

MINUTES OF A PUBLIC HEARING OF THE CHAPEL HILL TOWN COUNCIL
MONDAY, APRIL 20, 1998 AT 7:00 P.M.

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

Council Members in attendance were Julie Andresen (arrived at 7:10 p.m.), Flicka Bateman, Joyce Brown, Joe Capowski, Pat Evans, Kevin Foy, Lee Pavao, and Edith Wiggins. Staff members in attendance were Town Manager Cal Horton, Assistant Town Managers Sonna Loewenthal and Florentine Miller, Town Attorney Ralph Karpinos, Engineering Director George Small, Interim Parks and Recreation Director Bill Webster, Planning Director Roger Waldon, Long Range Coordinator Chris Berndt, Long Range Planner Claudia Paine, and Deputy Town Clerk Joyce Smith.

Council Member Bateman said she had been contacted by a family with a disabled family member, and that the family had recently experienced some difficulties with the lack of curb cuts in the Town. Council Member Bateman requested a copy of the schedule for the installation of curb cuts in this family's neighborhood.

COUNCIL MEMBER PAVÃO MOVED, SECONDED BY COUNCIL MEMBER EVANS, TO REFER THIS REQUEST TO THE MANAGER AND STAFF. THE MOTION WAS ADOPTED UNANIMOUSLY.

Item #1 - Lone Pine Road Assessments

Mr. Small stated that this project involved about 524 linear feet of roadway extending north from Tenney Circle. He said that the work consisted of paving the existing gravel road, including associated drainage work. Mr. Small noted that curb and gutter had been installed as part of this project in one area in order to limit grading. Mr. Small added that the construction was completed in the fall of 1997.

COUNCIL MEMBER PAVÃO MOVED, SECONDED BY COUNCIL MEMBER EVANS, TO REFER THIS ITEM TO THE MANAGER AND STAFF. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

Item #2 - Proposed Annexation Area 1

Ms. Berndt stated that Annexation Area 1 was located northwest of the present Town limits and included the Homestead Village subdivision, several individual lots along the south side of Homestead Road, several individual lots on Link Road, and the Unity Center of Peace Church. She noted that this area also included the northern portion of the Horace Williams property, a portion of the State University Rail Line, and an individual lot at the southeastern intersection of Seawell School Road and the Rail Line.

Ms. Berndt noted that on November 26, 1996 the Council adopted a resolution designating this area and other areas as being under consideration for future annexation. She also noted that on January 26, 1998 the Council had adopted a resolution of intent to consider annexing this area and called

this public hearing and on March 2, 1998 the Council had approved a report setting forth plans for extending and financing municipal services to this area on substantially the same basis and in the same manner as for the rest of the Town. Ms. Berndt indicated that June 30th was the proposed effective date for this annexation.

Laura Fleck, a resident of Link Road, said that she and other residents of Link Road objected to the proposed annexation. Ms. Fleck noted that discussions with OWASA had resulted in estimates for water and sewer access in excess of \$750,000 for Link Road. Ms. Fleck said that water and sewer service was contingent on land being available for a pump station, the cost of which would have to be borne by the residents of Link Road. Ms. Fleck indicated she had no desire to be annexed by the Town.

Carrie Clark, a resident of Link Road, agreed with Ms. Fleck's comments. Mr. Clark noted that he would soon retire and could not afford the costs associated with the installation of water and sewer service. Mr. Clark said that vacant lots which were available for sale might not be sellable without water and sewer service, which was cost-prohibitive.

Ricky Todd Clark, a resident of Link Road, said he did not believe he would be able to afford the increase in taxes if his property were annexed by the Town.

Peter Spinanski, a resident of Link Road, said he was currently building another home on a nearby lot. Mr. Spinanski said he did not believe it would be fair or just to annex this area without the provision of water and sewer service.

Jack Marcheschi said that the only benefits area residents would enjoy under the proposed annexation were trash collection and police protection. He requested that his neighborhood be excluded from the proposed annexation.

William Wood, a resident of Homestead Road, said that he had lived in the area for fifty years. Mr. Wood said that he would not be able to afford the property taxes if his land were annexed by the Town. Mr. Wood stated that he currently paid over \$7,000 a year in property taxes, and annexation would increase this figure to \$12,000 per year.

Scott Hinson, a resident of Homestead Road, said he was not sure of the benefits that residents might enjoy with the proposed annexation. He noted that trash collection seemed to be the most visible service. He expressed concurrence with Mr. Woods' comments, noting that the tax increase he expected on his property would be significant.

Council Member Brown said she believed that the Council should meet with the Orange County Commissioners before a decision was made on this matter in order to discuss joint planning issues.

Council Member Andresen agreed, stating that a general discussion on mutual land use planning and community building goals as well as general annexation and transition issues would be of benefit to all parties.

Council Member Foy asked if there were some special use tax that could be used to prevent the taxes on these proposed annexation areas from increasing dramatically. He agreed that the Council should meet with the Orange County Commissioners to discuss this matter.

COUNCIL MEMBER BROWN MOVED THAT THE ITEM BE REFERRED TO TOWN STAFF, THAT THEY RESPOND TO COMMENTS AND QUESTIONS FROM TONIGHT'S HEARING, AND THAT A MEETING BE SCHEDULED WITH THE ORANGE COUNTY COMMISSIONERS TO DISCUSS MUTUAL LAND USE PLANNING CONCERNS. COUNCIL MEMBER ANDRESEN SECONDED THE MOTION.

Mayor Waldorf noted that the proposed annexation would take effect on June 30th, 1998.

Jonathan Howes, representing the University of North Carolina, said that the University supported the proposed annexation of the Horace Williams property and encouraged the Council to act as expeditiously as possible.

Mayor pro tem Capowski asked if it would be possible to annex all of the properties except the Link Road property. Mr. Horton said it was his opinion that the Town would not be able to do so.

Council Member Brown asked that the Council act on the motion currently under consideration, to refer comments to the staff and set a meeting with the Orange County Commissioners.

Mr. Wood inquired whether or not post-annexation zoning for his property would still permit up to six units per acre. Ms. Berndt said she believed Mr. Wood was referring to the Northwest Small Area Plan, which was currently under consideration. She added that specific zoning would be assigned after the Plan was adopted.

Mayor pro tem Capowski asked whether the process would be delayed if the motion were adopted. Mayor pro tem Capowski said that he did not want to delay the annexation of the Horace Williams tract. Mayor pro tem Capowski also asked whether only the Horace Williams property and the Homestead Village property could be annexed by the Town. Mr. Horton answered that information about this matter would be forwarded to the Council.

Council Member Foy asked whether or not zoning designations could be assigned prior to annexation. Mr. Karpinos stated that the Council could adopt zoning in the Extraterritorial Jurisdiction and could rezone the entire area with agreement from the County.

Council Member Brown restated her proposed motion. Mayor Waldorf asked whether or not Council Member Brown would accept a friendly amendment to include a time limit of thirty days for the meeting with the County Commissioners. Council Member Brown agreed to this proposal.

Steve Casey noted that this area was only 40% developed and requested that the Council keep this in mind when considering the proposed annexation.

Ms. Berndt noted that if the Council did not approve the annexation on May 11th, it might mean the annexation could not take effect on July 1 as planned. Mr. Karpinos added that a special Council

meeting could be scheduled, if necessary.

Mayor pro tem Capowski said that he did not want to delay the annexation of the Horace Williams property.

Council Member Bateman asked if the properties in question, excluding the Horace Williams tract, could be discussed with the County Commissioners.

Council Member Evans said she did not believe that the County could meet with the Council due to scheduling constraints.

Council Member Brown said that the concerns expressed this evening should be given consideration and discussed with the County Commissioners.

Mayor Waldorf asked if the July 1 deadline were missed, whether the Town would we still be able to move forward with the annexation or would it be necessary to postpone the annexation by one year. Mr. Karpinos stated that if the July 1 deadline were missed, special legislative arrangements would be necessary.

THE MOTION ON THE FLOOR WAS ADOPTED UNANIMOUSLY (9-0).

Item #3 - Proposed Annexation Area 2

Ms. Berndt stated that Annexation Area 2 was located east of the present Town limits, and included nine lots in Durham County. Ms. Berndt said that these lots were on the Town's side of the 1986 Durham/Chapel Hill Consent Judgment Annexation Boundary Line.

Ms. Berndt stated that on November 26, 1996 the Council had adopted a resolution designating this area and other areas as being under consideration for future annexation, on January 26, 1998 the Council adopted a resolution of intent to consider annexing this area and called this public hearing, and on March 2, 1998 the Council approved a report setting forth plans for extending and financing municipal services in this area on substantially the same basis and in the same manner as for the rest of the Town. Ms. Berndt noted the proposed effective date was June 30th, 1998.

COUNCIL MEMBER EVANS MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN, TO REFER THIS ISSUE TO THE MANAGER. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

Item #4 - Greenways Master Plan

Mr. Webster noted that the work on the 1998 draft Greenways Master Plan was started in January, 1997 and since that time had undergone extensive review and revisions. He said that the report contained a number of specific recommendations for development of a greenways system, including: the Town should work toward a goal of preserving 38 miles of greenway corridors including stream corridors, man-made corridors, linear open spaces, and smaller connector greenways; the Town should work toward developing trails in about 28 miles of the proposed

greenway system, with recommendations to avoid trail development in about 10 miles of this proposed greenway system unless petitioned to do so by local residents; design guidelines have been developed for each proposed trail, with some recommended for paving and others proposed to be of natural surface; and, the report recommends that immediate trail development efforts be concentrated on segments of the proposed Bolin Creek, Booker Creek, and Dry Creek trails. Mr. Webster noted another major addition to the Plan was a definition of "greenway", which focused on the aspect of linear open space for a variety of uses including open space preservation, wildlife corridors, and trail development.

Council Member Foy said the report was excellent and represented a great deal of work. He asked that the staff's follow-up report contain additional financial information and a more detailed timeframe of when greenways were proposed for development. Mr. Webster stated that it was difficult to know from year to year how much of a greenway could be built, and whether or not funding would be available.

Andrea Rohrbacher, representing the Greenways Commission and the Work Group which prepared the Greenways Master Plan, stated that the plan had been reviewed by several Town boards and many other interested parties. She encouraged the Council to move forward with the Greenways Master Plan as expeditiously as possible.

Joe Herzenberg, a member of the Greenways Commission, agreed that the report was an excellent one, and requested that the Council give it its full attention and support.

John Hawkins, Planning Board Chair, noted that the Plan was a quality document and recommended that the Council adopt it and incorporate it into the Town's Comprehensive Plan.

Blair Pollock, representing the Lake Ellen Homeowners Association, stated the Association's support of the Plan, especially as it pertained to the upper Booker Creek trail. Mr. Pollock noted that the Association believed that the trail was too narrow to support an asphalt trail and asked that a natural path be used.

Council Member Andresen inquired about the process for keeping the Plan updated and current. Mr. Webster stated that land acquisition, easements, and other efforts were ongoing to provide space for greenways and trails. He added that some areas were designated as preservation areas for future greenways. Council Member Andresen inquired about next steps in the process. Mr. Webster said that this would depend upon the circumstances encountered for future greenway projects.

Mayor pro tem Capowski expressed appreciation that bikeways were shown on maps in the Greenways Plan. He stated that with the Morgan Creek greenway trail, a person could access University Lake without using Jones Ferry Road. Mayor pro tem Capowski inquired whether or not any other areas stood out as being desirable for future use as a greenway. Mr. Webster said that there many areas close to area streams which would be desirable future greenway trails.

Council Member Bateman asked whether or not the Town incorporated OWASA easements into

the Town's greenways system. Mr. Webster said no. Council Member Bateman said that she encouraged citizens to volunteer to work on greenways trails.

Council Member Evans suggested that a provision be added to the Plan requiring updates in a specified period of time such as three or five years. She asked whether or not the walkway along the Rainbow soccer fields was designated in the Greenways Master Plan. Council Member Evans also stated that the greenway plan should link into the Town of Carrboro's system in some way, at least on maps. She noted that in the Plan, US 15-501 was sometimes referred to as Fordham Boulevard and sometimes as 15-501, and it should be consistent. Council Member Evans noted her preference for referring to this roadway as Fordham Boulevard.

Council Member Brown thanked the Greenways Commission and the staff for the work that went into the Plan. She asked how changes would be accommodated following adoption of the plan. Mr. Webster said that an emphasis would be placed on working closely with trail neighbors to ensure that the needs of trail users and neighbors were balanced.

Council Member Brown inquired how individual trail designations would be changed after the Master Plan was adopted. Mr. Horton stated that the plan was a policy document and could be modified as the Council directed.

Council Member Evans noted that many greenways were not near neighborhoods and access was sometimes a problem. She said that the Council and Town needed to be aware of access problems.

COUNCIL MEMBER PAVÃO MOVED, SECONDED BY COUNCIL MEMBER EVANS, TO REFER THE MATTER TO THE MANAGER. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

Item #5 - Transit Overlay District Proposal

Mr. Horton noted there were some issues still unresolved, and this evening's forum was intended to receive comments from citizens and the Council.

Mr. Waldon noted that this proposal was intended to establish a mechanism for creating transit overlay districts along transit corridors within the Town. He noted that provisions of the proposed transit overlay district would attempt to promote development patterns which supported pedestrian activity and encouraged the use of public transit service.

John Hawkins, Chair of the Planning Board, noted that although the Board agreed with the basic concept of a transit overlay district, the Board believed that several issues needed to be resolved before such a district could be adopted. Mr. Hawkins urged the Council to refer to the document included in the materials from Scott Radway, which was endorsed by the Planning Board.

Scott Radway noted several issues highlighted in his report. He said that although the concept of a transit overlay district was a good one, more research was needed before any action was taken.

Council Member Andresen noted that one option would be to not do anything at all or to adopt it and be selective in how it was applied. She said that another option would be to remove the most objectionable items. Council Member Andresen said that she agreed with the proposed pedestrian amenities.

Council Member Evans said another option would be to defer the matter until the Town's Comprehensive Plan was reviewed and updated. She said to remove some of the uses because they were not pedestrian friendly was not realistic. Council Member Evans suggested that the Town start a file of materials to be used for an update of the Comprehensive Plan and that this proposal be included in the file.

Council Member Brown inquired which areas of the Town might benefit from transit overlay zones. She added that more specific guidelines might be needed before more work was conducted.

Mayor Waldorf suggested that the proposal be referred to staff for future reference.

Mayor pro tem Capowski inquired whether or not this district would actually go on top of existing zoning districts and would not change the density or intensity of the original districts. Mr. Waldon said this was correct. Mayor pro tem Capowski asked whether merchants had been included in the process. Mr. Waldon answered that merchants had not been included in the process. Mayor pro tem Capowski stated that as long as we were dealing in the abstract, it would be hard to make any decisions regarding this matter.

Council Member Foy asked whether it was permissible to have different overlay districts applying to specific corridors. Mr. Karpinos said it would be possible to have several different zoning designations which would be applied to specific corridors. Council Member Foy asked why U.S.15-501 South was not part of the consultant's recommendation.

Council Member Andresen said she would like to see the information on pedestrian linkages be taken from this report and used in future Council discussions.

COUNCIL MEMBER ANDRESEN MOVED THAT THE PEDESTRIAN DESIGN STANDARDS SECTION OF THIS PROPOSAL BE REFERRED TO THE MANAGER TO BE INCORPORATED INTO FUTURE STUDIES OF PEDESTRIAN ISSUES.

THE MOTION DIED FOR LACK OF A SECOND.

Council Member Foy stated there were other issues in the report that he would like to see extracted for future use.

Mayor Waldorf suggested that the Council refer this item to the Planning Board and request that they develop a plan for incorporating this into the process for updating the Town's Comprehensive Plan.

Council Member Evans agreed, saying that sometime in the future a committee could be appointed to address all of these issues. Council Member Evans said she did not believe that there was an

immediate need to move forward with this, but believed it was good reference material for the future.

COUNCIL MEMBER EVANS MOVED, SECONDED BY COUNCIL MEMBER CAPOWSKI, TO REFER THIS MATTER TO THE PLANNING BOARD, REQUESTING THAT THE PLANNING BOARD FOCUS ON POSSIBILITIES FOR IMPROVING THE PEDESTRIAN ORIENTATION ALONG MAJOR CORRIDORS. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

Item #6 - Development Ordinance Text Amendment - Livability Space

Mr. Waldon noted that the Town's Development Ordinance regulated the intensity of development through a series of Land Use Intensity Ratios, which controlled the intensity of development for different land uses within each zoning district. He stated that these ratios established a scale of minimum and maximum requirements for different uses of land, according to the assigned zoning, based on the land area of the property. Mr. Waldon commented that depending on the zoning district and the proposed use of the land, livability space ratios ranged from 12 percent of gross land area (downtown, non-residential use) to 85 percent of gross land area (low density residential use). He said this range in minimum required livability space was an important component of the land use intensity scheme.

Planning Board Chair John Hawkins noted that the Board recommended that no change be made to the livability space ratios currently in the Development Ordinance. He said that the Board did not believe that the existing land use intensity standards were unduly limiting. Mr. Hawkins noted that the Board believed it might be more appropriate to determine what the roots of the Council's concerns were and then examine the entire land use intensity/building envelope standards system.

Scott Radway suggested that the Council look at the entire set of land use standards to determine if developments were being adversely impacted by the current livability space requirements. He said that if the Council moved ahead with changes, three issues needed to be looked at: building area, parking, and livability space.

Valerie Broadwell stated that high density only worked if a commensurate amount of open space was set aside. She said that many times land dedicated by developers was not good land, meaning it was on a slope or did not drain well, and was not of much use. Ms. Broadwell stated that the payment-in-lieu process should be used more often so that funds would be available to purchase good land for open space. She asked the Council to explore what other towns were doing in this regard.

Madeline Jefferson stated that the Town should be thinking about the quality of life of citizens and how the livability ratios might play a part in that quality. She requested that the Council encourage open space of forty percent for each development.

Council Member Andresen noted that open space was necessary for good quality of life. Council Member Andresen said that more recreation amenities should be required of developers. Council Member Andresen also suggested that the Council aim for more open space, more recreation space,

and more planting of trees, especially in and around parking lots.

Mayor pro tem Capowski said that livability space was the green area of open space. Mr. Waldon said this was correct and included walkways, sidewalks and planted buffer areas. Mayor pro tem Capowski said either livability space should be increased or fewer fragments should be included as livability space, such as small buffers in parking lots.

Mayor Waldorf said she did not believe that this proposal would significantly increase green space in the Town.

Council Member Foy suggested that the Council might need to redefine the term livability space.

Council Member Brown said that the Council needed to find a way to ensure that more green space was required for individual applications.

Council Member Evans suggested that this was another item which should be deferred until the Comprehensive Plan was updated. She said that the Council might want to examine whether or not existing recreation space requirements were adequate or should be increased and whether the shading requirement in parking lots was adequate. Council Member Evans said these issues should be looked at along with revisions to the Comprehensive Plan.

Council Member Andresen commented she would like the Council in the future to discuss how to acquire more green space and parks. Council Member Andresen said she was not convinced that there was no possibility of changing livability space ratios in order to increase green space.

COUNCIL MEMBER BROWN MOVED TO DEFER THE MATTER, WITH THE STAFF'S FUTURE FOLLOW-UP REPORT TO INCLUDE A DISCUSSION ON LIVABILITY SPACE IN ALL AREAS, INCLUDING SINGLE FAMILY RESIDENTIAL AREAS.

Council Member Andresen noted that she would be willing to work on this matter. Council Member Bateman said she would also be interested in working on this matter. Mayor Waldorf suggested that this item come back to the Council before the summer break, possibly at the second meeting in June. Council Member Andresen said she believed that this would be possible.

THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

Item #7 - McCormick Property (a.k.a. Wilson Gulch Lot) - Zoning Atlas Amendment

Mr. Waldon noted that the staff had requested a zoning atlas amendment to rezone an approximately 9.1 acre lot located directly south of Morgan Creek and the Frank Porter Graham Elementary School. He stated that this lot was omitted in error from the Town's small area plan rezoning process in 1993 and that the Town's zoning of property was in conformance with the approved Chapel Hill/Carrboro Annexation Boundary Line Agreement in 1995.

Planning Board Chair John Hawkins, noted that the Board had voted unanimously to recommend

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that the property be rezoned to Residential-1.

John McCormick, the owner of the property, said he understood how the error was made, but emphasized that the zoning of the property directly affected the value of the property. Mr. McCormick stated that he bought the property in good faith based on the R-2 zoning and believed it was unfair to rezone the property at this late date. Mr. McCormick suggested that since a mistake was made, no change should be made. He noted that the location and configuration of the lot would limit its potential future development.

Council Member Evans inquired when Mr. McCormick had purchased the property. Mr. McCormick said he had purchased the property in 1997.

Council Member Foy inquired about the location of property access. Mr. McCormick stated that although there was no road frontage, the property was accessed through a sixty foot easement to Smith Level Road.

Council Member Andresen asked if the property remained R-2, how many units could be built on the property. Mr. Waldon said with the R-1 zoning 27 units could be constructed and with R-2 zoning up to 36 units were allowed.

COUNCIL MEMBER ANDRESEN MOVED, SECONDED BY COUNCIL MEMBER EVANS, TO REFER THE MATTER TO THE MANAGER. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

COUNCIL MEMBER FOY MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN, TO MOVE INTO CLOSED SESSION TO DISCUSS MATTERS RELATED TO THE LOCATION OR EXPANSION OF BUSINESSES IN THE AREA SERVED BY THE TOWN.

Mayor pro tem Capowski indicated he would prefer to discuss this matter in open session.

THE MOTION WAS ADOPTED WITH A VOTE OF 8-1, WITH MAYOR PRO TEM CAPOWSKI VOTING NO.

The meeting was adjourned at 10:05 p.m.