

MINUTES OF A PUBLIC HEARING HELD BY THE MAYOR AND COUNCIL  
OF THE TOWN OF CHAPEL HILL, TUESDAY, AUGUST 29, 1989, 7:30 P.M.

Mayor Pro Tem Pasquini called the meeting to order.

Council Members in attendance were:

Julie Andresen	Joe Herzenberg
David Godschalk	Roosevelt Wilkerson

Also in attendance were Town Manager David Taylor, Assistant Town Managers Sonna Loewenthal and Florentine Miller, Public Safety Director Cal Horton, Planning Director Roger Waldon and Town Attorney Ralph Karpinos.

Mayor Pro Tem Pasquini announced that the public hearing for the proposed Chapel Hill North mixed-use development was the only item on the Council's regular agenda this evening.

Mayor Pro Tem Pasquini requested that interested parties wishing to speak this evening come forward to be sworn by the Town Clerk.

Town Manager Taylor requested that materials from the agenda item and applicable attachments be entered into the record of the hearing. Mayor Pro Tem Pasquini concurred.

Planning Director Roger Waldon stated that the proposed development would occur on a site at the intersection of Weaver Dairy Road and NC 86. Mr. Waldon said that a detailed discussion of the proposal, Planning staff recommendations, applicant materials, and recommendations from the Transportation and Planning Boards were provided in the Council's materials.

Mr. Waldon stated that there is a significant draw on the site, which is proposed to remain open and undeveloped. Mr. Waldon noted that the application had been before the Council on June 26, July 10 and July 17th. Mr. Waldon said that potential traffic impacts from the project were significant. He noted that such impacts would necessitate road improvements, imposed through conditions of approval. Mr. Waldon stated that additional turn lanes, curb and gutter installation, and sidewalks would be required in addition to road widening and signal improvements.

Council Member Wallace arrived at 7:42 p.m.

Mr. Waldon stated that if the master plan were approved and the first phase were of significant size, improvements along NC 86 should be made in a timely fashion. Mr. Waldon noted that roadway improvements would be tied to the approval of special use permit applications.

Mr. Waldon said that buffering was also a key issue. Staff recommends that the applicant provide a thirty-foot buffer along NC 86. Mr. Waldon said there would be less open space on the exterior (edges) of the site, due to leaving existing vegetation in place.

Mr. Waldon also said that land for a two hundred car park and ride facility was also necessary to mitigate traffic to and from the site.

Council Member Andresen inquired about the location of a power easement on the site. Mr. Waldon indicated the location.

Ken Redfoot said that an extensive site analysis had been performed in conjunction with Town staff and Hakan and Corley staff. Mr. Redfoot stated that a variety of factors had been examined, including adjacent properties and roadways.

Mr. Redfoot said a site drainage analysis, setbacks, buffers and right-of-way considerations had also been evaluated.

In addition, Mr. Redfoot indicated that the developable area had been reviewed and broken into two areas, with the second and larger area occupying the northern area of the site. Mr. Redfoot noted that a 100-foot required buffer would be provided along Interstate 40. Mr. Redfoot said that a two-acre portion of the site containing significant trees would be maintained as a focal center of the site.

Mr. Redfoot said that a conceptual master plan had been formulated based on summary and design analysis. Mr. Redfoot said the majority of commercial uses on the site would be parallel to NC 86 and away from the Northwood subdivision. Mr. Redfoot also pinpointed the location of a park-like area near the middle of the site, which would have a purely pedestrian orientation.

Mayor Howes arrived at 7:58 p.m.

Mr. Redfoot said a thirty-foot average buffer was proposed along NC 86. He stated that if the buffer were increased, the natural area in the middle of the site would be constricted. Mr. Redfoot added that additional buffer requirements could also necessitate elimination of the draw in the middle of the site. Mr. Redfoot concluded his remarks by noting that a variety of plantings would be used to make the site more attractive.

Council Member Andresen inquired whether any parking was located at the Northwood Drive connection to the site. Mr. Redfoot said that parking would be necessary in front of buildings in this area, due to zoning setback requirements. Council Member Andresen inquired about the width of buffering along NC 86. Mr. Redfoot said a thirty-foot buffer would be provided.

Council Member Werner arrived at 8:00 p.m.

Council Member Andresen said it was important to have a buffer in otherwise visible areas. Mr. Redfoot concurred, noting that parking would be sited between out-parcels rather than at key corners or too near to site entrances. Mr. Redfoot noted that the northernmost area of the site would contain a significant green area.

Council Member Andresen inquired about the siting of a park and ride lot. Mr. Redfoot indicated a possible location, noting that Mr. Strom would address this topic in his remarks.

Robert Holsinger of Wilbur Smith and Associates said he would be speaking from the staff's report, the site traffic impact study, North Carolina Department of Transportation documents and a letter from himself to Mr. Strom.

Mr. Holsinger said it was not his finding that temporary roadway improvements would support 500,000 square feet of commercial uses. Mr. Holsinger said temporary roadway improvements would support 220,500 square feet of commercial uses. Mr. Holsinger said that the current capacity of NC 86 is 15,000 vehicles per day. Mr. Holsinger added that a 1988 study found that 10,725 vehicles per day utilize the road, leaving a reserve capacity of 4,275 vehicles per day. Mr. Holsinger said that 1991 projections indicate that 15,611 vehicles per day will use NC 86, contrasted with 16,500 vehicles per day capacity for a thirty-six foot roadway section.

Mr. Holsinger said that a five-lane section of roadway will be needed at full build-out. Mr. Holsinger said that a sixty-four foot section with dual left-turn lanes could accommodate up to 32,000 vehicles per day. Mr. Holsinger said that there will be an estimated 26,000 vehicles per day on NC 86 at full build-out.

Council Member Preston arrived at 8:06 p.m.

Mr. Holsinger said that an estimated 2,059 vehicles per hour will travel NC 86 at peak hour. Mr. Holsinger said that construction of an eighteen-foot widened section would create a gap of twenty-two to twenty-eight feet. Mr. Holsinger said that the curb line and grade of the proposed roadway are uncertain at this time. Mr. Holsinger said he was satisfied that there would continue to be reserve capacity if construction is staged.

Council Member Andresen inquired about the origin of the 26,000 vehicle per day figure cited by Mr. Holsinger. Mr. Holsinger said this was a staff estimate of traffic volume on NC 86 at build-out. Council Member Andresen asked whether any traffic problems south of Weaver Dairy Road had been examined. Mr. Holsinger said no. Council Member Godschalk inquired whether build-out considerations had been taken into account in arriving

at traffic counts. Mr. Holsinger said yes, indicating that staff projections through 1991 had been used.

Council Member Werner inquired how residents of the Northwood subdivision would enter and leave their neighborhood. Mr. Holsinger said that left turns to I-40 would continue to be difficult. He noted that widening of NC 86 would not provide relief to those attempting to exit Northwood. Mr. Holsinger said that some gaps in traffic should occur during the morning peak hours. Council Member Preston inquired about the future installation of traffic lights in the area. Mr. Holsinger said that traffic lights would help to create gaps in traffic. Mr. Holsinger said an eight-phase traffic light would be sited at Weaver Dairy Road and NC 86 at full build-out. Mr. Holsinger also indicated that a traffic light would be installed at Eubanks Road and NC 86.

Council Member Pasquini asked Mr. Holsinger how the traffic system would operate in the NC 86/Weaver Dairy corridor in the future. Mr. Holsinger said that 220,500 square feet of commercial use could be developed in Chapel Hill North employing one northbound, one southbound, and a turn lane. Mr. Holsinger added that an improved traffic signal would also be needed. Mr. Holsinger noted that the roadway is currently at 70% of capacity. Mr. Holsinger recommended that the roadway be expanded to five lanes in the future to accommodate traffic in the area.

Council Member Godschalk said he did not recall the Council voting on roadway service levels during his tenure on the Council. Town Manager Taylor said no decision had been made on requiring a four or five lane roadway along NC 86. Town Manager Taylor also noted that the roadway would not necessarily be separated. Town Manager Taylor stated that estimated improvements total approximately \$500,000. Town Manager Taylor stated that the Town had communicated to NCDOT that a five lane roadway might be necessary. Town Manager Taylor said that NCDOT is not ready to proceed on this project at this time. Town Manager Taylor noted that the Town and NCDOT need to do a study of NC 86 from Homestead Road to I-40. Mr. Taylor indicated that the \$100,000 needed for preliminary engineering was not currently available.

Mr. Waldon said that the Comprehensive Plan specifies that service level D is acceptable but not desirable for Town roadways. Council Member Godschalk said he did not recall any recent Council discussions on levels of service. Mr. Waldon said that there had been no specific discussions on levels of service in recent years. Council Member Godschalk said roadway levels of service are a major public policy issue.

Council Member Pasquini inquired whether additional roadway improvements would be necessary to attain a service level C. Mr. Holsinger said this was correct. Mr. Holsinger said that Durham preferred a level of service C, while the City of Raleigh

prescribes a level of service D. Mr. Holsinger said economics are a vital factor in determining City/Town-wide service levels.

Ron Strom, managing partner of Chapel Hill North, said he would be addressing conditions of approval #5, 8, 9, 11 and 12 this evening. Mr. Strom requested that language in condition #5, concerning building roads to Town standards, be changed.

Mr. Strom said he would provide a one-hundred space parking lot in concert with a counter-cyclical user. Mr. Strom said that the need for a park and ride facility was not associated with construction of the project. Mr. Strom stated that the University and some downtown merchants would be the almost exclusive beneficiaries of a park and ride facility. Mr. Strom said that condition #8 should be deleted or amended to language in the June 26th memorandum from the Town Manager to the Council. Mr. Strom said it should be at the applicant's discretion whether a park and ride lot is provided.

Mr. Strom stated that if a theater is the counter-cyclical user of the park and ride facility, the Town would need to modify the Sign Ordinance, since the current ordinance permits a maximum sign of fifteen square feet along NC 86. Mr. Strom added that a third-party land acquisition agreement would be needed for the park and ride lot.

Mr. Strom said he agreed that buffering along NC 86 should be of a very high quality. Mr. Strom expressed concern about vague provisions about the installation of buffers within the Town landscape plan. Mr. Strom said he had objections to providing buffering along NC 86 in excess of a class D buffer. Mr. Strom said he had a series of lengthy discussions about the need for windows of visibility for retail establishments.

Mr. Strom stated that extending the buffer along NC 86 beyond thirty feet would necessitate moving parking and buildings into the hardwood draw in the middle of the site. Mr. Strom also noted that curb and gutter and bike lane requirements would make buffering in excess of thirty feet very difficult.

Mr. Strom said he had offered 850 feet of 100-foot wide right-of-way along NC 86 in an effort to mitigate traffic impacts. Mr. Strom stated that the Chapel Hill Gateway project had not been required to dedicate additional right-of-way. Mr. Strom said that Northwood residents would not be able to see the site whether a thirty or seventy-five foot buffer is required.

Mr. Strom said careful attention had been paid to locate heavily trafficked areas close to Interstate 40.

Mr. Strom said that tremendous off-site roadway improvements were required by conditions 11 and 12. Mr. Strom said he was not

certain whether the project could bear the cost of these improvements.

Mr. Strom said he had requested a payment-in-lieu option for roadway improvements. He expressed concern that the staff narrative found this approach to be unworkable. Mr. Strom said that if phase I of the project were small (83,000 square feet), it could be accommodated by existing roadways.

Mr. Strom said he found it ironic that he was being asked to bear the costs of a park and ride lot and the costs of roadway improvements. Mr. Strom contended that he should be allowed to move ahead with 220,500 square feet of commercial space without making traffic improvements. Mr. Strom said development in excess of this threshold should trigger the need for roadway improvements. Mr. Strom requested that voluntary off-site improvements be conditioned on credits against any possible future impact fees.

Council Member Werner said it appeared that Mr. Strom appeared to have a great deal of problems with substantive comments in the Manager's recommendation. Council Member Werner said it appeared that the applicant and Council were getting further apart in their discussions.

Mr. Strom responded that it is important to determine whether a mixed-use project can be approved that is both economically viable and marketable to end users. Mr. Strom said the resolution of approval was written in such a way that is hard to argue with. Mr. Strom said if improvements are phased in, the process would be much more manageable. Mr. Strom said that if off-site improvements are tied to less than 220,500 square feet of commercial buildings, the project would no longer be economically viable.

Council Member Werner requested Town Manager Taylor's opinion concerning the status of project negotiations. Town Manager Taylor said the current state of affairs was not very positive. Town Manager Taylor stated that street improvements need to be in place before the first phase is completed, if such a stage is greater than 50,000 square feet. Town Manager Taylor added that the parties appeared to be far apart relative to park and ride facilities. Town Manager Taylor observed that the earliest return date for this application appeared to be October 23rd, rather than September 25th, as originally anticipated.

Council Member Preston inquired about how a payment-in-lieu option for off-site road improvements would be handled. Town Manager Taylor said an agreement could possibly be made with NCDOT to construct roadway improvements.

Council Member Godschalk said it might be preferable to gear stages to percentage of on-site construction completed. Town

Manager Taylor responded that the Town's intention is to tie roadway improvements to the percentage of floor area in place. Council Member Godschalk noted that off-site roadway improvement concerns appeared to be resolvable.

Council Member Godschalk noted that buffering requirements, provision of a park and ride facility and other public improvements require further negotiation. Council Member Godschalk expressed concern about the use of out-parcel frontages for fast food franchises. Town Manager Taylor stated that the conditions of approval stipulate that neither out-parcel on Weaver Dairy Road will be developed as a fast food outlet. Mr. Strom expressed his willingness to limit potential fast food usage to two of the four out-parcels. Mr. Strom said he desired to make the project pedestrian-oriented and self-sufficient, thus reflecting the need for some fast food outlets in the area.

Mr. Strom said he was far more willing to limit drive throughs on the two out-parcels, encouraging people to get out of cars.

Council Member Pasquini said that if and when the master land use plan is approved by the Council, the Council will have less flexibility in determining appropriate uses on individual parcels. Council Member Pasquini said more specifics were needed concerning the proposed uses of commercial parcels. Council Member Pasquini inquired about the role of rebuttal presumption at the special use permit stage. Town Attorney Karpinos responded that the onus would be on the applicant to prove that the project uses comply with all Town development standards and regulations.

Council Member Pasquini inquired about what process would be necessary if the Council were unanimously opposed to construction of a project. Town Attorney Karpinos said he would respond to the Council at a later time on this matter.

Mr. Holsinger stated that it is an accepted standard that some roadway traffic would be diverted into shopping centers (varying between 25 and 60%). Mr. Holsinger said that this figure was estimated at 40.8% for commercial uses in Chapel Hill North. Mr. Holsinger said that ultimate development will generate approximately 17,000 vehicles trips per day, for office, commercial and institutional uses.

Mr. Waldon said that the Planning Board recommended approval of the Chapel Hill North mixed-use proposal to the Council. Mr. Waldon called the Council's attention to page 12 of their summary memorandum, which outlined the differences between the Planning Board and Manager's recommendations. Mr. Waldon added that there were three other important overviews included in their memorandum: State and federal permit issuance; landscape buffering and public street access off Weaver Dairy Road.

Council Member Andresen inquired whether part of the difference between the Planning Board and Manager's recommendations was attributable to the Planning Board's early consideration of this matter. Mr. Waldon said yes.

Bill Hildebolt, student liaison to the Council and member of the Transportation Board, said that the Transportation Board had considered the plan on June 7th. Mr. Hildebolt said that the Transportation Board would like to see the proposal come into effect, but had some reservations including the need for a park and ride facility. Mr. Hildebolt said that a park and ride lot is needed in the NC 86 corridor. Mr. Hildebolt said that a one-hundred space lot would not be agreeable or adequate. Mr. Hildebolt added that roadway improvements should be put in place as soon as possible.

Town Manager Taylor said his preliminary recommendation to the Council was the adoption of resolution B, approving the project.

Jeannie Arnell, a resident of Dixie Drive, said she opposed the Chapel Hill North development. Ms. Arnell said the Council should support businesses already in operation. She stated that shopping malls have vacant lease space at present. Ms. Arnell said that traffic during rush hours on NC 86 is already heavy and slow moving. Ms. Arnell stated that the cutting down of trees would adversely impact the environment. Ms. Arnell concluded her remarks by stating that overbuilding was not wanted or needed.

Violet Simon, 209 Hunter Hill Road, said she wanted to avoid a glut of development at I-40 and NC 86 similar to that at NC 86 and I-85.

Ms. Simon said that NC 86 between Weaver Dairy Road and I-40 is a dangerous section of roadway. Ms. Simon said that thousands of additional vehicles in the area will add to pollution problems. Ms. Simon said provision of a thirty-foot buffer was minimal, comparing it to the fifty-foot buffer provided by Shadowood Apartments on Airport Road. Ms. Simon stated that a minimum two-hundred space park and ride lot was needed for Chapel Hill North. Ms. Simon concluded her remarks by stating that there are four existing eating establishments at Timberlyne Shopping Center.

Jeffrey Collins, a resident of Hunter Hill Road, said he had two major concerns: buffering and road improvements. Mr. Collins said that the applicant's priorities appeared to be reversed, with a one-hundred foot buffer along I-40 and only thirty feet along NC 86. Mr. Collins suggested that a trade-off be made between the two buffers. Mr. Collins expressed concern that staging of roadway improvements would expand the period during which construction activity would occur. Mr. Collins urged the Council to strive for higher than minimal acceptable standards.



Council Member Werner noted that the provision of a one-hundred foot buffer was not optional. Town Manager Taylor stated that the one-hundred foot buffer is a major transportation corridor requirement.

David Jones, a resident of the Stoneridge neighborhood, said he did not have a position on the proposed project, but wished to expound on traffic-related concerns. Mr. Jones said it was important that intersection improvements at NC 86 and Weaver Dairy Road occur as soon as possible. Mr. Jones stated that reserve capacity on roadways is a theoretical concept. Mr. Jones urged the Council to require roadway improvements early in the development process.

Anne Weeks, 104 Autumn Lane, said she was personally shifting to opposing the Chapel Hill North mixed-use application. Ms. Weeks expressed concern about the Town's moral obligation to provide notice of developments impacting neighborhood residents. Ms. Weeks expressed concern about the mixed-use zone concept, especially in instances where only a portion of such a project is completed. Ms. Weeks said she had discussed traffic impacts and buffering requirements with Town staff. Ms. Weeks said it seemed unusual that if the final burden of proof was on the applicant, it was odd for road planning to occur later in the process.

Larry Benninger said that a thirty-foot buffer should be a bare minimum along NC 86. Mr. Benninger said that the wooded draw should not be balanced off against the buffer. Mr. Benninger added his concern about access to possible fast food establishments on NC 86.

Mr. Benninger expressed concern that the out-parcels could be used as gasoline stations. Mr. Benninger concluded his remarks by stressing the importance of the need for good advanced roadway planning along NC 86.

Council Member Godschalk stated that the future design of NC 86 should be a high Town priority for settlement.

Council Member Pasquini said that the comments by citizens this evening had been insightful.

Council Member Werner said he would like to see all issues surrounding the application resolved, but felt that making verbal compromises in Council meetings was not a good use of the Council's time.

Mayor Howes indicated it might be possible to get a more favorable response from NCDOT.

Council Member Godschalk said the proposed Chapel Hill North site was unique in Chapel Hill. Council Member Godschalk said that

the Council would not accept compromises in the quality of development on the site.

Council Member Andresen suggested that it might be pertinent to consider adding language about phasing and design standards to the mixed-use development ordinance.

Town Manager Taylor inquired whether it would be possible to recess the hearing to an indeterminate time. Town Attorney Karpinos responded that the item could be brought when staff work is completed and the Council is ready to reconvene the public hearing. Mayor Howes noted that there would be at least two weeks notice prior to the return of this item for Council consideration.

Council Member Wilkerson asked what was the latest date the item would return to the Council. Town Manager Taylor said this depended upon the success and progress of negotiations.

Mayor Howes requested that the Town Manager keep the Council informed in writing periodically regarding progress in the matter.

Town Attorney Karpinos said that there would have to be some reasonable time limit on continuance of the hearing.

Council Member Pasquini said that although the Manager's conditions of approval appear to be the epitome of compromise, there is some room for additional comment and input on some items. Council Member Pasquini noted that there still may be some conditions the Council could add in the future.

Mayor Howes asked whether Mr. Strom had additional comments concerning the proposed conditions of approval. Mr. Strom said no.

COUNCIL MEMBER WILKERSON MOVED, SECONDED BY COUNCIL MEMBER WERNER, TO REFER TO THE TOWN MANAGER AND ATTORNEY, WITH THE PUBLIC HEARING TO BE CONTINUED AT AN UNSPECIFIED DATE AND TIME. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

The regular meeting was adjourned at 9:55 p.m.

#### Consideration of Executive Session

Mayor Howes noted that due to the lateness of the hour, it would not be possible to conclude the annual evaluation of the Town Manager and Town Attorney this evening.

Council Member Godschalk said the Council should be fresh when attending to this matter.

Council Member Herzenberg inquired whether the Council felt the evaluations had to be done at one sitting. Council Member

Andresen said the evaluation session called for handling the actual evaluation at one meeting.

Council Member Wilkerson suggested that the Council not begin discussions on the evaluations this evening, stating that it would be better if all parties were fresh.

Mayor Howes indicated that he would speak to individual Council Members to find a good time to hold the Executive Session on the Town Manager and Attorney evaluations.