

MINUTES OF A PUBLIC HEARING HELD BY THE MAYOR AND COUNCIL  
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,  
MONDAY, MAY 16, 1988, 7:30 P.M.

Mayor Jonathan B. Howes called the meeting to order at 7:50 p.m.  
Council Members present were:

- Joe Herzenberg
- Nancy Preston
- James C. Wallace
- Arthur Werner
- Roosevelt Wilkerson, Jr.

Council Members Andresen, Godschalk and Pasquini were absent, excused. Also present were Town Manager David R. Taylor, Assistant Town Managers Sonna Loewenthal and Ron Secrist and Town Attorney Ralph Karpinos.

Public Hearing on Janus-Tree House Special Use Permit Application

Citizens wishing to speak to the issue were sworn in by the Town Clerk.

Manager Taylor requested that Agenda Item #1, "Janus-Tree House - Application for Special Use Permit (SUP-124-C-1)," dated May 16, 1988 be entered into the record of this hearing, along with the following:

- Applicant's Statement of Justification
- Applicant's Project Fact Sheet
- Accompanying material

Roger Waldon, Planning Director, said the application was for a Group Care Facility at 52 Dogwood Acres Drive for Janus-Tree House. He said in order to approve the application the Council must find that the proposal achieved the purposes of the Comprehensive Plan. Mr. Waldon stated that the staff felt there was support for the proposal in the Comprehensive Plan in that it is a facility that met the physical and social needs of the Town and the Comprehensive Plan indicated that the Town should assist and encourage continuation of services offered by such facilities. He also said that the Comprehensive Plan stressed the importance of preserving existing neighborhoods and to the extent that it could be shown that the proposal would damage the existing neighborhood it would be an argument against the proposal. Mr. Waldon stated that the staff felt on balance, however, that there was more support for the proposal in the Comprehensive Plan than there was language arguing against it. He said the application as proposed would not meet two Development Ordinance requirements and exemptions would have to be granted. He said the maximum permitted floor area for this use in this district was 4,000

square feet and the current structure was over 6,000 square feet. Mr. Waldon said the buffers on the site did not meet the requirements but that the staff and applicant felt the existing vegetation was adequate and gave the site a residential appearance.

Council Member Preston asked what type of buffer would normally be required and what would be needed to meet the requirement. Mr. Waldon replied a type "C" buffer would be required and this would mean additional understory tree and shrub plantings along the back side of the site.

Council Member Wilkerson asked what impact would there be on the number of residents allowed to inhabit the facility with the exemption to the floor area ratio? Mr. Waldon replied exemption to the floor area ratio would not affect the number of residents allowed in the facility.

Council Member Werner asked for clarification of the septic tank capacity issue and what options if any were available if it were found to be insufficient for the facility. Mr. Waldon responded that there was concern that the septic tank drainage field, which was built for single family use would not be sufficient for the use it would receive from the group care facility use. He said as a condition of approval the applicant would have to receive a certification of sufficiency from the Orange County Health Department. He said if the certification were not granted then the drainage field would have to be expanded and he felt the site was large enough to accommodate a larger drainage field.

Mr. Waldon stated that an addendum to the proposed preliminary resolution of approval for the Special Use Permit that amended stipulation #6 and added two more stipulations should also be included in the record of this hearing. He said the additional stipulations dealt with limiting the number of "Willie M" clients to the minimum number required by law and that the telephone number be supplied to the neighborhood residents to facilitate communication with the adult supervisors.

Lee Grohse, speaking as the Director of Janus-Tree House, spoke in support of the proposal. She gave a brief description of the program and its history. She stated that the facility was currently located on Mallette Street and was licensed to provide residential treatment services for up to 8 emotionally disturbed adolescents. She said there were three live-in staff, on-duty at all times, to supervise the residents. Dr. Grohse said Janus-Tree House had been located on Mallette Street for fifteen years and the site was inadequate in terms of size, use of available space, lack of indoor recreation areas and room for administrative and clinical offices. She said the facility had been looking for a number of years for a house that was large enough to accommodate the residents and clinical staff. Dr. Grohse stated that she believed the facility could be relocated to the Dogwood Acres site without damage to the neighborhood. She said the history of the facility on Mallette Street showed that there had not been

any problems with neighbors and the relationship with the residents.

Dr. Grohse said there had been concern expressed that the house in Dogwood Acres would be altered in order to facilitate its usage as a residential group home facility. She stated that the only external alteration needed was to place a fire escape on the rear of the building. Dr. Grohse said there would be a number of internal renovations to comply with fire code regulations but that she did not feel any of the changes would alter the home to the point where it would not be usable in the future as a single family home.

Dr. Grohse also said there was concern about the "Willie M" residents and the safety of the neighborhood residents. She stated that "Willie M" class members were children who had been certified by the State as having certain emotional and behavioral problems that include a history of assaultive or aggressive behavior. She said the implication that all "Willie M" classified children were dangerously assaultive and that this was not the case. She stated that 88% of all "Willie M" classified children in North Carolina were living in community settings, 50% of them live with their own families. She said the facility screened all "Willie M" children to determine that they were able to live in a residential setting, and that the screening was reviewed by local mental health child services personnel and by regional and state officials. Dr. Grohse stated that Janus-Tree House had been serving "Willie M" children in a residential setting since 1982 and not one of these children (twenty in all) had been charged with an assaultive crime while in the program.

Dr. Grohse said they were not proposing to bring additional and different children into the Chapel Hill community. She said the same types of children were in the community at present and the residents of the facility attended public schools, ride public school buses, and hold summer jobs in the area. She said the proposal was not a change in the type of involvement the children would have in the community but rather a change in the location of the home and that this was important to remember when discussing the nature of the children and the possible danger they present to the community. She said she felt Janus-Tree House's history in the community spoke for itself in terms of the level of safety to the neighbors of the facility.

Council Member Preston asked what was the minimum number of "Willie M" students required. Dr. Grohse said that there was no minimum number but that the facility had a contract with the State for 3 students and that they did not foresee increasing this number. She pointed out that the "Willie M" classification had been in effect for only 6 years but that the facility had served children of this classification throughout its history and that there had never been any problems with the residents and neighbors.

Council Member Preston asked Dr. Grohse to describe a normal day for the residents of the facility. Dr. Grohse replied that the children followed a set schedule that included attending the local schools, recreational activities and therapy sessions in the afternoon. She said the residents did not typically have a lot of unsupervised time but that they were allowed, if they met certain criteria, to attend events like school dances, etc.

Council Member Werner asked what was the average turn-over rate of the residents. Dr. Grohse said the residents stayed in the facility between nine to 18 months. She said that goals were set for each individual when they entered the facility and that the length of residence was related to the completion of the goals and when they were ready to return to their homes.

Mayor Howes asked what was the meaning behind the name of the facility. Dr. Grohse replied that she thought the Janus was used because it was the Roman name for the god of doorways, change and beginnings and that Tree House represented a safe haven for children.

Alan Rimer, representing the Planning Board, said the Board had voted 6-1 to recommend approval of the Special Use Permit application. He said that the dissenting vote was due to the belief that the project would affect the property values and that there was no supporting evidence that the project would not adversely affect the health, safety and welfare of the community.

Manager Taylor said his preliminary recommendation was for adoption of Resolution A to approve the Special Use Permit with conditions.

Vicki Shea, speaking as a resident of Dogwood Acres, said that she lived across the street from the proposed site of the facility and that she would be happy to have the facility as a neighbor. She said she felt the opposition was based on fear and prejudice. Ms. Shea stated that the facility had been in operation and serving the children of Chapel Hill for over 10 years. She said she thought the proposal was a reasonable use of the property and would not damage the neighborhood. (For copy of text, see Clerk's files.)

Julian Raney, speaking as a resident of Dogwood Acres, spoke in support of the application. He said one of Chapel Hill's most endearing features was its compassion of its people and he questioned what cause was more vital than the nurturing and guidance of its youth. He expressed concern that a letter, dated February 19, had been circulated in the neighborhood stating that the facility would be a drug half-way house and that on February 28 another letter had been circulated in the neighborhood stating that facility would not be a drug half-way house. He said he felt this initial confusion as to the purpose of the facility had had an adverse affect on the application. (For copy of letters, see Clerk's files.) He said the experience and history of the

facility in the community should be evidence that it would not adversely affect the neighborhood and that safety would not be an issue. He pointed out that he had contacted the Chapel Hill Police Department Juvenile Officer and had been told that there had not been any complaints issued against any of the residents of the facility.

Dr. William Burlingame, spoke in support of the application and said he was a clinical psychologist and had evaluated many of the residents of the facility. He said the "Willie M" classification represented a broad spectrum of aggression and that the residents of Janus-Tree House with this classification were at the lower end of that spectrum. He said the neighborhood should not feel threatened by these children and that federal law mandated the treatment of these children.

John Simonds, Director of the North Carolina Association of Emotionally Troubled, said they had been in business in Chapel Hill since 1976 and operated a 24-hour training program for emotionally disturbed young adults. He said they operated a vocational training program under the name of CARAFLOA and Caramore and two group homes in Chapel Hill, on Ephesus Church Road and Fountain Ridge Road, both residential communities. He said they also operated sixteen apartment residential spaces. Dr. Simonds said they were certified by the Division of Mental Health and were affiliated with the Orange-Person-Chatham Mental Health Center. He said that they had served over 300 young people since 1976. He stated that in his four years as Director there had never been a case where the residents of his facilities have endangered the safety of the community. He spoke in support of the proposal and said that he did not feel the Janus-Tree House facility would be a threat to the community.

Council Member Wilkerson asked how many individuals were housed in the two residential facilities? Dr. Simonds replied that there were five residents and a live-in staff member.

Mayor Howes asked if Dr. Simonds had seen the proposed location of the Janus-Tree House facility and if so, could he compare his settings with the proposed facility. Dr. Simonds replied that he had not seen the site proposed for the Janus-Tree House facility but from the information in the paper and he said it seemed to have more land involved.

Mayor Howes asked if there were any visual evidence that Dr. Simonds' group homes functioned in that capacity? Dr. Simonds replied no.

Bill Baxter, Director of the Orange-Person-Chatham Mental Health Center, spoke in support of the proposed Special Use Permit for Janus-Tree House. He said the facility met the normalization principle which the Supreme Court had articulated, namely that people should be treated in the least restrictive setting. He said in his personal experience with Janus-Tree House over the

last 11.5 years he had not received one single complaint from anyone in Chapel Hill about the facility. He stated that there was a citizen board that oversaw the functions of the facility and who had the same interests as the neighborhood in keeping Chapel Hill safe. Mr. Baxter said in terms of supervision the facility would have supervisors on-site twenty-four hours a day, and oversight by the staff, citizen board, OPC Mental Health Center. He stated that if there were any problems, citizens could approach any of these entities and obtain resolution. He said he felt the house in Dogwood Acres would provide more security for the neighborhood used as a group home facility than if it were just used as a single family home.

Mr. Baxter said that property value studies done on areas where group homes for the mentally retarded were located showed that there was no decline in property values but that he was not aware on any studies in North Carolina related to homes for the emotionally disturbed that stated that property values declined as a result of locating such a group home in the neighborhood.

Mr. Baxter stated that there were currently 34 children certified as "Willie M" children in the Orange-Person-Chatham County areas. He said over the six years that OPC Mental Health Center had been servicing "Willie M" children there had been over 80 children in this program and to his knowledge there had not been a single case of assault by those children on anyone in any neighborhood in the three counties.

Herman Lineberger, Child Psychiatrist at UNC and consultant at Janus-Tree House, spoke in support of the application for a Special Use Permit by Janus-Tree House. He said Janus-Tree House was an extremely high quality program and one that had been a trail-blazer across the state and was exemplary.

Mark Prince, speaking as a citizen, spoke in support of the proposed Special Use Permit application. He said he concurred with the previous comments.

Melvin Rashkis, speaking as a member of the Board of the Janus-Tree House, spoke in support of the proposal. He assured the Council that the program was beneficial to the Town of Chapel Hill. He said the children who had been and were now a part of the program had benefited immeasurably by the attention, counseling and therapy they received. He said he had personal experience with some of the children and had them in his home. He said the Tree House felt the facts of their operations were sound and convincing. He said he understood some of the feelings of the neighbors in Dogwood Acres. He said his interest in the project was simply as a Board Member and not a realtor, and that he would receive no personal gain from locating of the facility at the Dogwood Acres site. He said he hoped there would not be any hint of conflict of interest in his advocating approval of the Special Use Permit.

Council Member Preston asked if the driveway on the east side of the site would be used by the facility. Mr. Rashkis replied no.

Julian Caston, speaking as a resident of Dogwood Acres, spoke against the proposal. He said the residents were proud of their neighborhood. He said they did not want the house in their neighborhood.

Richard Wiggins, an attorney representing a group of residents opposed to the Special Use Permit for Janus-Tree House, said the residents (150) were opposed to the locating of Janus-Tree House in their neighborhood. He said no one contested the worthiness of the "Willie M" program, but the issue was whether or not the Janus-Tree House facility should be located in the Dogwood Acres residential neighborhood. He stated that the neighborhood had originally had restrictive covenants which had restricted it to single-family housing but said covenants had expired and now the residents had to rely upon local zoning ordinances for protection. Mr. Wiggins stated that he had been working on a similar case in Cumberland County for the past year. He said in that case the property was zoned for single family residential use and had restrictive covenants. He said the proposal in Cumberland County was for a facility to accommodate four "Willie M" youth, one social worker, and two teaching parents on duty at one time. He said there had to be a live-in person on-site at all times in order to qualify as a residential unit. Mr. Wiggins said that when this case was tried, the court found that "Willie M" youths rotated in and out of the facility according to progress with the average stay of four to nine months and that the facility was not the residence of the "Willie M" youths and that even at the moderate management level there was a reasonable possibility that aggressive conduct would be repeated creating a present danger to others. He said the court found that the facility's primary use was a public therapeutic facility and only incidentally as a residence for one of the live-in teaching parents. He said the court also determined that traffic would be drastically increased and testimony was given that more than 20 vehicles were seen going and coming from the house. Mr. Wiggins said the Cumberland County facility had less staff than what was proposed in Dogwood Acres. He said the court found that the Cumberland County facility violated the zoning ordinances and restrictive covenants and entered a permanent injunction against its location in a residential neighborhood. He said the Cumberland County facility was currently relocating the house.

Mr. Wiggins stated that there was obviously legal precedent for group homes in North Carolina but not as it applied to "Willie M" facilities. He said the cases in North Carolina had dealt with the mentally retarded and the court had found in Hobby v. Family Home that the group home qualified as a residence within a residential neighborhood because there was a married couple that permanently resided in the house as opposed to the proposed facility where there would be three counselors, six would rotate in and out of the facility, and all of which would have their

residences elsewhere. He said as such he did not think the Janus Tree House facility would qualify as a residential facility. He also stated that in the Hobby case the court found that the mentally retarded adults used the facility as their permanent residence and that no educational or vocational training was provided on the premises. He said he felt the court felt this was an important distinction in determining whether or not therapeutic facilities could be located in residential neighborhoods. Mr. Wiggins said the Hobby case also said there was no office on the site and was therefore not an office or institutional type of use being made of the property. He stated that the Janus-Tree House proposal included an office with three workers in an adjacent facility. He said the only other cases outside of North Carolina that have addressed this issue were a couple in Mississippi. He said these cases held that there was a vast distinction between the "Willie M" type facilities and the mentally retarded type facilities. Mr. Wiggins said that the residents he represented felt that the proposed Janus-Tree House facility in Dogwood Acres was a violation of the Comprehensive Land Use Plan of Chapel Hill.

Henry Schliff spoke against the application and said he was President of the Dogwood Acres Neighborhood Association, a group that was formed upon receiving notice of the Janus-Tree House's application for a Special Use Permit for Dogwood Acres. He said they had contacted 80% of the residents of Dogwood Acres, and of those contacted, 150 had signed a petition against the application and 10 had expressed support for it. Mr. Schliff said in justifying what constituted the residential use of the house in contrast to an institutional or facility use the applicant had responded that the development of the site basically would remain the same. He also said the applicant in its statement of justification had stated the use would be used as a residence in response to the question of what evidence was there that the facility would operate in a manner to insure the public health, safety and welfare. Mr. Schliff stated that the applicant, in response to all the questions on justification, had indicated that the residential nature of the house would remain the same therefore it met all the requirements. He said he felt these statements did not justify the use of the site as a facility use in a residential zone. (For copy of text, see Clerk's files.)

Michael Vaught, speaking as a resident of Dogwood Acres, spoke against the application. He discussed the list of necessary improvements to the house in order to facilitate its use as a group home facility. He said the changes would be made to the walls, doors, panelling, basement and stairways and that exit lights, exterior fire escape and office space would also be added. He said that if the basement were used for recreation purposes this would mean the house would become a three-story residence and that there were restrictions which indicate that it should be a two-story residence. He said the OWASA estimates for the water usage was 933 to 1400 gallons per day while Janus-Tree House had estimated 250 gallons per day. Mr. Vaught said



with the amount of water to be used he felt the septic system would not be adequate. He said that if the septic system had to be expanded it would mean eliminating some of the current buffer in order to increase the drainage field. He said this should be taken into account in relation to the request for a waiver of the buffer requirement and therefore the residents asked that the waiver not be granted. Mr. Vaught stated that the proposal included office space for three employees and that this would increase the amount of parking on-site. He said the proposal allotted six parking spaces for the facility and that this was based on one space per bed, but with the office space this would mean three more spaces would be needed as well as space for delivery vehicles and visitors. He said this would be a significant parking change. Mr. Vaught said once these changes were made, the residence would be a therapeutic facility and not in accordance with the residential nature of the neighborhood. (For copy of text, see Clerk's files.)

Henry Schliff said that the Development Ordinance stated that there should be a 4000 square foot maximum floor area for this type of facility and that he felt this was intended to insure that such a facility would not dominate the neighborhood. He stated that most of the homes in Dogwood Acres were well under 2000 square feet. He said the proposed site for the program exceeded the permitted maximum by more square footage than the average neighborhood house occupied and was more than three times the size of any of the surrounding homes. He said it was situated at the top of a hill at a major intersection also was important. Mr. Schliff said that the fact that the building already existed was irrelevant because dominating a neighborhood as a single family residence was a lot different than dominating the neighborhood as an institution. He also said he did not know how the applicant was getting around the building code standard of no more than 1800 square feet per story.

Mr. Schliff stated that the courts had also considered this question in a number of cases and clear and consistent criteria regarding residential versus non-residential use of property emerged. He listed several court cases in which this occurred and said that in each case the court had to decide a zoning matter that hinged on the residential versus non-residential use. He said the court found that the dwellings were residential when a married couple, permanently resided in the home and served as both resident managers and surrogate parents; when the clients were permanent residents; when no educational or vocational training of any kind was provided at the home; and no professional counseling or medical services were provided on the premises. He said the Janus-Tree House facility would not meet these criterion. He pointed out that the clients housed at Janus would not be permanent residents; the live-in staff would be six counselors who rotated in and out with their residences elsewhere; and the primary purpose of the facility as stated in the organizations goals and objectives was therapeutic and treatment was provided on the premises. Mr. Schliff said there was not

even one point on which the Janus-Tree House could remotely qualify as residential use. (For copy of text, see Clerk's files.)

Michal Schliff, speaking as a resident and against the application, said that in ruling on whether or not the applicant met the requirement to operate in such a way as to maintain or promote public health, safety and general welfare, a judgment must be made. She said that the rules governing the approval of a Special Use Permit made it clear that the Council must presume that the applicant operated in a manner that did not maintain or promote health, safety and welfare until the applicant conclusively prove otherwise. She said the rules also made it clear it was not a case in which the Council could decide that the benefits of the program outweighed the possible hazards and if there were any doubts then the permit should not be granted.

Ms. Schliff said that State policy was to uphold the right of handicapped individuals to reside in normal residential environments but North Carolina General Statutes 168-21 specifically excluded mentally ill persons who were dangerous to others. She said the only statements made by the applicant in response to the question of maintaining the public health, safety and general welfare were that normal traffic was anticipated and Dogwood Acres Drive was not a heavily travelled street; additional normal traffic would not create any problems; and the facility would meet North Carolina Facility Services requirements as well as requirements of the local fire and sanitation department. Ms. Schliff stated that she did not feel the responses addressed the salient issues. She said safety was the primary issue. She said in order to be classified as "Willie M" a client of Janus-Tree House had to have committed violent and assaultive acts and that these attacks have been intense or severe and/or have occurred with sufficient frequency to be considered a pattern of response. She enumerated a list of behavioral criteria that a person must meet in order to be classified as a "Willie M" class member, which ranged from physical attacks against others, against property, against animals, self abuse, threatened attacks with deadly weapons to forcible sexual attacks. Ms. Schliff pointed out that in addition to exhibiting one or more of the behaviors listed, a "Willie M" class member's behavior was also rated for intensity, severity and pattern.

Ms. Schliff said in addition to the clientele factors of the Janus-Tree House there has been significant staff turnover in the last five years, the patient population was transient and the nature of the program was also changing. She said that as such she felt it would be correct to assume that these facts multiplied the number of opportunities for error in the program and therefore an increased risk for tragedy. (For copy of text, see Clerk's files.)

Harry Smith, speaking as a resident of Dogwood Acres and against the application, said that a potential homebuyer's perception of

the neighborhood and the physical structure itself were property value determinants. He said that anything that affected the buyer's perception affected the property values. He stated that common sense indicated that not many people would want to locate their home near a group treatment facility and therefore the establishment of such a facility in the neighborhood would reduce the property values. He said he did not feel the applicant effectively addressed the issue of maintaining or enhancing the value of contiguous property by stating that the plans were to maintain the residential character of the site, that existing vegetation would be retained, the site would be cared for and kept up rather than allowed to decay and that there would be no external identification of the facility as a group home. He stated that the house was not currently maintained effectively and that as the house was located at a primary intersection it would not be "unnoticeable". (For copy of text, see Clerk's files.)

Henry Schliff said the residents did not see the logic in the statement in the staff memorandum which stated that there was more support for the proposal in the Comprehensive Plan than there was language arguing against the proposal. He said the Comprehensive Plan plainly said that redevelopment of existing residential areas should be discouraged. He said the application also involved supporting a continuation of services but he felt this was not true because the service already existed and the Town was supporting it. He stated that what was being asked was to assist and encourage the movement of that service from a compatible location to one not zoned for its use. Mr. Schliff stated that at no time had the applicant said it would discontinue the services if they were not allowed to move to Dogwood Acres. He also said that the applicant essentially said that the reason for desiring to move was that the current location was inconvenient, uncomfortable and inefficient. He said the applicant would be better off spending the money involved in the proposed move to renovate and upgrade their current facility. He said the facility should be located in an appropriately zoned area and not in a single-family residential area. He urged the Council to deny the application and presented four possible reasons for denial. (For copy of text, see Clerk's files.)

Jeffrey Surles, an attorney representing the Dogwood Acres Neighborhood Association, said that his clients were concerned with the affect the proposal would have on the neighborhood and that they felt the proposal would violate the Comprehensive Plan's Goals and Objective of preserving existing neighborhoods.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG TO REFER TO THE MANAGER AND ATTORNEY.

Manager Taylor asked that because of the amount of evidence received that the staff report be delayed until the June 27 regular meeting so the staff could thoroughly review and respond to all questions. The Council agreed.

Council Member Preston asked that information be provided on the zoning of the current facility on Mallette Street, where these facilities were permitted uses and if there was a Special Use Permit for its use on Mallette Street. She also asked for information on the auxiliary use of a residence as an office and what percentage of the site could be used in this manner.

Council Member Werner asked for information on the number of type of facilities of this nature in North Carolina.

Mayor Howes said that this was a complicated matter. He commended the citizens who had discussed the issue that evening for their thoughtful presentations.

THE MOTION PASSED UNANIMOUSLY, (6-0).

Public Hearing on Special Appearance District Development Ordinance  
Text Amendment

Roger Waldon, Planning Director, said the purpose of this hearing was to receive comments on proposed amendments to Article 7 - Special Appearance Districts (SAD) of the Development Ordinance. He said the amendments would broaden the review criteria of the Appearance Commission by adding landscaping as a regulated feature of the SAD. He said this proposal was a response to the efforts of the Entranceways Task Force, Appearance Commission and Planning Board to enhance the visual character of entranceways. Mr. Waldon stated that currently the Development Ordinance allowed for Special Appearance Districts but that no area had been designated as such. He said the amendments would require Certificates of Appropriateness for buildings and structures visible from the right-of-way and would include reference to the Entranceways Master Landscape Plan adopted on May 9 and the design guidelines still under consideration. He said the Appearance Commission had expressed concern that the amendments would affect single family homes along the entranceway.

Alan Rimer, representing the Planning Board, said the Board had reviewed the proposal and had voted unanimously in favor of the concept. He said that the Board did have some feelings that the process of how and when it should be implemented should involve much public discussion and that it should not be rushed through the process. He said the design guidelines and master landscape plan were key elements in the proposal and that there was still much work to be done and public comment to be heard on the design guidelines. He said the Board felt this amendment and the zoning changes associated with this should be implemented only after all the key features involved had been integrated. He also said the Board had been under the impression that the proposed amendment would affect new development, not existing structures.

Cassandra Sloop, representing the Appearance Commission, said the Commission supported the proposed amendments but felt that single family residences should be exempted from the regulations. She

said the Commission did not feel that landscaping or renovations to existing homes should have to go to the Commission for approval. She said the Commission was also concerned that the proposed 250' wide corridor would include individuals backyards as well as streetside.

Manager Taylor said his preliminary recommendation was to adopt an ordinance approving the amendment.

Virginia Cunningham said that it was important to get the amendments into effect as soon as possible. She said the amendment could remove the reference to the design guidelines at this point and it would still be effective. Ms. Cunningham stated that once the design guidelines were approved then the ordinance could be amended to include those guidelines. She concurred with the Appearance Commission in that single family residences should be exempted. She asked if variances would be allowed by the Appearance Commission and if the entranceways would be expanded as additional land was annexed into the Town.

Phil Szostak said that he had mixed feelings about the proposal. He agreed that Special Appearance Districts were needed and that the design guidelines were needed. He stated that what was needed most of all was a clear and definitive ordinance and guidelines for development.

Gordon Mitchell spoke in support of entranceways and special appearance districts but felt that the proposal was too broad and infringed upon residential properties too much. He said an individual property owner should have the right to paint his house or landscape his yard as he saw fit without approval from the Appearance Commission. He said the proposal contained the phrase "significant" as a qualifier for what kind of change would require Town approval. He asked what constituted "significant" and who would make that determination? Mr. Mitchell said that he felt residential homes should be exempted from the ordinance if the ordinance were to be adopted. (For copy of text, see Clerk's files.)

Patricia Hunt said she concurred with the comments of Mr. Mitchell. She said the Council needed to think about what was being proposed and how it would affect individual property owners of single family, duplex and rental property. She stated that she felt it was the commercial areas that needed improvement not residential.

Robert Bryan said he agreed with the two previous speakers. He asked what was the reason for the proposal? He said he did not think there were any major problems with the entranceways and that the Development Ordinance had the means of addressing those problems without this amendment. He said he felt this proposal should be postponed until a specific need for it was shown.

Joe Reckford said he appreciated the Town's efforts in trying to preserve and improve the entranceways but that he was concerned that the proposal included residential properties. He stated that in his area the residents had made substantial renovations and landscaping improvements that he felt were superb. He said he would prefer not to see the amendment address residential areas since he felt individual property owners would improve their residences on the own.

Bob Baucom said he agreed with the concerns expressed about single family and two family dwellings being included in the proposal. He said that many of the plants in the entranceways were and would become diseased, etc. and he asked what would be the process for removal and replanting. He said that the almost annual water shortage should be taken into consideration when requiring plantings, etc. in the entranceways. He also said that he felt the current development ordinance covered commercial development adequately.

Margaret Taylor, representing the Alliance of Neighborhoods, said she agreed that the proposal should not include single family residences but that she supported the general idea of improvements to the entranceways.

Jim Thompson said he was concerned with the increased bureaucracy and red tape that would develop as a result of the proposal. He said he did not think single family residences should be included.

Tom Freeland said his property was already being affected by proposed improvements to NC 86, Duke Power and the Bolin Creek sewer interceptor. He said that if the Town adopted the proposed ordinance and zoning amendment then it would further reduce the use of his property. He said he did not feel the proposal was valid for property to be developed for residential use.

Dan Garner, an attorney representing the Du Bose family, said that Chapel Hill was a beautiful place to live with its spirit of freedom and tolerance for individuality. He said he felt the proposed amendment would emphasize conformity and harmony and would hamper the individuality of property owners. He said what was needed was a balance between preserving the physical beauty and the individual rights of property owners. He stated that he felt the proposal was too broad and restrictive and would render some property unusable. He said that it was okay for towns, etc. to take private property for the public benefit but that when this was done restitution should be made to the property owners and that none was suggested in this proposal. Mr. Garner said that his clients did not want to destroy the entranceway, especially as it served as their front yard. He pointed out that the entranceway study called for public/private cooperation in development and maintenance of the entranceways and that the proposed amendment to the Development Ordinance did not contemplate this public/private cooperation but rather complete control

by the Town. He said the ordinance needed limits and more concise definitions of what constituted significant changes and what kinds of landscaping were possible. He said he felt the ordinance needed more fine tuning before it should be adopted.

Gerry Hancock, an attorney representing property owners on Elliott Road, said that he felt the ordinance was premature and contained apparent contradictions. He said he felt the proposal should be reconsidered and an attempt made to work out the problems. He said once this was done the Council could hold another public hearing on this issue.

Ron Strom said that he was not opposed to the goal of the proposed amendments but that the proposal was ambiguous and unclear. He said that there were parts of this amendment which were inconsistent with previously adopted ordinances. He also pointed out that all the related documents, like the design guidelines, were not complete and therefore the proposed ordinance would not be able to be effective. He said further information should be included on what constituted landscaping and exactly what areas would be affected. He stated that some of the requirements in the proposal would render the land use intensity ratios, height limits, and development use of the Master Planning process in Mixed Use zones useless. He said these requirements could result in problems with locating of parking for master planned developments as well as signage for the businesses. He said question like at what point in the master planning process would the certificate of appropriateness be required from the Appearance Commission was only one of many which needed to be considered, discussed and determined before adoption of the proposed ordinance.

Council Member Werner commented that it appeared clear that something needed to be done to protect the entranceways but that the proposal was not the answer. He said the issue needed more time for review by the Planning staff and Planning Board. He agreed that there were many the issues and ambiguities. He suggested that if single family residences were exempted it might reduce a lot of the negatives involved. He said he would prefer that this proposal be sent back to the staff for additional work.

Council Member Wilkerson said that the Town would not need additional enabling legislation for the proposal because the Town already had the Special Appearance District regulations in the Development Ordinance. He agreed that the ultimate goal of the proposal was to protect and preserve entranceways. He said the staff and Council should listen to the comments and concerns expressed and work with the proposal so that it would meet its intended use.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER WERNER TO REFER TO THE MANAGER.

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Mayor Howes said that the comments that evening indicated that there should not be a rush by the staff and Planning Board to return this item to the Council. He said it needed a lot of work and that there were significant issues involved which needed much thought. He said that when the Council met with the Planning Board for a work session in July that they could discuss the process of how to proceed.

Manager Taylor said that the staff would prepare a proposed schedule on the process and present it to the Council in a few weeks.

Council Member Wallace said that he felt the proposal was too broad and ambiguous and that it needed a lot of work.

THE MOTION PASSED UNANIMOUSLY, (6-0).

Public Hearing on Zoning Atlas Amendment for Special Appearance Districts

Roger Waldon, Planning Director, said this proposal was to amend the Zoning Atlas to designate key entranceways as Special Appearance Districts. He said the proposal was for a 250' overlay from the public right-of-way along the entire length of the entranceways.

Council Member Preston asked if there was a reason for the overlay being 250'? Mr. Waldon replied that the 1984 Entranceways Task Force report had suggested a 250' overlay and that the consultant and staff had felt this was reasonable.

Council Member Preston asked if the proposal allowed for any flexibility. Mr. Waldon said that there had been some discussion on this issue but that it was felt that a standard measure would be better.

Alan Rimer, representing the Planning Board, said the Board had voted in favor of the proposal but that it had the same concerns for the zoning as it had for the text amendment.

Cassandra Sloop, representing the Appearance Commission, said the Commission's concerns were the same as with the text amendment.

Gerry Hancock said he did not see the point in zoning special appearance districts if the text amendment was not to be adopted at this point and required much work.

Dan Garner, representing the Du Bose family, agreed with Mr. Hancock and said that the zoning atlas amendment should be put on hold until the text amendment was decided.

Gordon Mitchell asked if the overlay district were needed to achieve the goals.



Mayor Howes said that that was one of the underlying questions that the staff and Planning Board would be considering in their further deliberations on the proposal.

Council Member Werner commented that he was surprised that the University had not been represented at these hearings.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER WALLACE TO REFER TO THE MANAGER FOR FURTHER STAFF REVIEW. THE MOTION PASSED UNANIMOUSLY, (6-0).

A MOTION WAS DULY MADE AND SECONDED TO ADJOURN THE MEETING. THE MOTION PASSED UNANIMOUSLY, (6-0).

The meeting adjourned at 11:23 p.m.

