

SUMMARY OF A PUBLIC HEARING HELD BY THE CHAPEL HILL TOWN COUNCIL,
MONDAY, FEBRUARY 16TH, 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 7:06 p.m.), Flicka Bateman, Joyce Brown, Joe Capowski, Pat Evans, Kevin Foy, Lee Pavao, and Edith Wiggins. Also in attendance were Town Manager Cal Horton, Assistant Town Managers Sonna Loewenthal and Florentine Miller, Town Attorney Ralph Karpinos, Planning Director Roger Waldon, Engineering Director George Small, and Deputy Town Clerk Joyce Smith.

Item 1: Village Oaks of Chapel Hill Application for a Zoning Atlas Amendment

Mr. Waldon stated that this application was to rezone approximately thirteen acres of land located at the northwest corner of Erwin Road and Dobbins Drive, from Residential-2 to Residential-3-Conditional zoning. He noted that along with the Zoning Atlas Amendment application, the developer had submitted an application for a Special Use Permit to allow construction of a 42,111 square foot group care facility on this site. Mr. Waldon commented that the conditional use rezoning request would allow higher land use intensity than the current zoning allowed.

Jeanette Gay Eddy, representing the Planning Board, stated that the Board recommended approval of the application.

Jack Smyre of Kimley-Horn Associates, representing the applicant, remarked that this area called for medium-scale residential development, and believed that there was a linkage between this proposed rezoning and neighboring zoning designations. He stated that all purposes of the Town's land use plan would be met by this development under the proposed zoning designation, and that the property would be in harmony with adjacent properties.

COUNCIL MEMBER PAVAO MOVED, SECONDED BY COUNCIL MEMBER EVANS, TO REFER THE APPLICATION TO THE MANAGER AND ATTORNEY. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

Item 2: Village Oaks of Chapel Hill Application for a Special Use Permit

Parties wishing to testify regarding the application were sworn.

Mr. Waldon said that the application for a Special Use Permit would allow construction of a one-story group care facility at the northwest corner of the Erwin Road/Dobbins Drive intersection. He stated that the application proposed 42,111 square feet of floor area and fifty-eight parking spaces on 13.17 acres of land. Mr. Waldon noted that the applicant had submitted an accompanying application for a Zoning Atlas Amendment to rezone the property to Residential-3-Conditional zoning.

Mr. Waldon noted that several issues were raised during the Planning Board's and Transportation Board's reviews of the application. He stated that a stipulation had been included in both Resolutions A and B requiring that the applicant provide a payment-in-lieu for curb and gutter, a bicycle lane, five-foot sidewalk and a three-foot planting strip along the development's Erwin Road frontage. Mr. Waldon stated that the applicant believed that NCDOT might provide curb and gutter along Erwin Road as part of its improvement project. He noted that the Planning Board recommended that language be added to the stipulation for a payment-in-lieu that the applicant not be required to provide this payment if curb and gutter was part of NCDOT's plans

for this roadway.

Mr. Waldon also commented that the Transportation Board recommended that a vehicular access to this site be provided from the proposed parking area to Dobbins Drive. He noted that Town staff believed that only one point of access was needed given the size and nature of the proposed development.

Mr. Waldon said that Town staff had included a stipulation in both resolutions calling for a pedestrian pathway between the proposed parking lot and a proposed future bus stop along Dobbins Drive, as well as a stipulation calling for a sidewalk along the proposed entrance drive off Erwin Road.

Jack Smyre, the applicant's representative, stated that the Comprehensive Plan encouraged the development of property to meet the needs of senior citizens. He said that this was a much needed facility. Mr. Smyre also noted the generous proposed setbacks of the property and the visual attractiveness of the proposed facility, as well as the existing tree cover and surrounding vegetation. He added that all impervious surfaces were directed to the detention pond. Mr. Smyre remarked that the Town would benefit by adopting Resolution A, which would provide for curb and guttering along Erwin Road as well as a sidewalk and a bicycle lane.

Jeanette Gay Eddy, the Planning Board's representative, stated that the Board recommended approval of the application with some modifications, including the addition of language relating to payments-in-lieu for providing curb, guttering and sidewalk along Erwin Road; the addition of a stipulation regarding a left turn lane on Erwin Road; and, the deletion of a stipulation relating to food and grease refuse and recycling.

Harvey Krasny, a resident of Summerfield Crossing, noted that his property was located twenty-five feet away from the proposed development. He stated that some issues remained unresolved, noting that every rainfall caused some flooding along this property line. Dr. Krasny also asked that some assurance be given to area residents that no water would be directed towards Summerfield Crossing and that no grading would take place in this area. He stated that the Town had done an excellent job in retaining natural buffer and trees and requested that a retaining fence be installed to separate the development from adjacent property during construction. Dr. Krasny remarked that he had some concern about the building being moved fifty-two feet, when the Town only proposed moving the building twenty feet.

Council Member Brown asked Dr. Krasny whether he had any noise-related concerns. Dr. Krasny noted that he was asking that the quietest possible heating and air conditioning units be used by the developer.

Mr. Ted Blostein, 231 Kirkwood Drive, said he was pleased that this type of facility was being considered for this property. Mr. Blostein said that he was happy to see that a change had been proposed in the configuration of Erwin Road and Dobbins Drive.

Council Member Evans asked the applicant to reconsider the name of the facility, since the name was similar to two existing developments, the Oaks and the Villages. She expressed concern that emergency vehicles might be confused about the location during emergencies. Council Member Evans also suggested a pedestrian connection to the sidewalk on Dobbins Drive.

Council Member Andresen agreed with Council Member Evans' remarks regarding sidewalk alignments. She inquired whether a sidewalk along Dobbins Drive was a possibility. Mr. Horton said he believed that Council Member Evans was suggesting a sidewalk which would cut

across the property through the Resource Conservation District to make a connection to Dobbins Drive. Council Member Andresen said that she would favor this suggestion. Council Member Andresen requested that Town staff offer some recommendations on what might be done in the most environmentally sensitive manner possible. She said that one advantage of connecting the driveway to Dobbins Road would be that cars would not be able to access the facility from Erwin Road. Council Member Andresen inquired whether any additional stop signs were proposed for this portion of Erwin Road. Mr. Horton stated that a stop sign would be added at Dobbins Drive. Council Member Andresen asked whether the applicant would agree to a stipulation indicating that the least noisy heat pumps be used. She also agreed with Dr. Krasny that no development should occur in low-lying areas.

Council Member Brown asked the applicant whether the existing buildings on the property would be destroyed and taken to the landfill or preserved and placed elsewhere. Mr. Smyre noted that this information would be provided when the item came back before the Council. Council Member Brown said if the buildings were not to be preserved, she would like to see the materials salvaged for reuse. She asked when the Council would know whether or not bike lanes would be provided. Mr. Horton stated that the applicant hoped to have additional information on this matter in the near future.

Council Member Brown also suggested that a stipulation be added regarding noise abatement, as well as an answer to Dr. Krasny's suggestion that no clearing or grading take place in the flood-prone area.

Council Member Foy noted that the applicant's drawings did not show the location of utility lines. Mr. Smyre stated that the proposed utility lines would be buried. Council Member Foy asked how the applicant's payments-in-lieu would be calculated. Mr. Horton stated that actual costs as well as an additional formula would be used. Council Member Foy inquired about the estimated monthly cost of residing in the proposed facility. Mr. Carbonell stated that rental costs would average \$2,000 per month, and in some instances up to \$2,500 per month.

Mr. Smyre stated the applicant was basically in agreement with Resolution A, but requested a clarification of stipulation number three, noting that they could not dedicate land to the Department of Transportation until they owned it. Referencing stipulation number six, regarding sidewalks along Dobbins Drive, Mr. Smyre said that although the bus stop location was unknown, it made sense to make it as close as possible to the proposed sidewalk.

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

Item 3: University Presbyterian Church Additions and Renovations -
Application for a Special Use Permit

Parties wishing to testify regarding the application were sworn.

Mr. Waldon stated that this application would allow the construction of a 2,300 square foot addition on the south side and an elevator on the north side of University Presbyterian Church, located at 209 East Franklin Street. He noted the property was zoned Office/Institutional-1 and was located in the Franklin/Rosemary Historic District. Mr. Waldon remarked that the key issue in consideration of this application was the necessity for the applicant to request modification of the intensity standards of the Town's Development Ordinance.

Mr. Waldon noted that the applicant was requesting **modifications** to the land use intensity standards, which permitted a maximum floor area of **31,628** square feet. He noted that the existing floor area on the site was approximately **40,000** square feet, and approval of this application would increase the floor area to **42,578** square feet. Mr. Waldon added that the minimum outdoor space requirement was **41,853** square feet and the applicant was requesting modification to **39,553** square feet. He added that the **minimum** livability space required was **13,089** square feet and the applicant was requesting **modification** to **10,789** square feet. Mr. Waldon commented the applicant was also requesting **modification** of some of the Town's buffering requirements.

Mr. Waldon said that staff believed that **modification of the regulations** was justified in this instance, as the Church had existed at this location for **many years** with more square footage than existing ordinance allowed. He noted that the Town's **ordinances** allowed the Council to grant modifications to the regulations when public purposes were **served**.

Jeanette Gay Eddy, representing the Planning Board, **stated** that the Board recommended approval of the application. He noted that the one **dissenting** vote against the application involved concern that the church addition might not enhance **the** neighborhood architecturally.

Reverend Dudham, Pastor of University Presbyterian Church, **stated** that his church served more than twenty diverse groups in the community and the church's facilities were used seven days a week. He added that additional space was needed to **continue to** provide these services.

Dan Jewell, the applicant's representative, **stated** that this **facility** had been constructed in 1962 with no additions having been made since that time. Mr. Jewell also said that the existing building pre-dated the Town's ordinances regarding **open space**, floor area ratios, and other requirements. Mr. Jewell noted that the proposed addition **would** add only a very small footprint to the site and that although a large oak tree would **have to** be removed, the church would preserve an existing magnolia tree on the site. Mr. Jewell **stated** that the applicant was proposing an outdoor courtyard in the open area and would add **ornamental** fencing to discourage cut-through pedestrian traffic.

Mr. Bonson Hobson, the project's architect, noted that the **proposed** addition would blend with the existing structure. He said that the addition would **be** used for a variety of purposes, including the provision of space for the church membership to commune, hold receptions and conduct small weddings and to provide classroom space..

Council Member Evans inquired whether or not trees would **be** added as part of the streetscape and whether street lights were proposed. Mr. Jewell **said** that the applicant would provide whatever was necessary under current Town regulations.

Council Member Foy inquired whether progress had been **made** on a solid waste management plan. Mr. Jewell noted the church had an ongoing **problem** with adjacent residents, mainly students, who were not aware of, or ignored ordinances regulating what could be placed in the dumpster. He noted that the church would enclose the **dumpster** pad and would continue discussions with the adjacent property owner regarding the **dumpster-related** problems.

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

Item 4: Zeta Tau Alpha Sorority House Addition -
Application for a Special Use Permit Modification

Parties wishing to testify in the matter were sworn.

Mr. Waldon stated that the special use permit modification would allow the enclosure of an outdoor deck in order to add 1,731 square feet of floor area to the sorority house. He noted that the maximum number of residents permitted in the house would remain unchanged. Mr. Waldon noted that the property was located at 120 North Street, about 440 feet east of Airport Road on the south side of North Street.

Mr. Waldon stated that the key issue raised to date was that the proposal would require amendment of the previously approved modification to regulations concerning floor area limits. Mr. Waldon remarked that the previous modification allowed 7,704 square feet instead of the standard 5,808 square feet of floor area for a sorority house on this size lot, compared to the 9,431 square foot total floor area for this proposal.

Mr. Waldon said that the applicant was proposing the installation of an automatic fire sprinkler system for both the existing and new portions of the sorority house and the provision of a handicapped parking space.

Mr. Waldon said that the application, excepting the requested modifications to the floor area and parking regulations, complied with all applicable portions of the Town's Development Ordinance and Design Manual regulations.

Weezie Oldenburg, the applicant's representative, noted that the footprint of the facility would not change, nor would the number of residents. She stated that this proposal would add a second and third level to the existing deck. Ms. Oldenburg stated that the proposed structure would blend with the existing structure.

Jeanette Gay Eddy, representing the Planning Board, stated that the Board recommended approval of the requested special use permit modification.

Noting that one stipulation was that a Bradford pear tree be replaced after construction was completed, Council Member Evans said that she encouraged the sorority to contact the Town's Arborist since Bradford pear trees tended to have a short life span and tended to split.

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

Item 5: Closure of Carolina Avenue Right-of-Way

Engineering Director George Small noted the Town had received a petition from Mr. T. P. Crigler in September, 1997 requesting that the Town close a portion of the unopened Carolina Avenue right-of-way abutting his property at 106 East Franklin Street.

Mr. Small stated that the right-of-way abutted a total of five lots: Mr. Crigler's vacant lot, two occupied multi-family lots, an occupied single-family lot and a vacant lot at the northern end of the right-of-way. He noted that if the right-of-way were closed, ownership would revert to the adjacent property owners.

Mr. Small remarked that after receiving the petition, a **survey** was sent to adjacent property owners regarding the requested closure. He stated that **eight** surveys were sent out, and five responses were received. Mr. Small noted that two of the **responses** were in favor of the closure and three were opposed, adding that subsequently a letter was received from the Stroud Hill Condominium owners, who had previously opposed the **closing**, stating they had no preference regarding the closure. Mr. Small noted that the one owner **still** in opposition to the closure, Dr. Joe Wall, wanted to ensure that utility access was made **available** throughout the entire right-of-way. Mr. Small noted that it appears that no opposition **existed** to the proposed closure provided that blanket utility, access, and drainage easements were **reserved**.

Council Member Evans noted that she had asked in the **past** whether this could be used as a pedestrian right-of-way. Mr. Small replied that staff's **intent** was to record an access easement which would be for both motorized and non-motorized **vehicles**. He added that there was no pedestrian easement because it did not connect to any **sidewalk** or destination point.

Mr. T. P. Crigler stated that this was the first time he had **heard** any discussion regarding this property as a right-of-way for motorized vehicles. Mr. Small said that it was his understanding that access for utility easements and motor vehicles would **be** retained, but would research the issue and report back to the Council. Mr. Crigler said he **believed** such an access would decrease property values.

Martin Bernholtz said that he had a driveway which ran along Carolina Avenue, ending in a tight turn up to Franklin Street. He said that a portion of his **driveway** which was built twelve years ago was on the easement, and requested that this current use **continue** to be permitted if the right-of-way were closed. Mr. Bernholtz **also** asked that if Carolina Avenue were ever opened for car usage, that he be allowed to retain his existing driveway.

Ms. Elizabeth Weisben stated that the Stroud Hill **Condominiums** needed a twenty foot easement to retain access to sewer lines.

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

Item 6: Setting a Public Hearing on Potential Legislative Requests in 1998

Mr. Horton noted that earlier this year the Council had **discussed** possible legislative requests and considered six items to list as potential subjects for 1998 legislative consideration. Noting that this was a short session of the legislature, Mr. Horton suggested that the Council receive advice from the legislative delegation regarding which items might be considered non-controversial in nature. Mayor Waldorf inquired whether or not it was correct that the Council was limited to the items outlined in Resolution 1 before the Council this evening. Mr. Horton said that if there were other potential items the Council was aware of, they should be added this evening so they could be properly advertised.

COUNCIL MEMBER EVANS MOVED, SECONDED BY COUNCIL MEMBER PAVÃO, TO ADOPT RESOLUTION 1. THE MOTION WAS ADOPTED UNANIMOUSLY (9-0).

A RESOLUTION SETTING THE SCOPE OF A PUBLIC HEARING ON POTENTIAL LEGISLATIVE REQUESTS IN 1998 (98-2-16/R-1)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby requests citizens' comments on the following potential legislative requests in 1998:

1. Authority to restrict "happy hours" and other special discounts and promotions by businesses selling alcoholic beverages.
2. Authority to require full-time resident managers in fraternity or sorority houses.
3. Authority to enter into development agreements as part of the regulation of land use on large tracts, for example the Horace Williams tract.
4. Restrictions on the acquisition by the University of North Carolina of privately held land and/or buildings and the subsequent removal of such properties from the inventory of properties subject to local ad valorem property taxes.
5. Requiring the disclosure of the names of contributors of sums of \$100 or less to candidates in Town Council election campaigns. (Disclosure of the names of contributors of more than \$100 is currently required based on a local bill enacted in 1988).
6. Adopting a State-wide deposit requirement for glass and other recyclable bottles.

This the 16th day of February, 1998.

Council Member Brown asked whether the Council was asking for only six items, not the three controversial items listed first. Mr. Horton said that this was correct.

Council Member Andresen noted that the Council might want to take on some of these issues again, although controversial issues would not be dealt with during the legislature's short session.

COUNCIL MEMBER PAVÃO MOVED, SECONDED BY COUNCIL MEMBER EVANS, TO ADJOURN THE PUBLIC HEARING. THE MOTION PASSED BY A VOTE OF 6 TO 3, MAYOR WALDORF AND COUNCIL MEMBERS EVANS AND PAVAO VOTING NO.

COUNCIL MEMBER ANDRESEN MOVED, SECONDED BY COUNCIL MEMBER FOY, THAT THE COUNCIL GO INTO CLOSED SESSION TO DISCUSS LITIGATION MATTERS. THE MOTION WAS ADOPTED BY A VOTE OF 8 TO 1, WITH COUNCIL MEMBER PAVÃO VOTING NAY.

The Council concluded the public hearing and went into closed session at 8:50 p.m. No public report followed the closed session.