a perennial stream. The staff replied that on-site surveys were taken of the areas and that certain signs indicating the water level, flow and aquatic life were observed and measured.

The consensus of the Council was that this section should more accurately reflect what actually occurred in the field in determining a perennial stream.

Option 9: Order of Sections

The consensus of the Council was that the Planning Board and staff proposal on the ordering of the sections was acceptable.

Council Member Pasquini urged the Manager to include enough time on the agenda for further discussions of this item when it was brought back to the Council for consideration and possible adoption.

Mayor Pro-tem Thorpe thanked all of those involved in the review and proposals.

Manager Taylor also offered his thanks to the staff, advisory boards, and citizens for their work, interest and cooperation.

The meeting adjourned at 10:00 p.m.

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