

**PUBLIC HEARING OF THE CHAPEL HILL TOWN COUNCIL MONDAY, JUNE 17, 1996
AT 7:00 P.M.**

Mayor Waldorf called the meeting to order at 7:00 p.m.

Council Members present were Julie Andresen, Joyce Brown, Joe Capowski, Mark Chilton, Pat Evans, Richard Franck, and Lee Pavao. Council Member Barbara Powell was absent excused.

Staff members present were Town Manager Cal Horton, Assistant Town Managers Sonna Loewenthal and Florentine Miller, Town Attorney Ralph Karpinos, Planning Director Roger Waldon, and Long Range Planner Chris Berndt.

Item 1 - Horace Williams and Mason Farm Properties

A. Introduction by Manager

Town Manager Horton stated this process began in 1994 when the University began to plan for the eventual use of its two large undeveloped tracts known as the Horace Williams property and the Mason Farm property. He commented that the Towns of Chapel Hill and Carrboro were invited to participate in the process of creating and responding to draft proposals. Mr. Horton said the Council hired a consultant, Dwight Merriam, to assist in drafting a new zoning district for large, undeveloped properties.

Bob Woodruff, representing the UNC-Chapel Hill Planning Panel, stated that the Panel was pleased with the process and the way the Town's consultant had worked with the Panel. He referred the Council to the report submitted by the Planning Panel, stating the issues and responses were self explanatory. Mr. Woodruff said more than 50% of the subject area would remain open, and that most of the Panel's traffic concerns had been addressed.

Ruby Sinreich, representing the Transportation Board, said the Board was generally impressed with the work of the Panel and the consultant. She said they believed more discussion was necessary before decisions were made. Ms. Sinreich said the Board was concerned with some of the traffic issues, especially the amount of traffic as compared to the growth expected. She said the Board wanted to make sure that all areas were explored.

COUNCIL MEMBER EVANS MOVED, SECONDED BY COUNCIL MEMBER CHILTON, TO RECEIVE THESE COMMENTS AND REFER THE MATTER TO THE MANAGER. THE MOTION WAS ADOPTED UNANIMOUSLY (8-0).

B. Receiving UNC-Chapel Hill Planning Panel's Comments

Dwight Merriam, the Town's consultant, began his presentation by stating the new development district was called a Mixed Use Unified Development District (MUU), which is a mixture of residential, commercial, and institutional zoning. Mr. Merriam stated that this type of zoning

should apply to 250-acre tracts or larger, and should show consistency with the Comprehensive Plan and Mixed Use Unified Development District goal. He said procedures would be established, as well as design standards, consistent with the "Old Campus" at UNC. Mr. Merriam stated that after this first stage, the development process would begin, which would include a three-step regulatory review and approval process, a General Development Plan (GDP), a Precinct Development Plan (PDP), and a Site Development Plan (SDP). He commented the GDP would include a property base map, environmental resource map, conceptual land use plan, off-site impact analysis, and land use intensity plan. GDP submission requirements would entail a precinct boundary map and housing needs assessment plan.

Mr. Merriam said GDP applications require Council action, taking into account the effect of denial or withdrawal on subsequent applications, amended applications, and giving notice of a decision as well as hearing appeals of the decision process. Mr. Merriam stated that GDP Development standards include intensity ratios, residential density, perimeter setback and buffer requirements, and maximum height standards. He stated that Precinct Development Plans (PDP) include a minimum of 100 acres per precinct, development and approval of individual PDP's, require more detailed information on site development, as well as consistency with approved GDP, site design, proposed uses and building locations, and the intensity of those locations.

Mr. Merriam commented that PDP submission requirements include a transportation management plan, an infrastructure needs assessment, a stormwater management plan, an environmental assessment, a fiscal impact analysis, a developer's agreement, and a site plan.

Mr. Merriam said Site Development Plans (SDP) would require that they be consistent with the approved GDP and PDP, approval of individual or multiple buildings plans, and administrative level review with a Council override available.

Mr. Merriam ended his presentation by emphasizing the four-step plan he had outlined.

Martin Rody, representing the Planning Board, stated the Board had devoted at least four major meetings to this topic. He asked that the Council appoint a committee to study Mr. Merriam's proposal. Mr. Rody said the Board did not support the proposed MUJ zone, saying the land is bounded by Carrboro and Orange County and located in these jurisdictions as well. He said the impact on the transportation corridor would be intense, and said the Board believed that before any zoning was considered, a committee should be established to study all aspects of impact on all the affected communities.

Bob Woodruff, representing the UNC-Chapel Hill Planning Panel, said the Panel believed the proposal was complex and recommended that the Council not adopt the plan at this time, but to study all aspects of the plan before action was taken.

Ruby Sinreich, representing the Transportation Board, stated the Board felt Mr. Merriam's proposal was a good starting point, but was not as specific as they would have liked. She commented the Board did not believe the proposal should be accepted as is, but should be studied

cooperatively with all parties involved. Ms. Sinreich said the process had worked well, and should proceed. She said there was not enough discussion of transportation issues, and recommended further study.

Elson Floyd, Executive Vice Chancellor at UNC, said it is absolutely essential that the University and Town work together as full partners. He said the effort they have been engaged in with JJR sends a signal as to whom UNC, Chapel Hill and Carrboro can engage in a successful open process with. Mr. Floyd said UNC had delayed submission of their proposal to the UNC Trustees so that the community would have time to respond to the proposal. He stated they had been very deliberate in listening and responded to questions and concerns stated by the public. Mr. Floyd said Mr. Merriam's proposal is contrary to UNC's goals, and objects to the proposed plan. He stated that UNC would like to continue the same spirit of partnership and work with the Town, but emphasized their objection to the proposal before the Council.

Bea Hughes Werner, representing the Chapel Hill-Carrboro School Board, said two of their schools are located on sites which border the Horace Williams tract. She asked that the Council be sensitive to the effect this property would have. Ms. Werner stated there are several issues to consider, such as the fiscal impact and the fact that housing constructed on this property would generate children who would need to be educated by the school system. She said the Board would like to have included a stipulation that some sort of payment be made to the school system when developments adversely impact the school system. Ms. Werner stated another issue to consider is traffic congestion, which in turn creates safety issues, and asked that a thorough traffic study be undertaken. She also commented on the impact of increased student enrollment, and urged the Town to take into consideration the impact of overcrowding. Ms. Werner stated that the last issue she wanted to address tonight was to anticipate opportunities for partnership between UNC and the school system, such as sharing facilities and resources, which would help them meet the additional enrollment expected with the development of this property.

Richard "Stick" Williams stated he supported the recommendations of the Planning Panel, saying some of the aspects of the proposal reviewed by Mr. Merriam were worthwhile and should be considered. He commented that he was pleased with the citizen involvement in this process as well as the work of the Planning Board, and asked that the current collaborative efforts between the Town and UNC be continued.

Rachel Willis, representing the Triangle Transit Authority Fixed Guideway Committee, said regional cooperation was critical. She said UNC was committed to a mass transit corridor, and asked the Council to delay this process until all questions were answered.

C. Public Hearing on Proposal by Consultant Dwight Merriam

Scott Radway, a member of the Planning Board and Planning Panel, said the collaborative process had worked very well, but there were still issues that were important which must be addressed. He agreed that Mr. Merriam's proposal was a good starting process, but must be studied at length. Mr. Radway said the proposal should be looked at closely and questions anticipated and

answered to discover exactly what the rezoning would mean. He said the proposal has the right structure, but UNC, Chapel Hill and Carrboro should take this as a beginning and participate in an intense dialogue before any decisions are made.

Council Member Andresen stated she had several comments on the letter from the University, then she would address comments by Mr. Merriam. She said they had embarked on a collaborative effort to develop a zoning district for large tracts. Council Member Andresen said it is obvious UNC has some problems with the proposal presented by Mr. Merriam, and agreed more effort is required before any action can be taken. Council Member Andresen asked what were the specific problems UNC had with the proposal. She commented on the letter UNC had sent to the Council, and asked Mr. Floyd what does UNC specifically object to. Council Member Andresen asked Mr. Floyd to address these questions at a later time. She also said UNC's mission is different from other developers, which is to provide education. Council Member Andresen stated UNC makes the point that they need a certainty before any development could begin, and said she would like a clearer understanding of UNC's stand. She commented that UNC has said standards should be clear, and asked in what way are they not clear. Council Member Andresen stated UNC has said development review would take an extended period of time if Mr. Merriam's proposal was used. She commented it was necessary to take that time, and asked Mr. Floyd to be more specific. Council Member Andresen stated there was a question about performance standards, and asked UNC's opinion. She also said the planning process should encourage full UNC participation. Council Member Andresen stated she believed they have had that, and asked when UNC reaches the level of a final Master Plan, would that point be where UNC would be satisfied. Council Member Andresen asked Mr. Merriam to comment on what degree performance standards would relate to the ordinance.

Mr. Floyd commented there is probably no other issue to which this amount of time had been dedicated. He said they are not opposed to rezoning of the property, but that it be done in a collaborative effort. Mr. Floyd said the University would be satisfied if all parties involved had the appropriate time to respond. Council Member Andresen asked if that meant the appropriate time would be when the Master Plan was adopted. Mr. Floyd said the appropriate zoning would have to be considered in a process where all parties sat down together to come to a conclusion as to the rezoning.

Council Member Andresen asked Mr. Merriam performance standards differ in his proposed ordinance. Mr. Merriam said the proposal before the Council was not a rezoning of UNC's property, but is a suggested procedure in which the owner of property larger than 250 acres could propose a development based on his/her needs. He said performance standards are on a continuum, from hard standards of the typical single-family home with no performance standards to the pure performance standards which address water quality, noise, and other issues similar to that in industrial districts. He said what he proposes here is somewhere in the middle, with a few basic standards which allow the property owner to suggest what should be built on the large tract based on floor area ratios, residential densities, perimeter setbacks and buffer requirements, and maximum height. Mr. Merriam said other than these issues, the property owner and developer would present performance standards for the development plan of his property.

Council Member Andresen asked Mr. Merriam how he saw the phase he described as a general development or phase one, and how that would fit together with JJR's report. Mr. Merriam said he believes more details are required, but the GDP does address all major issues. He said by having this process move forward at such a fast pace creates momentum and excitement, but the Council could take a refined JJR report and convert it into a new zoning district called a Mixed Use District with specific standards set out. He said he had made his proposal to be as developer-friendly as possible, with the next step being the inescapable conflict of UNC's objective and what the Town's wishes may be. He said long-term objectives could not be done without locking the property owner into some process. Mr. Merriam said UNC would dictate on a site by site basis what it wanted to do.

Council Member Brown said the Council should refer back to the original charge of the Planning Panel, and agrees with Mr. Merriam that he developed a plan that was cooperative with the University. She said Mr. Merriam did address performance standard questions raised by the Town, and asked if he had anything further he wanted to add based on the comments made here tonight. Mr. Merriam reiterated we should not lose the excellent momentum that had been created, and the best alternative would be to develop a work program and commit the time to a series of meetings with target deadlines which would lead to resolving the inconsistencies between what UNC wants and what the Town wants. Mr. Merriam said he believes JJR's plan was good and contained some powerful elements. He urged the Council not to submit to piecemeal rezoning, which would make it difficult to resolve other issues.

Council Member Capowski said all property in the Town has designated zoning. Mr. Merriam commented this does not mean that piecemeal zoning should take place as a quick solution. Council Member Capowski said that zoning indicates our vision as to how a property would be developed. Mr. Merriam said this proposed zoning district could do the same thing.

Mayor Waldorf stated that she did not believe anyone wanted to leave things as they are. Mr. Merriam said that each property owner should have some flexibility as to how their property would be developed.

Council Member Capowski asked if we now have a zone which is conditional that could be placed on the tracts which are in effect holding patterns. Town Attorney Karpinos said there was conditional use zoning which would require the applicant to request the rezoning.

Planning Director Roger Waldon said Commercial or Conditional Use were not a good match with the proposals presented in the past. He said that upon application by the property owner, rezoning could be considered.

Council Member Capowski said he believed the proposal resembled contract rezoning. Mr. Waldon responded his opinion was that this did not resemble contract zoning. He said he had discussed this with the Institute of Government and they shared his opinion. Council Member Capowski stated he believed the Town could not consider the economic consequence of rezoning

when one was requested. Mr. Horton said the Council had a broad range of issues and flexibility to consider any way they choose.

Council Member Capowski said they could not tell a developer to build houses priced at a certain amount. Mr. Karpinos said that this was correct, adding that Mr. Merriam's proposal would allow the property owner to propose what would be developed, and in effect the proposal created a floating zone.

D. Public Hearing on Alternatives for Rezoning

Planning Director Roger Waldon said the item before the Council was a consideration of a Zoning Atlas Amendment for the Horace Williams property which would rezone the property to Office/Institutional-1, Office/Institutional-2, Neighborhood Commercial, Community Commercial, or any other new zones which may be developed. Mr. Waldon said staff recommends that the Council defer action pending completion of the University's land use study and discussions with University representatives regarding zoning. He also stated the Town had received a protest petition from the University.

Council Member Andresen asked what the voting requirements are when a protest petition is present. Mr. Karpinos said seven affirmative votes would be necessary to create the new zone.

Martin Rody, representing the Planning Board, said the Board recommended the Council not rezone the property at this time. He said the Board suggested the Town continue the collaborative process with the University on finishing the Land Use Plan, and continue discussions on developing a new Mixed Use District for ultimate adoption. Mr. Rody stated one member of the Board believed that if a new zone is not developed in a reasonably short time period, then the Council needs a way to consider changing the OI-3 zoning category.

Julian Raney stated he did not believe the developers of the University many years ago had asked the Town's permission to build on their property. He asked why rezoning was necessary, and asked whether this indicates our distrust of the University Trustees. Mr. Raney asked the Council to treat this with the benign neglect it deserved.

Ruby Sinreich stated she would rather see the Council go forward with the proposed rezoning than to do nothing. She also asked how the protest petition affected the proposal.

Council Member Brown said she sees the need for the affected elected bodies to meet with the University so that some work process could be developed to begin to address the inconsistencies discussed tonight.

Council Member Andresen said she liked Council Member Brown's suggestion, adding the school system should also be included in the process.

Mayor Waldorf said in the land use planning process UNC had undertaken, they had involved

Chapel Hill, Carrboro and Orange County. She said it was not her perception that any group had been excluded.

Council Member Brown said she believed more discussion was necessary.

Council Member Capowski proposed they create a committee with a balanced membership with a fixed deadline for reporting back to the governing bodies. He said he believes the way to begin would be for a description to be written for the committee's use.

Mayor Waldorf said over the last two years the Planning Panel and Mr. Merriam had absorbed an enormous amount of information, and she believes they all agree the Horace Williams tract should be rezoned. She said they are all working towards a better way to handle long-range planning, but some of the details in Mr. Merriam's proposal does need more work. Mayor Waldorf suggested a work group be formed to address these issues, to include Planning and Transportation Board Members, UNC representatives, Mr. Owens if he is willing, a representative from Carrboro, and a representative from the school system.

Council Member Andresen said she believes we should continue to move forward, but to take some time to decide on the charge and composition of such a work group. She said it was not clear to her what this work group would do. Council Member Andresen said this group should not parallel the efforts of the Planning Panel, and more clarity was needed.

E. Mayor and Council Discussion

Mayor Andresen said she believes the Planning Panel's work was completed. She said the Council had embarked on creating a zoning designation which would achieve the goals for development of this property, which would be the charge of the work group.

Council Member Brown said the work plan for the group should include the entire Council. She said she did not believe a decision should be made tonight.

Council Member Evans asked if it would be appropriate to refer this question to the staff for their comments. She said she believed it is important to discover what the University's timetable is so that unnecessary delay could be avoided.

COUNCIL MEMBER EVANS MOVED TO REFER THIS QUESTION TO THE MANAGER AND ATTORNEY FOR COMMENT. THE MOTION DIED FOR LACK OF A SECOND.

Council Member Franck asked that the staff develop a charge for a work group as suggested by the Mayor, with a work program that would identify the suggested timetable for completing the charge with the full participation of the Council, and that the staff not address the composition of the work group.

COUNCIL MEMBER FRANCK MOVED, SECONDED BY COUNCIL MEMBER

ANDRESEN, TO REFER TO THE MANAGER AND ATTORNEY THE TASK OF DEVELOPING A CHARGE FOR A WORK GROUP TO INCLUDE A WORK PROGRAM THAT WOULD IDENTIFY THE SUGGESTED TIMETABLE FOR COMPLETING THE CHARGE WITH FULL PARTICIPATION OF THE COUNCIL.

Council Member Capowski asked Council Member Franck if a schedule meant a fixed schedule with actual completion dates. Council Member Franck answered yes. Council Member Capowski asked if the Town still had an agreement with the University that no development take place. Council Member Franck said yes, that was his understanding. Council Member Capowski asked who the work group would report to. Council Member Franck said the Council. Council Member Capowski stated the other affected jurisdictions were our equals. Council Member Franck said the property was located in Chapel Hill and it was appropriate that the Council make the decisions.

Mayor Waldorf asked if the University would be a participant. Council Member Franck answered yes.

Council Member Brown asked if the portion of Horace Williams tract located in Orange County would eventually be annexed by Chapel Hill. Mr. Horton said the portion not within Carrboro would be.

Council Member Franck asked about the joint planning agreement for this area. Mr. Waldon said a portion of the property was located in the Joint Planning Area, and as long as it is not in the Chapel Hill corporate limits, it would have to go through a joint process involving Chapel Hill, Carrboro and Orange County. He said the zoning in this transition area would also go through a joint process.

Council Member Capowski asked if the Town had any say in what happens to the area in Orange County, located in the joint planning area. Mr. Waldon responded that some of the property is exclusively in Carrboro's jurisdiction.

Council Member Franck suggested that the staff submit a draft of this proposal at the July 1st meeting.

COUNCIL MEMBER FRANCK MOVED, SECONDED BY COUNCIL MEMBER CAPOWSKI, THAT THIS ITEM BE RECESSED UNTIL THE JULY 1ST COUNCIL MEETING. THE MOTION WAS ADOPTED UNANIMOUSLY.

Item 2 - Sterling Ridge Application for a Zoning Atlas Amendment

Mr. Horton stated that because of the close relationship between Agenda items 2 and 3, that all speakers be sworn before commenting to the Council.

Ms. Culpepper stated the application before the Council was for a Zoning Atlas Amendment to

rezone 1.75 acres of land in the southern part of a 29-acre tract located west of Eastowne Drive and north of Sage Road. She stated staff recommends adoption of Resolution A.

Jack Smyre, representing the John McAdams Company, asked that the Council make a finding that achieves the purposes of the Comprehensive Plan. He said the Land Use Plan, which is a component of the Comprehensive Plan, identifies this area as medium density residential.

Martin Rody, representing the Planning Board, stated they agreed this request should be approved.

COUNCIL MEMBER FRANCK MOVED, SECONDED BY COUNCIL MEMBER EVANS, TO ADJOURN THE PUBLIC HEARING, THE MOTION WAS ADOPTED UNANIMOUSLY.

COUNCIL MEMBER EVANS MOVED, SECONDED BY COUNCIL MEMBER CHILTON, TO REFER THIS ITEM TO THE MANAGER. THE MOTION WAS ADOPTED UNANIMOUSLY.

Item 3 - Sterling Ridge Request for Special Use Permit, Planned Development - Housing

Ms. Culpepper stated that the application is for a Special Use Permit to allow construction of 200 dwelling units and a major portion of Racquet Club Drive on 29.76 acres in a Residential-5 zoning district. She said the applicant was proposing a Zoning Atlas Amendment to rezone approximately 1.75 acres of the property from Residential-2 to Residential-5. Ms. Culpepper said the site is located northeast of Sage Road and west of Eastowne Drive. She said the Development Ordinance requires that the applicant obtain a Special Use Permit for a Planned Development - Housing development. Ms. Culpepper said that one issue noted was the stormwater impact, and stated the staff recommends that on-site detention be required, as well as a stormwater impact statement. She said that if after review of the stormwater impact statement the Town Manager finds that detention is detrimental in this case, Resolution A authorizes the Town Manager to omit the detention requirement.

Jack Smyre, of John McAdams Company, stated that this property created a design challenge, as a portion of the property is located within the Resource Conservation District and contains two perennial streams. He said they were proposing a development that was pedestrian friendly, with boardwalks if necessary in wet areas and greenway trails. Mr. Smyre said the road in front of this development on Racquet Club Drive was being rebuilt and extended 500 feet. He said they had worked closely with the Transportation Board and Transportation Department to identify the location of the bus shelter, and said he believes the only issue left is the one of the stormwater detention. Mr. Smyre said they are willing to provide detention. He said detention does not reduce the amount of runoff, but holds the runoff and releases it at the appropriate time. Mr. Smyre said that only after a storm will the peak of the flow be reached. He said it would mean an initial loss of trees, but was willing to construct a detention pond if required. Mr. Smyre stated that from an engineering standpoint, the amount of water that will be held back is negligible, as it

would take an incredible amount of water to raised the level to a measurable point. He asked that the Council adopt Resolution A.

Council Member Andresen asked Mr. Smyre to comment on where the water goes upon release. Mr. Smyre replied that the dry creek system begins at the high school, and moves down through several developments to this property. He said it would flow behind Eastowne then flow underneath I-40, then behind the New Hope Commons development and into New Hope Creek. Council Member Andresen asked how much disturbance would take place in the RCD. Mr. Smyre said some landscaping would take place, but vegetation and trees would be replaced. Council Member Andresen asked how much of this disturbance would take place in the RCD, and asked that staff address this at the July 1 meeting. Mr. Smrye said some detention would be necessary in any case, and he estimates only about an acre would be affected.

Council Member Brown asked for more details on the affect on the RCD, and asked if the RCD would be crossed. Mr. Smrye said it was possible it would be crossed with a public road, but may run parallel instead. Council Member Brown asked that the staff present a more detailed map of the RCD in this area on July 1.

Council Member Capowski said one tennis court was proposed to be built in the RCD. Mr. Smyre said this was a permitted use in the RCD. Council Member Capowski asked why a tennis court and not a house? Ms. Culpepper said generally a recreation facility requires a flat surface permitting water to flow over the surface with no impediment. Council Member Capowski said the green area was purchased and deeded to the Town, and asked why. Mr. Smyre said that so much of the site had been lost to the RCD, that they bought 9 more acres in the RCD so that more units could be constructed.

Martin Rody, representing the Planning Board, stated the Board recommended approval of this application. He said they believed stormwater detention was not necessary on this site.

Council Member Evans asked Mr. Smyre where the greenway would be constructed. She also commented she was pleased that pedestrian paths would be connected. Mr. Smyre responded the greenway would be located between the two parking lots. He said at least one boardwalk would be constructed.

Council Member Capowski asked how many total bedrooms would be built in the 200 units. Mr. Smyre responded roughly 400. Council Member Capowski asked Ms. Culpepper to respond when this comes back to the Council on July 1 as to whether adequate parking exists for this number of bedrooms. Council Member Capowski asked if the Town would provide trash collection. Mr. Smyre said the applicant is suggesting private collection.

COUNCIL MEMBER PAVAO MOVED, SECONDED BY COUNCIL MEMBER CHILTON TO RECESS THE HEARING TO JULY 1. THE MOTION WAS ADOPTED UNANIMOUSLY.

Item 4 - Proposed Closing of Right of Way at Southern Village

Town Manager Horton stated the developer is requesting that portions of the rights-of-way be released, and the staff agrees.

COUNCIL MEMBER CHILTON MOVED, SECONDED BY COUNCIL MEMBER CAPOWSKI, TO CLOSE THE HEARING AND REFER THIS ITEM TO THE MANAGER. THE MOTION WAS ADOPTED UNANIMOUSLY.

Mayor Waldorf commented that OWASA had provided some materials to the Council tonight.

COUNCIL MEMBER CHILTON MOVED, SECONDED BY COUNCIL MEMBER FRANCK, TO ADJOURN THE HEARINGS. THE MOTION WAS ADOPTED UNANIMOUSLY.

The meeting was adjourned at 9:38 p.m.

