

11-14-2018 Town Council Meeting Responses

ITEM #3: Open the Public Hearing: Application for Special Use Permit Modification-Tri-City Medical Building, 5002 Barbee Chapel Road

Council Question: Does the R-5-C zoning for the Tri-City SUP allow any other uses besides medical office building?

Staff Response: *The approved Meadowmont Master Land Use Plan Amendment includes a condition for this parcel that states "Land use shall be designated as a medical office use or similar office type use." In turn, the approved Special Use Permit for the project states that the approval is for "Medical, Office, and Clinic Uses."*

Council Question: Can we be provided with a copy of the minutes from the Town Council meetings in which Town Council opened the public hearing and in the second public hearing, approved the special use permit for this applicant??

Staff Response: *Here are links to the applicable meetings when the Council opened the public hearing on this development and approved it:*

- [November 9, 2015 Minutes](http://chapelhill.granicus.com/MinutesViewer.php?view_id=21&clip_id=2541)¹ -- Master Land Use Plan Modification: Item #9 and Special Use Permit: Item #10
- [November 23, 2015 Minutes](http://chapelhill.granicus.com/MinutesViewer.php?view_id=21&clip_id=2550)² -- Consider the Master Land Use Plan Modification: Item #16 and Special Use Permit: Item #17

¹ http://chapelhill.granicus.com/MinutesViewer.php?view_id=21&clip_id=2541

² http://chapelhill.granicus.com/MinutesViewer.php?view_id=21&clip_id=2550

**SUMMARY MINUTES OF A REGULAR BUSINESS MEETING
OF THE CHAPEL HILL TOWN COUNCIL
MONDAY, MAY 12, 2003, AT 7:00 P.M.**

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

Council members present were Flicka Bateman, Ed Harrison, Mark Kleinschmidt, Bill Strom, Dorothy Verkerk, Jim Ward, and Edith Wiggins.

Mayor pro tem Pat Evans was absent, excused.

Staff members present were Town Manager Cal Horton, Assistant Town Manager Florentine Miller, Town Attorney Ralph Karpinos, Assistant to the Manager Bill Stockard, Senior Long Range Planner Chris Berndt, Senior Development Coordinator J. B. Culpepper, Traffic Engineer Kumar Neppalli, Transportation Director Mary Lou Kuschatka, Superintendent of Parking Services Brenda Jones, and Acting Town Clerk Sandy Cook

**Item 6 - Draft of Mayor's Committee's Report on
Proposed Habitat for Humanity Development**

Mr. Horton explained that on November 25, 2002, the Council had authorized an acquisition loan of \$50,000 to the local chapter of Habitat for Humanity to assist in purchasing land on Sunrise Road for a potential affordable housing development. Subsequent to that action, Mr. Horton said, Mayor Foy had appointed a Mayor's Committee to study the site, to engage in discussions with Habitat representatives and the property's neighbors, and to develop goals and principles that the Council might adopt. Mr. Horton noted that the 17-acre property was located outside the Chapel Hill Town limits but was within its Urban Services Boundary. The property had been designated as a transition area under a Joint Planning Agreement between the Town and Orange County, he said.

Mr. Horton explained that the site was currently zoned Residential-2, which permits up to four units per acre. He said that under provisions of Chapel Hill's Land Use Management Ordinance (LUMO) a property owner may apply for approval of a subdivision or a SUP for this property. In the context of a SUP, Mr. Horton said, the Council has authority to modify regulations if it finds that public purposes are satisfied to a degree equivalent to that satisfied by full adherence to regulations. Mr. Horton added that a property owner may request a rezoning to another designation, which could include rezoning to another general use district or to a conditional use district in which any proposed development would require a SUP. If a rezoning request were submitted, he explained, the application would need to be reviewed by both the Town Council and the Orange County Board of Commissioners because the site is in the transition area. However, Mr. Horton said, the Council alone has approval authority over any development proposed for the site, whether or not it is in conjunction with the rezoning.

Mr. Horton noted that the Mayor's Committee had met with representatives from Habitat and the surrounding neighborhoods. They had also walked the site, he said, and had sponsored two community meetings focused on possible development plans. Mr. Horton reported that residents from surrounding neighborhoods and from Habitat had suggested parameters for development. He explained that the Mayor's Committee had considered those parameters when preparing the goals

and principles presented tonight. Mr. Horton stated that the Committee's proposal was intended as a guideline only and was not intended to help develop specific plans. He then outlined the 17 principles for Council consideration:

1. Retain present zoning: The present zoning of this property is Residential-2. For a property of this size in this district, development applications can be filed for either a subdivision or Special Use Permit that would accommodate most of the possible development scenarios that have been discussed. We suggest that development plans be drawn in a manner that meets the requirements of this zoning district.
2. Compliance with regulations: Plans should be drawn in a manner that would meet all regulations in the LUMO at the time that an application is considered by the Council. We note that the Council is continuing to monitor and evaluate the new LUMO, and that there may be adjustments made to the ordinance in the future.
3. Consider Clustering Development: Whatever density and/or intensity are permitted on this site under existing zoning should be clustered so as to take advantage of buildable areas and minimize disturbance to sensitive areas.
4. Consider Developing Housing for Varied Income Levels: Prepare plans, perhaps in cooperation with other agencies, such that the development provides housing opportunities for homeownership for persons of low and moderate income. Various building types and designs would be allowed in the present zoning district under the Land Use Management Ordinance in a manner that would be consistent with the Comprehensive Plan.
5. Provide Recreation Amenities: If a subdivision application is prepared, it is required that land be set aside for recreation; if a Special Use Permit application is prepared, it is required that amenities for active recreation be provided. Regardless of the type of application, plans for development of this site should include active recreational amenities.
6. Consider Public Transit: Plans for development of this property should explicitly consider current and proposed transit routes, and provide reasonable access and sidewalks to public transit locations. If amenities are needed (e.g., a bus shelter), they should be included in the proposal and provided by the applicant.
7. Provide Sidewalks and Pedestrian Paths: Provide adequate pedestrian paths to destinations in all directions from the site, including connection to a future greenway along I-40.
8. Building and Site Design: Careful attention should be given to site and building design, with sensitivity to the environment. Development should avoid the power line and Resource Conservation District (RCD) corridors and result in buildings that are attractive.
9. Minimize Impacts on RCD for Road Construction: Design the street network and utility systems so as to cross the RCD in the least disruptive locations, and with the fewest possible crossings.
10. Possible Development Partners: Partnerships with other nonprofit organizations may enhance the variety of housing opportunities that are developed on this site. It is expected that all

housing built on this site will be affordable to individuals and families with income below 80% of the area median income.

11. **Develop Designs that Promote Inclusion:** Seek designs that will promote interaction between this proposed development and surrounding areas; avoid designs that would serve to isolate residents of this proposed development.
12. **Provide Corridor for I-40 Greenway:** Chapel Hill's Greenways Master Plan contemplates a trail along the south side of Interstate 40. This proposal should provide easements along the portion of that trail that will cross this property.
13. **Study Sunrise Road Access:** Study the Sunrise Road corridor to select an access point for this development that addresses sight distance concerns for ingress and egress.
14. **Consider How Best to Provide Sewer Service:** Seek designs that minimize RCD disruption and allow for future extension of utilities to nearby properties.
15. **High-Voltage Power Line:** Prepare designs that minimize proximity of dwellings to the power line corridor.
16. **Consider Stub-outs:** Review adjacent development patterns, existing and potential, to determine if it is desirable/feasible to stub-out streets at the edges of this property, for possible future extension.
17. **Future Workshop:** It would be desirable for Habitat to sponsor a workshop, involving neighbors of this property, to consider possible designs for use of this property prior to preparation and submittal of a Concept Plan.

Council Member Bateman, Mayor's Committee Chair, thanked Mayor Foy for appointing the Committee. She described the meetings as a fruitful process that should be used again for future applicants. She noted that the Committee consisted of Council Members Mark Kleinschmidt, Edith Wiggins and Jim Ward.

Council Member Bateman repeated Mr. Horton's statement that the 17 principles were guidelines only and not legally binding on Habitat or any future Town Council. She said that a Committee goal had been to have everyone receive the same information at the same time from the same source. However, she said, despite their efforts there appeared to be some misinformation circulating and she wanted to correct that by emphasizing three facts:

- The site is in the Urban Services Boundary and is scheduled for annexation. Council Member Bateman explained that the property is not part of, nor adjacent to, the rural buffer. She pointed out that the rural buffer is north of Interstate-40, and that the site in question is south of I-40.
- Council Member Bateman explained that 68 units are allowed under the current zoning and by the LUMO. She emphasized that 68 units does not represent an exception that Habitat has received.

- Current zoning provides plenty of flexibility, she said, adding that the LUMO states that if a SUP is submitted the Town Council may modify regulations for a particular application under conditions, if they have been met. Council Member Bateman pointed out that this flexibility is available to any developer, including Habitat.

Council Member Bateman stated that the Committee's work would be finished after tonight's Council meeting. Habitat needs to move into its site planning process, she said, and she urged interested citizens to give Habitat an opportunity to get on with its work if the Council approves the 17 principles tonight.

Council Member Kleinschmidt praised Council Member Bateman for her exceptional leadership through a difficult process. He had found it rewarding to take part in such an extraordinary response to the community surrounding the area to be developed, he said. Council Member Kleinschmidt emphasized that the developer had not initiated the process, but that the Council had done so in response to the community's concerns.

With regard to the first principle, Council Member Kleinschmidt reflected on the "enormous flexibility" that LUMO allows for just about every objective and goal that Habitat has for this project. He said that he was pleased that Habitat's goals would likely be met within the Residential-2 zoning and that many of the neighbors' concerns would be relieved.

Council Member Ward thanked Council Member Bateman and recognized Town Planning Director Roger Waldon for his "priceless" ability to give clear answers to questions and concerns. Council Member Ward pointed out that the guidelines reflect significant input from Habitat and staff as well as the concerns and support of those who live in the surrounding area. He added that the principles also reflect the values of the Council members who served on the Committee. Council Member Ward thanked Mayor Foy for initiating the process.

Council Member Wiggins praised the process, which she said would lead to subdivisions along Erwin Road and Sunrise Road deciding to help build a Habitat House. She added that a well-known nursery owner in the area would be helping with landscaping. Council Member Wiggins explained that such a cooperative outcome had been her ultimate goal.

Mayor Foy, noting that tonight's speakers had organized their presentations as the Council requested, agreed to give them extended time.

Sue Harvin, past president of the Habitat board and a member of the Sunrise Committee, thanked the Mayor's Committee and staff for all the time and attention put into this issue. She said that Habitat had always seen itself as a partner with the Town, with other community governments, and with other non-profit organizations in the effort to meet affordable housing needs. Habitat has been building affordable houses and communities in Orange County for 15 years, she said, and would soon finish its 110th house. Ms. Harvin noted that Habitat had also built mixed-income communities, such as Culbreth Park. She pointed out that the Town had played an important role by donated seven of those lots for Habitat houses.

Ms. Harvin explained that Habitat had spent a considerable amount of time trying to develop strategies to increase the number of houses it can build to meet the affordable housing crisis in

Town. She said that the Sunrise Road endeavor was the result of the very focused planning that Habitat has been doing for many years. The Sunrise neighborhood will be near buses and an outstanding school system, and will provide accessibility to shopping and jobs, she said. Ms. Harvin noted that working people in Chapel Hill live in either substandard or crowded housing. They are paying more rent than they can afford, she said, or are living so far out of Chapel Hill that they have transportation problems.

Ms. Harvin pointed out that Habitat families are important working members of the Community. She noted that one must have good credit and be able to make mortgage payments in order to be a Habitat homeowner. When people become homeowners they also become taxpayers, she said, pointing out that one Habitat resident, Anne Mason-Hunter, had recently been named "most valuable staff member" by students at the UNC Dental School. Ms. Mason is not atypical, Ms. Harvin said. She asked Council members to vote in favor of the resolution and to endorse the goals and principles developed by the Mayor's Committee.

Habitat for Humanity Director Susan Levy thanked Council Member Bateman and the Mayor's Committee for their fine work. She also commended Habitat's Board of Directors. Ms. Levy praised the Board for their vision in pursuing opportunities to purchase land in Chapel Hill and their commitment to improving the lives of those who cannot afford a decent home. Ms. Levy stated that homes for people earning below 80% of the median income could not be built in this community without financial subsidy from the public. The lower the income, the greater the subsidy needs to be, she said.

Ms. Levy stated that Habitat had received about \$500,000 in State and local affordable housing funds in fiscal year 2001-02. She said that they had leveraged those funds with privately raised dollars, almost three to one, to meet their \$1.4 million budget. Ms. Levy explained that Habitat would continue to raise most of its funds from the private sector. They will be asking the Town and County for funds that are earmarked for affordable housing, she said, so that the Sunrise project will reflect the quality that everyone wants. Ms. Levy encouraged Council members to adopt the Mayor's Committee's guidelines.

Reverend Tim Kimrey, a retired pastor from the Church of Reconciliation who lives in the Sunrise area, noted that Chapel Hill is a town that values its history. He recalled how upset he had been when a vast number of trees were taken down to build Cedar Falls Park and when Chandler's Green was built. But, said Reverend Kimrey, he had driven through the community just yesterday and recognized that it is very nice. Things change, he said, noting that there had been an enormous outcry when East Chapel Hill High School was built, too. But the proximity of "East" is now one of the main selling points for Chandler's Green, he said.

Reverend Kimrey told Council members that the people who had lived on Sunrise and Oak Hill Roads, when he moved there 27 years ago, had been working people. Prior to that, the entire area was a farm, he said. Reverend Kimrey pointed out that none of those former residents would be able to afford even their own homes today. Opponents of the project ask for something that is "in keeping with the character of our neighborhood," he said, pointing out that those who now oppose affordable housing had changed the character of the neighborhood. Reverend Kimrey expressed hope that the area would continue to be the kind of mixed economic community that Chapel Hill prides itself on having. He urged Council members to support and endorse the principles and goals set out in the proposed resolution.

Robert Dowling, Director of Orange Community Housing Corporation and Land Trust (OCHC), thanked Mayor Foy for forming the Mayor's Committee. He also thanked Committee members for their hard work and for conducting meetings that enabled a remarkable exchange of ideas. Mr. Dowling said that Habitat might be interested in having OCHC build affordable townhomes on Sunrise Road. He said that OCHC had developed 24 townhomes on 1.4 acres of land on Legion Road and 32 townhomes on 2.5 acres at Meadowmont. All of those homeowners earn less than 80% of the median income, he said, adding that they typically earn between \$28,000 and \$45,000. With regard to the 17 guiding principles, Mr. Dowling asked Council members to allow some flexibility so that Habitat would not have to bear extraordinary costs if they face unanticipated obstacles. He pointed out that Habitat was not like most developers in Chapel Hill who simply built extra costs into the cost of the home.

Mr. Dowling commented that the Committee had done a good job of taking the neighbors' concerns into account when forming the 17 principles. He described those concerns as understandable, but pointed out that the same fears had been expressed by neighbors of the Legion Road project and they had not been realized. Those neighbors are pleased with what has been built there, he said, predicting that the same would be true of the Sunrise Road site once it is serving as homes for individuals and families who are the core employees of the community. Mr. Dowling explained that affordable housing, as practiced by Habitat and OCHC, provides people with a home they can afford, in the Town where they work, in a place where they want their kids to go to school.

Marquita Garrison, Family Services Coordinator for Habitat for Humanity, read a statement by Habitat homeowner Anne Mason-Hunter, who could not be present at tonight's meeting. In her letter, Ms. Mason-Hunter explained that she had been born and raised in Chapel Hill and had worked at UNC for 18 years. It has become increasingly difficult for people like her to live in Town, she said, noting that she'd had to live out in the County at one point even though she wanted to live in her hometown, near her job, with her child enrolled in Chapel Hill schools. But her dream came true when Habitat built Culbreth Park on land donated by the Town, she said. Ms. Mason-Hunter wrote that she now has a home with three bedrooms, one-and-a-half baths, and a small yard in which she loves to work with her flowers. She said that Habitat had given her something to work for and to be proud of. Her son is getting a quality education, she said, and the fare free bus service takes her to work in ten minutes.

Lenier Blum, Program Director for the Center for Affordable Living at Triangle J Council of Governments, shared statistics that put the Sunrise project in the context of the region's need for affordable housing. Studies have shown that properties surrounding new subsidized housing developments continue to increase in value or show no impact from the new development, she said. Ms. Blum emphasized that even the house next door has shown no impact. She asked Council members to help calm the fears of the surrounding neighbors as they approve developments with a mix of housing types and costs. The Town can feel confident that housing prices in Chapel Hill will continue to rise as fast as they would otherwise, she said. Ms. Blum added that Chapel Hill's housing prices would rise faster than the rest of the region no matter what size home is built next door.

Habitat for Humanity Vice President John Terrell, who has been a member of the Habitat Board for more than eight years, thanked the Mayor's Committee for bringing the community together and for bringing forth a set of guidelines and principles that will make Sunrise project an exemplary,

affordable housing community. Approving the 17 principles would be a significant step toward realizing the Town's affordable housing goal, he said. Mr. Terrell stated that the Sunrise Road project would be an outstanding community for hardworking families who otherwise would have a difficult, if not virtually impossible, time finding housing in Chapel Hill. He said that Habitat would gladly accept the goals and principles as well as the challenges they present. Mr. Terrell commented that he looked forward to the day when children who grow up in the Sunrise neighborhood graduate from East Chapel Hill High and go off to the colleges of their choice.

Michelle Kleckner, President of the Chandler's Green Homeowners Association, reviewed the Association's involvement in the project and noted they would assign members of their Architecture Committee to meet with developers as the project moves forward. Ms. Kleckner said that the Association supported the principles put forward by the Mayor's Committee, particularly the suggestion to move forward with the current zoning and compliance with land use. The Association will pay particular attention to the number of proposed units, she said, as well as to the impact on the Urban Services Area, rural buffers, and existing neighbors. Ms. Kleckner thanked the Mayor's Committee for their commendable work and recommended that the Council adopt the suggested goals and principles without change.

Sudha Srikantaswamy, Vice President of the Silver Creek Homeowners Association, thanked the Mayor's Committee and asked the Town Council to focus on the issue of zoning. On behalf of Silver Creek, she expressed support for low-density development. Ms. Srikantaswamy referred to RCD restrictions in the LUMO, especially with regard to OWASA and streets and bridges, pointing out that streams run through the site. She said that the Silver Creek Homeowners Association would continue to scrutinize plans as they develop, especially with regard to impact on adjacent neighborhoods and schools. Ms. Srikantaswamy encouraged the Town Council to adopt the Committee's guidelines and to continue keeping an open profile throughout project development.

Sandra Cummings, representing the Sunrise Coalition, explained that she has lived within a one-mile radius of the location in question for 25 years. Ms. Cummings thanked the Mayor's Committee for their thoughtful recommendations and Mayor Foy for forming the Committee. She said that the Sunrise Coalition wholeheartedly supported the 17 principles and asked the Council to adopt them with no change. Ms. Cummings said that the Coalition had requested, in particular, that the project adhere to present zoning. The Sunrise Coalition continues to be concerned about density, she said, not about affordable versus more costly housing. Ms. Cummings asked the Town to move away from trying to determine how many houses, affordable or otherwise, could be built. The Town should concentrate instead on how many this piece of property, with its constraints, can reasonably and safely support, she said.

Ms. Cummings listed four major issues that drive the Coalition's concern for density: increased traffic, environmental constraints, noise, and pollution. She said that a high-density development on Sunrise Road would not contribute to the public good. Ms. Cummings stated that the neighborhood supports the project in general, but added that the Town cannot solve all of Chapel Hill's affordable housing needs on this one piece of land. Ms. Cummings urged the Town Council and Habitat to continue balancing the need for affordable housing with the need to protect existing neighborhoods.

Al Lucier, an Oak Hill Road resident and Sunrise Coalition member, praised the Mayor's Committee's report for being balanced and objective. However, he said, the tone and content of Habitat's response to the report was "very disappointing." In the interest of time, said Mr. Lucier,

he would mention only two of his central concerns. First, Habitat refers to the development as "The Sunrise Neighborhood," he said, adding that Habitat ignores the fact that there already is a diverse neighborhood there. Mr. Lucier described this as disrespectful to his neighborhood and a major source of disappointment to him personally. By calling the project "the Sunrise Neighborhood," he said, Habitat for Humanity "obviously views itself" as building a new neighborhood inside and separate from the existing neighborhood.

Mr. Lucier continued, stating that Habitat "reserves the right" to seek rezoning. He interpreted that as a lack of commitment by Habitat to the Mayor's Committee's goal of retaining present zoning. Mr. Lucier urged Council members to focus on preserving the unique, semi-rural character of the existing neighborhood.

A second issue, Mr. Lucier said, is the overall process of financing and developing affordable housing in Chapel Hill. He stated that Habitat had been functioning as a public housing authority and was being managed as a private corporation. Mr. Lucier intimated that Habitat had lacked diligence and been fiscally irresponsible in its recent dealings with an appraiser.

Terri Tyson noted that many ordinary Chapel Hill citizens see a need for affordable housing for the many hard working people who provide services to the Town. She noted that restricting development to protect the environment cuts down on the amount of land available. Some intervention is needed to help people of below average means afford a home, she said. Ms. Tyson pointed out that Habitat for Humanity has a wonderful reputation and has built some neighborhoods that have been good neighbors to the adjacent ones. The attitude of adjoining neighborhoods is an important part of the formula for obtaining community support, Ms. Tyson pointed out. She said that community approval contributes to the success of the project.

Mayor Foy expressed appreciation to all of the speakers for being forthright about their goals and objectives.

Council Member Bateman asked for clarification of one speaker's reference to Habitat's former "sweat equity model." Mr. Terrell explained that about fifteen years ago Habitat built on infill lots in existing communities that were invariably socio-economically diverse. As output has increase over the years, he said, it has become more affordable for Habitat to buy larger tracts of land and put in infrastructure to create neighborhoods. Mr. Terrell explained that one of Habitat's goals is to get back to the original model, however. He also explained that Habitat requires 325 hours of work as a down payment from homeowners. This has not changed, he said, noting that "sweat equity" is at the very core of what Habitat does. Mr. Terrell expressed hope that Habitat would build on lots in neighborhoods through collaboration with OCHC and Land Trust and others.

COUNCIL MEMBER BATEMAN MOVED RESOLUTION R-4.1 TO ENDORSE THE MAYOR'S COMMITTEE'S GOALS AND PRINCIPLES. COUNCIL MEMBER STROM SECONDED.

Council Member Harrison inquired about a principle that had been removed regarding an acoustical engineer. Council Member Bateman explained that Habitat had made a compelling argument that other developers were not required to do so, and the Committee had removed that principle. She said that the Committee did not want to comply with the request to treat Habitat as other developers on the one hand and required something extra of them on the other. Council Member Harrison

predicted that the NC Department of Transportation would not put a noise wall along the widened stretch of I-40 near this neighborhood. There is not much that people can do about that noise beyond how they site the houses, he said.

Council Member Strom thanked his colleagues for putting the 17 principles together, adding that it speaks well of the community and the process that virtually everyone was in support of the 17 principles. Council Member Strom remarked that there is a tremendous opportunity for dialogue between the Council, the applicant, and the community before a developer submits an application. But, he pointed out, what the Council can do after that is severely limited. Council Member Strom described this as an excellent example of what can be done when the Council takes leadership and fosters dialogue to hone in on issues and meet everyone's needs.

Council Member Harrison suggested that the Council include Ms. Blum's statistics in future discussions of affordable housing. He stated that an annual rewrite of her report would be helpful as well.

THE MOTION WAS ADOPTED UNANIMOUSLY (8-0).

A RESOLUTION ENDORSING GOALS AND PRINCIPLES FOR DEVELOPMENT OF PROPERTY ON SUNRISE ROAD (2003-05-12/R-4.1)

WHEREAS, the Orange County Chapter of Habitat for Humanity has indicated intent to develop a 17-acre property on Sunrise Road in Chapel Hill, for the purpose of creating affordable housing opportunities; and

WHEREAS, a Mayor's Committee has reviewed the subject site and engaged Habitat representatives and neighbors in discussions about development possibilities; and

WHEREAS, the Mayor's Committee has prepared, for the Council's consideration, a set of "Suggested Goals/Principles" to serve as guidelines as plans for this property are further developed; and

WHEREAS, the Council finds that these goals and principles would be useful guidelines to use and refer to as discussions proceed;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council endorses the "Suggested Goals/Principles" as contained in a May 12, 2003 memorandum from the Mayor's Committee to the Council, for use and consideration by Habitat for Humanity as plans for development of its Sunrise Road property are pursued.

This the 12th day of May, 2003.