

THE CITY OF TAKOMA PARK, MARYLAND

Regular Meeting of the Mayor and Council
July 8, 1985

AGENDA

CALL TO ORDER: Mayor Abbott

ROLL CALL: Councilmember Aldrighetti
Councilmember Bradley
Councilmember Dalmat
Councilmember D'Ovidio
Councilmember Haney
Councilmember Iddings
Councilmember Williams

PLEDGE

MAYOR ABBOTT'S COMMENTS AND PRESENTATIONS

ADDITIONAL AGENDA ITEMS

GENERAL CITIZENS' REMARKS (those not directed at items for Council action)

ITEMS FOR COUNCIL CONSIDERATION: City Administrator Wilson

1. Administrative reports and communications
2. Special Exception 3612, to validate previous conversion of 952 East-West Highway from single family to 2-unit dwelling; modification of parking schedule request (Public Hearing before Prince George's County Zoning Hearing Examiner, 1:00 PM, Wed., July 17, Rm. 4040, CAB, Upper Marlboro)
Citizens' comments
Council action
3. Affirmation of Council's prior action on pre-preliminary resubdivision No. 7-85015, Austin Tract
Citizens' comments
Council action
4. Proposed resolution pertaining to cable TV problems in City (held over from 6-10-85 meeting)
Citizens' comments
Council action
5. Consideration of legislative requests--1986 session of General Assembly
 - (a) UNIFICATION OF TAKOMA PARK INTO ONE COUNTY--same bill as that introduced in 1985 session, permitting referenda of voters in both sections of city to determine their choice of county
 - (b) SPEED LIMIT ON STATE HIGHWAYS--where state highway traverses municipal boundaries, municipality may impose speed limit
 - (c) FINES FOR MOVING VIOLATIONS--where arrest made in a municipality, that jurisdiction would receive a percentage of the fine (which now goes to help support the Maryland Court system)
 - (d) MATTER OF SOVERIGN IMMUNITY and the Maryland Policeman's Bill of Rights

ADJOURNMENT

CITY OF TAKOMA PARK, MARYLAND

Regular Meeting of the Mayor and Council

July 8, 1985

CITY OFFICIALS PRESENT:

Mayor Abbott	City Administrator Wilson
Councilmember Aldrighetti	Asst. City Administrator Habada
Councilmember Bradley	City Clerk Pusti
Councilmember Dalmat	Asst. Housing Director Austin
Councilmember D'Ovidio	Corporation Counsel Gagliardo
Councilmember Iddings	
Councilmember Williams	
EXCUSED: Councilmember Haney	

The Mayor and Council convened at 8:05 P.M., in the Council Chamber, 7500 Maple Avenue, Takoma Park, Maryland. Following the pledge, Mayor Abbott had no comments or presentations to be made.

ADDITIONAL AGENDA ITEMS:

Corporation Counsel contract

GENERAL CITIZENS' REMARKS (not directed at items for Council action)

Wayne Upton, 7600 Maple Avenue: referred to the City's observance of Black History Month earlier this year and commented on a 3-page article in the latest issue of Metro Washington Magazine about the father of the gentleman who spoke at that event.

Former Councilmember Clayton Forshee: commented on recently attending the funeral of Mrs. Russell B. Jones (wife of former Councilmember Jones) and the beautiful floral tribute sent by Mayor and Council and City employees; on behalf of the family, he expressed appreciation for the remembrance of Mrs. Jones. The Mayor commented on Mr. Jones' service to the City, as well as his skill and expertise in his field.

Reginald Abrams, President, Park Ritchie Tenants' Association: introduced the Vice-President of the association, Mr. Gregory B. Hamilton, and spoke concerning the way in which tenants were informed of the Kaufman Realty Group's renovation and rent increase proposal. He said a letter on City letterhead signed by Councilmember Williams and dated 6/4/85 was disseminated requesting tenants' presence at a meeting in the Municipal Building on 6/5/85; the letter stated the meeting would be comprised of tenants and owners and discussion topics would be remodeling of the building, how much tenants may have to pay, and the City's role. He stated that at the meeting tenants were greeted by owners of the building, their lawyer and construction contractor. Following a brief summary of the proposal, tenants requested written information to study (which it was agreed would be furnished) and a subsequent meeting was set for June 12. He stated that tenants received a 4-page summary of the renovation proposal as well as a rent increase projection on June 7. On June 10, an agenda (not signed by anyone) for the June 12 meeting was received which included remarks from Mayor Abbott, City Administrator Wilson, and Councilmember Williams. On June 11, a notice signed by Councilmember Williams was received stating that the June 12 meeting with the property owners had been rescheduled to another date, however, the meeting, with the Mayor and City Administrator in attendance, would be held for tenants to decide whether or not to support the proposed renovations and rent increases. He commented Mr. Williams was to notify the owners of the changes, which he did upon their arrival at the June 12 meeting. At that meeting, the tenants' association was formed, officers elected, and a unanimous vote recorded rejecting the owners' proposed renovations and rent increases, with Mr. Williams to notify the owners accordingly. He stated the association's formation information was submitted to the City's Administrative Supervisor, Anna Bennington, along with the group's decision to reject the proposals. On June 14, tenants received a letter from the owners stating their disappointment at being excluded from the June 12 meeting. Nothing further was heard from ownership until Mr. Abrams received a phone call from Mr. Connelly on the afternoon of July 3 requesting a meeting with members of the tenants' association's board prior to the present meeting, and it was decided that if such a meeting were held, it should be with a third party in attendance (such as the Director of Housing Services). He

commented that the quality of life at Park Ritchie had deteriorated greatly under the present ownership, said there are 49 pages of outstanding code violations dating back to August 1984; in order to improve the situation there, tenants have filed a Reduction in Services Complaint supported by a petition bearing 166 signatures, including that of Councilmember Williams. He noted the complaint was filed on June 24, owners have yet to respond.

Councilmember Williams thanked Mr. Abrams for his informative and thorough presentation. Councilmember D'Ovidio questioned how many tenants were present at the June 12 meeting when the vote to reject ownership's proposal(s) was taken; Mr. Abrams stated 30 tenants were present. Ensuing dialogue noted a change, apparently made under the auspices of Councilmember Williams between June 10 and June 12, effected without any vote being taken, excluding ownership from the June 12 meeting.

Jerry Lilienfield, part-owner of Park Ritchie: stated that the first meeting between owners/tenants was called at Councilmember Williams' initiative and, at Mr. Williams' suggestion, the subsequent June 12 meeting was scheduled, with written information to be disseminated in the interim. He related being met at the door on June 12 by Mr. Williams who claimed he had attempted to get in touch to inform the owners that they were not to attend the meeting, that it would be for tenants only and a few City officials (he pointed out that his phone number was on the pamphlets that were disseminated to every tenant at Park Ritchie). He stated Mr. Williams told his group to wait outside the meeting and he would advise them when they could come in; they waited for 3-1/2 hours until the meeting adjourned, at which time Mr. Williams informed him he had thought they had left. He also stated that of the 166 signatures on the petition, 60% of those individuals are not on leases at Park Ritchie, are not tenants there. He stated his group did not wish to argue, were trying to do something beneficial to all involved; however, expressed strong resentment regarding Councilmember Williams' use of his official position for personal benefit; he said ownership is equally concerned about all tenants of the building, not one more than another because of an office they hold. Following heated dialogue between Councilmember Williams and Mr. Lilienfield, the Mayor pointed out that the only reason the matter came before the Council was ownership's proposed application for an IRB of approximately \$8,000,000, of which approximately \$2,300,000 was to be expended in renovation of Park Ritchie apartments; HUD mandates certain procedures involving tenants and approval, by certain steps, of the Council; he emphasized that what is currently being discussed should be resolved by ownership and the tenants' association, does not involve the City; he concurred with the Director of Housing Services being present (as a neutral third party) at a meeting of the two factions, if that was desired. Councilmember D'Ovidio expressed concern that the June 10 communication to tenants from Councilmember Williams did not state that there would be a tenants' association formed and officers elected at the June 12 meeting; due to that omission, he did not feel all tenants were afforded an opportunity to vote on the matter.

Greg Hamilton, Park Ritchie tenant: commented on the deterioration during the past year since present ownership took over the building; he said the 166 petition signatures were in conjunction with the Reduction in Services Complaint filed by tenants. He stated that when complaints have been made to ownership about substandard conditions, they have been told nothing would be done until a vote was taken concerning the proposed renovations; he remarked that the security guard and live-in resident manager were not requested by tenants. Councilmember Aldrighetti stated that the City and the Council are very much concerned about the quality of life in that building, and in all rental units in the city; hoped something constructive would evolve out of the meeting between ownership and tenants. Councilmember Bradley commented on the need to ensure that the units would remain rental and that there would be ongoing maintenance of the property.

Cecile Fray, tenant: pointed out that the rent increases being proposed by management are in excess of the yearly percentage permitted under the City's rent control ordinance; she stated that it

was ascertained from individuals that they were rent-paying residents of the building prior to getting their signature(s) on the aforementioned petition.

Mayor Abbott commented that two separate issues - living conditions in the building (with the outstanding code violations) over the past year, and the IRB a portion of which is proposed to be used for renovation of the building - appear to have become intertwined. He noted that the process concerning the IRB would involve the City, public hearings would be held; he commented he was still awaiting answers to several questions posed to Larry Dale, part of the management group and a former HUD official.

Tom Connelly, member of the ownership group: responded to one of the questions mentioned by the Mayor; he said that the Internal Revenue Code requires that 20% of the units be rented to people with less than median income (median in this area being about \$28,000 per annum); he assured he would remind Mr. Dale concerning the Mayor's 4 questions, and commented that Housing Director Tyree had been most helpful, ownership looks forward to meeting with her and the tenants' association, and would return to Council at a future date, hopefully with a plan beneficial and agreeable to all concerned.

David Lockett, tenant: in light of being confined to a wheelchair, stated that since the beginning of his tenancy in 1973, he had asked each owner of the building for a ramp to accommodate his ingress and egress of the building and none has ever been installed. He said Mr. Connelly had assured him his request would be included in the proposed renovations, his only way at present of getting in and out of the building is through the garage, and while there are handicap parking spaces in the parking lot there is no curb cut to access the lot. It was noted that Federal Law, under expenditure of federal funds, (Section 504) mandates certain provisions for the handicapped be made.

Pat Hanrahan, Birch Avenue: presented a petition for speed humps on Birch Avenue, with two being requested, installed preferably between Cedar and Dogwood, and Dogwood and Philadelphia. Councilmember Iddings, Chairman of the Traffic Committee, commented that two other petitions are pending - from Tulip Avenue and from Pine Avenue; as soon as signatures are validated and Public Works has furnished input, a public hearing can be scheduled, probably in August.

Mrs. Rams, 7777 Maple Avenue: questioned why the Mayor does not have veto power. It was noted that a Charter Amendment by Council would be required to accomplish that; Councilmember Bradley stated that it is atypical of municipalities for the Mayor to have neither a vote nor veto power. The Mayor stated that the change could be accomplished either by Charter Amendment by Council, by a referendum being requested by Council, or by 20% of registered voters petitioning for a referendum vote. He commented he had requested a study of the role of the Mayor and Council in all Maryland municipalities having a population of over 5,000; that information, when received, will be made available to Council and the public.

Juanita Nunn, 7777 Maple Avenue: questioned how a pay raise for Mayor and Council is accomplished; the Mayor explained that those individuals cannot raise their own salaries, however, can vote to raise salaries of incoming officials after the election.

ITEMS FOR COUNCIL CONSIDERATION:

1. Administrative reports and communications

Mr. Wilson spoke concerning the \$200,000 in tax differential payments Montgomery County is withholding from the City, purportedly as fire tax; he referred to the historical report on the issue prepared by staff covering the period back to 1957, which also outlined the two different methods used by the counties for making rebates to the City and the resultant impact on the city tax rate. He noted that the Montgomery County Chapter of the Maryland Municipal League had stated that the county's resolution and proposed legislation aimed at withholding the aforementioned funds from the City are, in principle, wrong, and they testified against the legislation at the public hearing held by the county on July 8. The county deferred making any decision at that public hearing and did hold the public record open;

if any decision is made, it may be made on July 9, or again deferred. Councilmember Bradley commented that it should not be lost sight of that there is a very real threat of closure of the Takoma Park Fire Station at some future point in time, consolidation of that station with Silver Spring Station, and provision of service to Prince George's residents by Chillum-Adelphi. Councilmember D'Ovidio remarked that the Fire Board is concerned about that possibility also, and the City should be working with that body to preclude the aforementioned eventuality. Mayor Abbott stated he did not think the issue as complex as officials are attempting to depict; consolidation of the Takoma Park and Silver Spring stations was broached some years ago, defeated, and there is even less support currently for that idea. He stated that the issue of the \$200,000 being illegally withheld by the county must be separated from the fire tax issue; that money is due the City for services it provides and for which the county collects taxes; the county's case should not be supported by accepting the battle on the grounds they choose. He supported initiating legal action against the county should they proceed on their present course.

Mr. Wilson noted that agreements with Attorneys Anne DeNovo and Thomas Gagliardo were discussed at the July 1 worksession and suggestions were made for modifications to those contracts; authorization from Council was needed to finalize the contracts. Councilmember Iddings moved that the City Administrator be authorized to proceed with negotiation of the contracts, duly seconded by Councilmember Bradley. Following discussion, it was noted that the final contracts would be presented to Council at the next worksession prior to their execution. Ms. DeNovo and Mr. Gagliardo noted problems involved in proceeding with pending work without a valid contract with the City for their services. Councilmember Aldrighetti suggested extending the former contract for a one-week period until the new contracts are executed. Mr. Gagliardo asked that the new contracts be made retroactive to July 1, 1985. Consensus was that the July 12 packet would include copies of the new contracts to be dealt with on Monday, July 15. Mr. Iddings noted that making the new contracts retroactive to July 1 gives the City Administrator the authority to proceed with issuing work to the attorneys. Following additional discussion, a motion was made to table the item until the July 15 worksession, duly seconded, and carried with Councilmembers Aldrighetti, Haney and Iddings voting Aye, Councilmembers Bradley and Williams voting Nay, Councilmember Dalmat Abstaining, and Councilmember D'Ovidio Excused.

2. Special Exception 3612, to validate previous conversion of 952 East-West Highway from single family to 2-unit dwelling; modification of parking schedule request.

Tim Mahoney, representing Mr. & Mrs. Shirley Light: referred to his letter submitted to the City Administrator addressing the requested Special Exception in relation to the City's Master Plan. He said in order for the Special Exception to be approved, several questions would have to be addressed; including whether the Special Exception substantially impairs the adopted and approved Master Plan, which he stated would be answered in the negative; and whether the Special Exception would have an adverse effect on adjoining properties or on residents or workers occupying those properties - he again said the answer would be "no" and elaborated on the reasons. He asked the City's support for granting of the Special Exception. Mr. Wilson commented that he had given the letter a cursory reading, did not see any conflict with the City's best interests; granting of the Special Exception would validate a use that has been in existence since 1954, and the Master Plan itself allows for Special Exceptions for anything that took place prior to 1980.

Ellery Denison, 7207 13th Place: said the issue should be carefully examined, it should be ascertained that the property has been continuously used for two-family dwelling purposes, otherwise the entire action would be invalidated under the law; he did not particularly favor the two units in one property, said the owner does not reside on the premises, which indicates indifference to the condition of the property; he expressed concern that the property might be allowed to deteriorate and then be sold, said the entire rest of the neighborhood is single-family dwellings and those property owners are not pleased with having a two-family residence located there. He urged that Council scrutinize the situation very carefully and, if there is any

failure to meet requirements of the law, oppose granting of the Special Exception. He reiterated that the owners should be required to furnish proof that the property has been continuously used as two dwelling units. In response to query, he stated he had had no problems with the use of the property, lives about a half mile removed from it.

Bob Friedrich, 7214 13th Avenue: said he had no objections to the proposal if the owners furnish proof of continuous two-family occupancy, and if they take steps to upgrade the property so that it conforms to the code; he said his only concern was in relation to the busy intersection and whether or not there is provision for off-street parking for the property, was not sure the City should take a stand pro or con on the use.

Asst. Housing Director Austin spoke, noted that the property was not previously registered with the City, was discovered through housing code violation(s) inspection to be two-unit and owners were advised to take steps to legitimize the use, which they are doing by application for the Special Exception. Mr. Mahoney noted that the previous owners had submitted an affidavit to Mr. Austin that they converted the property to two units when they purchased it in 1954, and that it was continuously used as two units since that time. In ensuing dialogue, Mr. Mahoney stated that Prince George's zoning regulations allow a two-unit property, if the conversion took place prior to November 1980, to be designated R-55; such a conversion would now be prohibited. In order to afford adequate time to study Mr. Mahoney's lengthy memorandum submitted, Councilmember Bradley moved tabling the issue for one week, duly seconded, carried unanimously.

3. Affirmation of Council's prior action on pre-preliminary resubdivision No. 7-85015, Austin Tract.

Mr. Wilson noted that, as directed, a letter was sent to the Park & Planning Chairman, Mr. Christeller, raising questions of environmental and regulatory concern, and that document was made a part of the record of the Park & Planning group's discussion of the matter. What that body decided was to do nothing, apparently the developer is free to proceed at her own risk, however, when the application itself comes before them for consideration, all the same questions would be raised again and have to be addressed. Upon inquiry, Park & Planning stated they would provide a staff member to give a briefing on the entire subdivision process and July 15 was set for that presentation.

Ralph Porter, part-owner of Austin Property: stated that Park & Planning's lack of action reflected a reluctance to step on the City's toes; he commented that the Planning Board acts strictly in an advisory role to the property owner(s) in a pre-preliminary resubdivision hearing. He said Park & Planning did not appear negative in their response, Mr. Christeller stated that he saw no apparent legal reason barring the property becoming one lot, and therefore, a buildable lot, however, there might be other concerns which could be addressed through the county Environmental Protection Agency, which is what the owners and contractor have maintained all along.

Mrs. Shoepach, contract purchaser: stated it was her understanding that the step taken at the hearing, although still in the pre-preliminary stage, would normally be taken in the preliminary stage of the process; she said if a preliminary plan were submitted, there was no assurance of how Park & Planning would vote concerning making the property one lot. In response to query, she stated that now, in order to move ahead, at least a couple of thousand dollars would have to be invested in surveys, etc., which she was prepared to do.

Alan Abrams, 7316 Willow Avenue: said one of the major concerns discussed by the Planning Board was the impact of developing an interior lot on other similar blocks in the city, the fear that this would set a precedent whereby property owners could collectively sell off the backs of their lots on other large blocks. He said that was not a far-fetched idea when it is considered that the Austin property was originally the back of Lots 34 and 35 of the original B. F. Gilbert subdivision; he pointed out that the Austin property is completely surrounded by the backyards of other properties; said he did not feel residents' concerns were completely addressed by the

Planning Board. Mr. Wilson stated that while environmental concerns may not have been given full emphasis by the Planning Board, he did not think the point was lost on the prospective builder in terms of what would have to be done to accommodate those concerns in the context of the plan. Mr. Abrams commented that the point was stressed by the Planning Board that since the subject subdivision involves fewer than 2 residences, the normal considerations of drainage, soil erosion, etc., are not considered in the plan. Mayor Abbott related that when additions to the Master Plan took place in the early 1970's in Montgomery County, the Planning Board came up with the idea of utilizing "super lots" and that idea was unanimously rejected by two City Councils during a four-year period; he commented that what some may view as "wasted space" on large lots is open space to be preserved; Council's concern should be restricted at present to the request for an exception related to one piece of property. Councilmember D'Ovidio emphasized that no attempt should be made to draw any parallel between this parcel and the "super lots" which are a different thing entirely. It was noted that the issue will be addressed pro and con, with a representative from the county Planning Board in attendance, at the July 15 meeting. Mr. Abrams reiterated a suggestion made at an earlier point in time by Mr. D'Ovidio that the Austin Preservation Committee make an effort to purchase the property; he said a brief preliminary canvass toward that end had been made and commitments acquired amounting to \$5,300.

Ned Young, 7320 Willow Avenue: said that while he could understand Mrs. Shoepach's desire for Council to take a position on the issue, whatever is done should be done after careful consideration. He commented that storm water and sewer lines would not be addressed by Park & Planning, expressed concern about the poor condition of the existent sewer lines in that area and further damage that could result from heavy construction equipment moving back and forth over those lines. He emphasized that the Austin Preservation Committee members want to fairly purchase the property, not take it from the present owners, and are making concrete efforts in that direction. Mr. Abrams asked that the Mayor and Council get copies of Park & Planning's minutes from the aforementioned hearing and read over Mr. Christeller's remarks prior to the worksession on July 15.

Herb Kaufman, 214 Tulip Avenue: asked whether questions from citizens on the subject under consideration would be received at the July 15 worksession; response was affirmative.

4. Proposed resolution pertaining to cable TV problems in the City (held over from 6/10/85 meeting).

Councilmember Bradley reminded that the resolution was tabled at the June 10 meeting, with copies forwarded to the County Executive and Tribune-United; an interim followup status report was given by Tom Beech of Tribune-United at the June 24 meeting. She stated she would request addition of three more "resolves" to the last paragraph of the resolution, following the word "...agreement," to read as follows: "And, be it further resolved that Tribune-United should increase and improve its corporate response to consumer complaints, especially its response to telephone inquiries; And, be it further resolved, that Tribune-United increase and improve its corporate response to consumer requests for maintenance and repairs; And, be it further resolved, that Tribune-United provide fifty-percent credit to all Takoma Park subscribers for the three-month period from May 1 through July 31, 1985, for the extreme inconvenience experienced by municipal subscribers." She noted continuing problems with the service provided and the firm's response (or lack thereof). Due to lack of a quorum for voting, action on this item was temporarily deferred awaiting return of several temporarily absent Councilmembers; agenda item 5 was discussed in the interim. Upon presence of a quorum, discussion of the resolution and Ms. Bradley's amendments continued. Passage was moved and duly seconded.

Bruce Moyer, 37 Philadelphia Avenue: suggested making the time frame for the rebates from April 1 to June 30, inasmuch as it is still early July and, theoretically, all problems could be corrected by Tribune by the end of July. He noted that most of the city, except for apartment buildings, was wired for cable by early April and complaints were already wide-spread at that time. Ms. Bradley accepted that amendment

to her proposed amendment.

Janice Martin, 1319 Elson Place: related she had done a neighborhood survey; of 28 homes in her area, 14 have cable TV, 14 do not - she questioned 10 of those having the service concerning type of service, any changes made in type of service, problems encountered, etc., and related her results. Reliability of the system was the major complaint, a few considered having the equipment totally removed. In response to query, she favored passage of the resolution. Councilmember Bradley asked that Ms. Martin's survey and results be forwarded to the county and Tribune-United. Comments were made by Ms. Martin and others concerning the continuing problem of the service being down for days at a time, inability to get through to voice complaints on the one published phone number.

Michael Messinger, 7411 Flower Avenue: said he thought the resolution should be addressed to Tribune-United with copies to the County Executive and County Council, rather than as proposed; Council concurred. Ellery Dennison voiced support for passage of the resolution. The question was called; the resolution, as amended, was passed unanimously.

RESOLUTION #1985-18
(attached)

5. Consideration of legislative requests--1986 session of General Assembly, including:

(a) UNIFICATION OF TAKOMA PARK INTO ONE COUNTY--same bill as that introduced in 1985 session, permitting referenda of voters in both sections of city to determine their choice of county;

(b) SPEED LIMIT ON STATE HIGHWAYS (and county roads)--where state highway or county road traverses municipal boundaries, municipality may impose speed limit (and other traffic control measures, such as traffic lights);

(c) FINES FOR MOVING TRAFFIC VIOLATIONS--where arrest made in a municipality, that jurisdiction would receive a percentage of the fine (which now goes to help support the Maryland Court System);

(d) MATTER OF SOVEREIGN IMMUNITY and the Maryland Policeman's Bill of Rights.

Following discussion, consensus of those present was that all of the above be submitted and, additionally, that Municipal Infractions (bringing fines into conformity with those levied by the counties) and Zoning (that power for the City) be again proposed.

Mr. Wilson noted he now had revised copies of both Mr. Gagliardo's and Ms. DeNovo's contracts; consensus was that those documents would be dealt with at the July 15 worksession as previously discussed. Upon motion, duly seconded, the meeting adjourned at 11:20 P.M., to reconvene in regular session at 8:00 P.M. on July 22, 1985.

RESOLUTION 1985-18

WHEREAS, for some five years, the Citizens of Takoma Park have looked forward with great anticipation to the availability and enjoyment of Cable TV in the City: AND

WHEREAS, installation of the system is near completion; however, the Mayor and Council are deeply concerned about the quality of service being rendered by Tribune United in Takoma Park; AND

WHEREAS, complaints from citizens are received in the City Office on a daily basis a sampling of which is enumerated below:

- Inability to register complaints with Tribune United due to interminable delays in telephone communications;
- Absence of response to complaints even if they are successfully registered with Tribune United;
- Improper billing practices;
- Extremely poor reception in many areas;
- Installation not done in a workmanlike manner;
- Only interim service for several weeks; most recently, no service at all from one to three days during the weekend period June 7, 8, and 9, and no response to calls made to Tribune United.

NOW, THEREFORE, BE IT RESOLVED THAT THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND hereby call upon Tribune United to effectuate remedies to the aforementioned problems by taking the necessary steps to ensure compliance with the franchise agreement; AND

BE IT FURTHER RESOLVED THAT:

1. Tribune United is requested to increase and improve its corporate response to consumer complaints, especially its response to telephone complaints;
2. Tribune United is requested to increase and improve its corporate response to consumer requests for maintenance and repairs;
3. Tribune United is requested to provide a 50% credit to all Takoma Park subscribers for a 3-month period from April 1, 1985 through June 30, 1985, for the extreme inconvenience experienced by municipal subscribers; AND

BE IT FURTHER RESOLVED THAT copies of this resolution be forwarded to the Montgomery County Council and the Montgomery County Executive.

ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND JULY 8, 1985.

THE CITY OF TAKOMA PARK, MARYLAND

Regular Meeting of the Mayor and Council

July 22, 1985

8:00 PM

AGENDA

CALL TO ORDER: Mayor Abbott
ROLL CALL: Councilmember Aldrighetti
Councilmember Bradley
Councilmember Dalmat
Councilmember D'Ovidio
Councilmember Haney
Councilmember Iddings
Councilmember Williams

PLEDGE

MAYOR ABBOTT'S COMMENTS AND PRESENTATIONS

1. Honorary Citizen Certificate: James Morgan
2. Other presentations and comments

READING AND APPROVAL OF THE MINUTES OF MAY 15 AND MAY 28, 1985

ADDITIONAL AGENDA ITEMS

GENERAL CITIZENS' REMARKS (those not directed at items for Council action)

ITEMS FOR COUNCIL CONSIDERATION: City Administrator Wilson

1. Administrative reports and communications
2. Discussion of Austin Place resubdivision
Citizens' comments
3. Juniper Street Bridge: approval of final plans
Citizens' comments
Council action
4. Resolution pertaining to New Hampshire Photo/Kissing Booth
located at 6852 New Hampshire Avenue
Citizens' comments
Council action
5. First Reading of an ordinance staying condemnation proceedings,
7709 Takoma Avenue, for one year
Citizens' comments
First Reading
6. Affirmation of prior decision re Special Exception 3612, vali-
dation of multi-family use of 952 East-West Highway (R-55 zone)
Citizens' comments
7. Approval of Year 12 Community Development Block Grant Citizens'
Advisory Committee
Citizens' comments
Council action
8. Schedule special meeting and public hearings for August 5, 7:30 PM
for purpose of hearing comments on:
(1) Petitions for speed humps on Tulip, Pine and Birch Avenues
(2) Rental guidelines amendment

ADJOURNMENT

PRE-COUNCIL SESSION, 7:30 PM

Montgomery County Council videotape

REMINDER:

COLTA Appeal, Wednesday, July 24 at 7:30 PM; closed meeting with
attorneys at 6:45 PM SHARP.

THE CITY OF TAKOMA PARK, MARYLAND

Regular Meeting of the Mayor and Council
July 22, 1985

CITY OFFICIALS PRESENT:

Mayor Abbott	City Administrator Wilson
Councilmember Aldrighetti	Asst. City Administrator Habada
Councilmember Bradley	City Clerk Pusti
Councilmember Dalmat	
Councilmember Haney	
Councilmember Iddings	
Councilmember Williams	
EXCUSED: Councilmember D'Ovidio	

The Mayor and Council convened at 8:26 P.M. in the Council Chamber, 7500 Maple Avenue, Takoma Park, Maryland. Mayor Abbott noted that the Montgomery County Council had voted 5-2 to withhold \$200,000 from the City's tax differential payments on the basis of the fire tax issue. Following the pledge, the Mayor commented that due to the absence of James Morgan, the presentation of an Honorary Citizen Certificate would be postponed until the next meeting.

Councilmember Iddings moved approval of the minutes of May 15 and May 28, as published, both duly seconded, carried unanimously.

GENERAL CITIZENS' REMARKS (not directed at items for Council action)
Dr. Joseph Lerner, 7708 Takoma Avenue: commented on several different matters, including cost to the City of the condemnation process (suggested a fee be imposed to cover cost); wiring for cable TV not strung at a uniform height throughout the city (much of it hangs extremely low, could cause problems), inquired whether the contract specifies an elevation at which the wiring should be installed; referred to his recently submitted memorandum concerning the Juniper Street Bridge which is an agenda item (did not think he could remain for the discussion due to another commitment).

Councilmember Iddings commented that the City does charge for materials and time involved in boarding-up properties in the process of condemnation; when a building is demolished, a lien is placed against the property so the expense to the City can be recouped.

Ellery Denison, 7207 13th Place: expressed concern about a flyer received in the mail, authored by an individual claiming to be the #1 real estate agent in Takoma Park, and touting the advantages of adding an accessory apartment to single-family dwellings; he feared such advertising could generate problems for the city in terms of illegal apartments and additional multi-family units. The Mayor commented on the stringent county requirements that must be met in applying for an accessory apartment, the opportunity afforded the City to comment prior to granting of any such request. Mr. Denison urged that installation of these apartments be discouraged, to the extent possible, by the Council.

Cindy Zeitelman, 300 Mississippi Avenue: presented a petition requesting speed humps and "hidden driveway signs" be placed along Hilltop Road, between Geneva and Mississippi Avenues; she read the petition and, in response to query, stated it was signed by 100% of residents of the affected area. Following discussion, the Mayor stated that, if possible, the petition would be included with others to be addressed at a public hearing on August 5.

Erwin Mack, Pres. of Takoma/Langley Business & Professional Assn.: stated that the association is looking to the City for some sort of assistance in the control of traffic to Holton Lane (at the intersection of Holton Lane and New Hampshire Avenue); he said the matter had been discussed a number of times, but with no resolution to date of the problems at that complex intersection. He commented that the state intends eventually (probably within a year and a half) to put a traffic signal at that location, but in the interim, the situation is very dangerous. The Mayor pointed out that the City has no jurisdiction over that intersection in light of New Hampshire Avenue being a state road; he suggested that the area merchants pressure the state to

proceed with the traffic signal installation without delay. Mr. Mack noted that, additionally, there are no lane markings on the roadway there. Councilmember Iddings commented that the appropriate approach would be for the affected business owners at the location to come up with a proposal for controlling traffic flow at the shopping center and work in concert with the City insofar as achieving their purpose. Mr. Mack noted the availability of Alternative Community Service workers and suggested utilizing some of those people to clean up the intersection of New Hampshire Avenue and University Boulevard, which badly needs attention; he stated, in response to query, that the program provides workers but not supervisory personnel. It was suggested that Mr. Wilson would be the City official with whom to initiate discussions on that topic. Councilmember Iddings voiced favorable comments on the advertising flyer compiled by the Takoma/Langley Business & Professional Association, commended them on the publication. Mr. Wilson commented that Mr. Snyder of State Highway Administration would be at the August 12 meeting to discuss the Holton Lane/New Hampshire Avenue traffic signal.

ITEMS FOR COUNCIL CONSIDERATION:

1. Administrative reports and communications.

Mr. Wilson noted demonstration on July 23 of a retrofitted sprinkler system at the home of a handicapped resident, Mr. Henry Marshalk. He stated a fire will be set in the blue trailer which has been parked in front of the Municipal Building, and the demonstration will show how quickly the sprinkler system can extinguish the blaze. He said the system is particularly geared for handicapped and elderly persons and invited interested citizens to attend.

2. Discussion of Austin Place resubdivision.

Mayor Abbott noted that 8 people had signed up to speak in favor of the resubdivision, 19 in opposition; two hours were allotted for the subject. He stated there would be two 15-minute presentations, with the remaining time divided among the registered speakers.

Joyce Shoepach, petitioner: stated that while the property had been available for purchase for two years, no offers were made; a "for sale" sign was posted for a month prior to her signing a purchase contract and there were no other offers made; now that a contract has been signed, time and energy invested, neighboring property owners have come forward. She noted provision of information to neighbors, extensive conversations with them, and an understanding of their concerns. She expressed a love for the property and a desire to preserve it as much as possible in its natural state. She said she had hoped to prevent the situation from escalating into a nasty battle, however, said the opposition had been guilty of sensationalism, alarmism, inflammatory exaggeration, and distribution of incorrect information. She said signers of the form letter and the petition of opposition were recipients of the incorrect information that was disseminated. She stated that the original landowner, Frederick Austin, intended to build a house on that plot, clearly evidenced by the street and driveway; she read a supporting statement made by Charles Lohr of Park & Planning at the July 3 hearing, and which supported approval of the subdivision. She cited comments made by several Commissioners at the aforementioned hearing regarding the subject of setting a precedent, which indicated they did not feel approval of the resubdivision would set any precedent. She read a statement from a soil conservationist refuting any claims that the land is a clay bog or poorly-drained. She noted that Park & Planning had no record of rejection of any prior resubdivision application(s); access requirements for the property are adequately met; odd shape of the lot is not out of character with other residential lots in the city; according to WSSC there would be no problem tying into the water/sewage systems. She pointed out that while it is good to have open spaces, they should be planned for all to enjoy rather than for just a few adjoining property owners to benefit from gratis, and commented that if a house were constructed on that parcel, it would bring in more tax dollars for the City. She remarked briefly on the encroachment onto the property in various ways by neighboring property owners. She concluded by voicing various promises concerning the land and its preservation, the intent to be a good neighbor, and thanked the Mayor and Council for their time and consideration.

Unidentified male: commented on poor absorption of the soil, said while he was no expert on soil, there is water on the floor and walls of his garage (which is at approximately the same elevation as the proposed structure, and on the same hill side) a week after a heavy rain. He sympathized with Ms. Shoepach's sentiments about the property, but said she fails to accept the fact that 17 out of 18 neighboring property owners feel that her proposed construction would hurt the neighborhood. He reiterated that opponents of the proposal base their case on the Montgomery County Code and the 1982 Takoma Park Master Plan, and read sections therefrom pertaining to resubdivision, said the lot would be out of character with all other lots on the block.

Ned Young: requested creation of a citizens' advisory group to seek out and locate parcels of land in the city in jeopardy of development and improper use, said many neighborhood groups are concerned about the problem. He related history of the Austin parcel, said Frederick Austin built a house on lot 34 and sold it; the purchaser, through Court injunction in 1926, prevented Mr. Austin from building a proposed structure (a foundation remains on the property). He stated that Austin Place was dedicated in 1934 after the death of Mr. Frederick Austin; he noted prior attempts by neighbors to collectively purchase the parcel of property, but said they were not able to offer enough money, and Mr. Austin's daughter did not appear to wish to sell unless the property were going to be used for construction purposes, which would fulfill her father's intent.

Lynn Motley, 7316 Willow Avenue: referred to residents' fears that approval of the resubdivision would be precedent-setting; said there are odd lots and parcels, possibilities, all over the city and owners of those continually receive inquiries from developers. She commented that in light of remarks made by Park & Planning Commissioners at the July 3 hearing, the collective selling off of backs of lots becomes a more imminent possibility. She pointed out that at the aforementioned hearing, after the fact was brought to light that the current owners of the parcel (the Porter brothers) have been in possession only for 7 years, Mr. Christeller expressed a concern about setting a precedent for selling off the backs of long lots to form an additional lot on a block; she quoted verbatim statements made by him and Commissioner Granke.

Mayor Abbott commented that Charles Lohr, an expert with the Planning Board, was requested to attend the meeting for the purpose of responding to questions regarding the process. He declined, claiming that the matter is not presently before the Planning Board and would have to await submission of a preliminary plan before he would participate in any discussion.

Susie Young, Willow Avenue: commented that in all the discussion that had taken place, the issue of historic preservation had not been raised; she noted the parcel of property is in the heart of the historic district and one of the objectives of the historic preservation section of the Master Plan is to encourage preservation by promoting public and private efforts to preserve historic resources; she went on to quote statements from that document in support of preserving the property in its undeveloped state. She stated that, contrary to what had been stated, neither she nor any of her neighbors on Willow were afforded the opportunity of purchasing the property from the Porter brothers. She commented she felt the proposed construction would be detrimental to the community.

Dorothy Darryl: summarized her impression of the July 3 hearing before the Planning Board, and where the issue stands; she said it was her understanding that the issue at pre-preliminary hearing was whether the portions of lots could be consolidated into one lot and the Board's final decision was to take no position; Mr. Wilson verified that he understood that to be the basic issue of the hearing. Ms. Darryl stated that the lot would not meet criteria in terms of being of similar shape and/or character to neighboring lots, and that was the issue that should be emphasized.

Dorothy M. Porter, 7305 Maple Avenue: noted she is the mother of the present owners of the property in question; displayed maps from 1886, 1922, and 1934, all of which depicted the property as a lot for

construction of a single-family dwelling, and pointed out that there is frontage on a dedicated street, thus meeting requirements for a buildable lot. She commented that because the other lots on the block were built on at an earlier point in time did not mean that construction should not take place now on the remaining lot. She said that while the property appears on all the aforementioned maps as part(s) of five lots, it is in actuality one large lot. She said the topography of the land has remained constant, all of the properties on the block are on a hill; storm water management problems should be addressed with WSSC, have nothing to do with whether construction should take place on the lot. Regarding the access from Maple Avenue, she stated that is also owned by her sons and other residents have no claim to it whatsoever; many residents seem to have the warped view that since the land has lain undeveloped and vulnerable to their unauthorized use for so long, it should not now be used by the legal owners; said it appeared to be an attempt at annexation by committee. She urged that Council uphold the legal rights of citizens and vote in favor of granting the requested variance.

James Harrell, 7100 Cedar Avenue, Vice-Pres. Old Takoma Cit. Assn.: referred to a recent letter sent to the City by the association stating their concerns and expressed support for those opposing the proposed resubdivision, particularly in light of the possibility of setting a precedent.

Pat Saunweber, Chairperson, North Takoma Citizens' Association: did not support development of the lot, said there are a number of similar situations in North Takoma, and feared a precedent would be set.

Karen Fisher, President, Historic Takoma Assn.: stated that the association's Board voted unanimously to oppose the proposed development and pledged resources toward purchase of the land for preservation as open space; referred to a letter submitted detailing the association's position on the issue. She urged Council to reject the proposal.

Lewis Porter, 1203 Spottswood Drive, Silver Spring, part-owner of the Austin property: responded to points addressed in the petition submitted by the Austin Preservation Committee; he noted that this group had referred to the property as one of the City's few remaining open spaces, which he disputed inasmuch as it is privately-owned and any use by persons other than the owners would be trespassing, interested parties have a right to offer to purchase the lot, if so desired; he also commented that the property fronts on a dedicated street (Austin Place), which was dedicated in 1934, at the same time as Valley View. He questioned whether a denial by Council that the lot is buildable on the grounds of preserving open space for a small group of residents would not be an encroachment on his rights as a property owner.

Ed McMahon, 7311 Wildwood Drive: spoke as Vice-Pres. of Historic Takoma, and also as a private citizen; he said a variety of reasons and arguments could be presented both for and against the proposed development of the property, reasonable people could differ over which was more important. He stated that Historic Takoma supports preserving the lot as open space, as a resource for future generations to enjoy, said development would affect the entire community and urged that Council take steps to preserve the property. He, too, noted that the association membership is pledging money toward purchase of the property for preservation purposes.

Jim Douglas, 212 Tulip Avenue: asked that Council take the broad view of what would best serve public interest and convey opposition to granting of the resubdivision to the county, said that allowing the consolidation of odd-shaped pieces of land into a buildable lot would almost certainly open the way for others wishing to do the same in the city. He said the final decision should be based not on what sort of house is proposed to be built on the property, but whether a house should be built there at all.

Lynn Scheider, 311 Tulip Avenue: favored allowing Mrs. Shoepach, a skilled artisan and craftswoman in carpentry and cabinetmaking, to build on Austin Place; said she has built beautiful furniture and

houses, works as a carpenter for Montgomery County Schools. She related some additional history of the property, stated she did not think the proposed construction posed the threat to surrounding neighbors they would have people believe. She noted that Ms. Shoepach was willing to conform to the architectural guidelines for structures in the Historic District.

Carol Bannerman: questioned the validity of a number of the concerns put forth by the Austin Preservation Committee, said a number of them, such as drainage and sewer, soil erosion, environmental questions, should be addressed based on the opinions of the experts. She related a conversation with a member of that group which revealed the basic underlying concern to be the desire not to lose the buffer zone that the undeveloped lot provides for other smaller lots on the block, and commented that many of the arguments put forth are veiled attempts to maintain the status quo of that buffer zone, which is an unreasonable expectation. She noted that the property is not appropriate for public open space use; commented that due to her position on this issue, some neighbors are not speaking to her. She asked that Council not base their decision on undocumented claims or petitions that may have been signed with incomplete information.

Witold Krajewski, 7322 Willow Avenue: stated he is a professional hydrologist, deals with the issue of surface water runoff; he said the reason the lot in question currently causes no surface runoff problems is because it is densely covered in vegetation; if that were changed by construction, the situation could change. He stated that if the lot were developed, the probability of flooding in basements of homes on Willow Avenue would be significantly increased.

Colin Porter, 7305 Maple Avenue: stated that none of the associations who had presented their position(s) on the proposed development had sought information from the property owners, so questioned whether they were fully and correctly informed prior to voting. Concerning the issue of historic preservation, he stated that homes on that block were constructed at various time periods spanning several centuries; the issue of runoff could be resolved by working in conjunction with the developer. He pointed out that lot 33 (owned by the owners of lot 32) is a legally buildable lot, and all that would be required would be to apply to the county for a building permit; if that were done, access to the property from the driveway would be cut off. He stated that the injunction obtained halting Mr. Austin from building on the property years ago involved a personality conflict with a neighbor and was related to construction of a retaining wall (not a house) on the right-of-way. He said that because the lot is larger than others on the block is not a valid argument against constructing on it. In the event the property were made an open space area, as had been suggested, he questioned whether property owners on the block would not resent the invasion of their privacy in their backyards when the public used the open space.

Carl Camp, Spruce Avenue: noted the issue is complex, involving many factors, however, the fact remains that 17 out of 18 adjoining property owners oppose construction on the property; he urged that Council vote against permitting the proposed development.

Bruce Waddel, 7315 Maple Avenue: stated he was the owner of lot 32 and part of lot 33, and had no intention of building on lot 33; he noted that a great deal of incorrect information had been presented, making Council's decision very difficult. He related that when he and his wife bought their property, they were informed both by the realty company and neighbors, that the Austin property was not buildable, that neighboring properties were protected by the Master Plan and the County Code; he said that was the most likely reason that an offer had not previously been made by the neighboring property owners to purchase the tract. In ensuing dialogue, the Mayor pointed out that it would have been premature for Council to take a position on the issue prior to having more complete information or any plan being submitted to Park & Planning. Mr. Waddel commented that Mrs. Shoepach would suffer a monetary loss if she went to the expense of developing a plan and Council then took a strong stand against it, felt Council would be doing a favor to all involved if some indication of position were put forth at the current point in the process. He urged that Council

review the County Code and the Master Plan and base their decision on whether the property meets the requirements set forth therein, which he felt it did not.

Jean Dooley, 7321 Willow Avenue: stated that all members of the Austin Preservation Committee who are supporting preservation of the property for open/green space are not adjacent property owners and do not actively use the land, but, nevertheless appreciate having the lot in its natural state; she urged Council to vote against development of the property.

Sandra Egan, 9 Valley View: stated that her property abuts the Austin property, expressed support for the proposed construction.

Steve Shapiro, 7324 Willow Avenue: said he had heard from neighbors who are long-time residents that the property in question was used by area children at one time as a play area and flooding resulted from the use, so it was stopped. He said he had been shocked to learn that the City does not have zoning power, however, it is incumbent upon city officials to do whatever is in the best interest of the city and exert pressure on the county to do likewise.

Matthew Zalichin, 7407 Maple Avenue: said that while it had been stated that Austin Place, which Ms. Shoepach's house would front onto, was a dedicated street, it was actually just some land there with no sort of paving.

Ralph Porter, 3760 Jennings Chapel Road: stated he was a part-owner of the Austin property, the owners are under contract to Ms. Shoepach to sell the property to her for the purpose of her building her home on the lot. He stated that any inquiries (including any from a citizens' group) concerning purchasing the property, morally and by law, would have to go through Ms. Shoepach. He commented on being surprised, during the time the property was posted as being for sale, that no offer was made by adjacent property owners to purchase the land, nor had one been made to date. He stated that the lot is an attractive piece of land with beautiful trees because he and his partner(s) wanted and made it that way, rather than altering it. He pointed out that the property is zoned R-60 and that is the use being proposed; however, noted that the City has the right of ^{IMMINENT} ~~imminent~~ domain, i.e., purchasing someone's property at a fair price for City use, if so desired, and that would be the proper vehicle for acquiring the property if it were for other than private use for a home. Mayor Abbott commented he did not feel imminent domain to be applicable in the present case and explained why; said the City would have to establish the market value of the property (contingent upon whether or not the lot would be buildable, whether it met all the criteria for building); if it were concluded that the lot was not buildable, the price would then be lower. Purchase money would be placed in an escrow account in a bank if the owner contested the purchase, and the owner would then have to take the City into court. He also stated that to his knowledge the City had never used that power. Mr. Porter stated that it appeared the group opposing the proposed development was attempting to gain use of the land through a distorted process - if they wanted legal use of it, they should have made a purchase offer prior to a contract being entered into, should have at least indicated some interest. He stated that prior to the contract being signed, he had no indication that there was resistance to sale/development of the property. He stated that in the opinion of Mr. Christeller of Park & Planning, while it was marginal, the property apparently did meet requirements for being a buildable lot. In response to Councilmember Dalmat, he affirmed that the contract is contingent upon the lot being buildable.

Following a break from 11:00-11:15 P.M., the meeting resumed. Councilmember Aldrighetti questioned, if Mrs. Shoepach stood behind her promises to conform with historic preservation criteria in building, as well as addressing environmental concerns and any other negatives voiced, perhaps drew up a covenant, what objections the opposing group would have. A member of the audience commented on the eventuality of Mrs. Shoepach selling the house at some future time, and there being no way of ensuring continuance of any covenants with a new owner. Councilmember Bradley commented that Council was currently

awaiting information from Corporation Counsel regarding placement of covenants on deeds, said that would be a legitimate question regardless of who should purchase the land. A member of the opposition stated from the audience that the group does not believe what is being proposed to be legal, and even if it were declared to be legal, would still be opposed based on having a house surrounded by backyards of other properties and access to the property being alongside other homes.

Mayor Abbott questioned whether there was any suggestion at the Park & Planning hearing of the property being landlocked; response was negative. Councilmember Iddings commented that Mr. Christeller stated that the existence of the paper street (Austin Place) provided the necessary street frontage, technically, for the lot, and access was from the driveway, which was fine. Thus, the lot was potentially a legally buildable lot. The Mayor questioned whether any statement was made that Austin Place would have to be developed in order to fulfill its access function; Mrs. Shoepach stated it does not have to provide access, that is provided by the 10' wide driveway; Austin Place only has to provide street frontage, and it does that in its present state; she noted that there are other instances where street frontage and access are separate provisions. Councilmember Aldrighetti commented on the complexity of making a decision in light of the viable arguments presented by both sides; he questioned what the community would be prepared to do in the way of compensation to Mrs. Shoepach in the event the vote should be cast in their favor. A member of the opposition group noted that pledges had been made in excess of \$18,000 and fundraising is continuing; the group had been in contact with the Trust for Public Land and they are willing to enter negotiations when the time is appropriate. Councilmember Haney commented he did not question Mrs. Shoepach's intentions being as she had stated, felt the Austin Preservation Committee's arguments could have been stated better, and should the present contract not work out, there are other options open to the Porter brothers; he stated he did personally feel that approving development on the property would adversely affect the neighborhood and based on that would vote in opposition. He stated that the degree of neighborhood opposition, while not being a compelling factor, carried some weight in his decision; he felt approval would set a precedent for other resubdivisions, particularly in light of the proximity of Metro. Councilmember Bradley commented on being able to empathize with both sides on certain points, said she felt the Planning Board was abdicating responsibility in deferring to the City on the issue, they have technical staff that could have furnished concrete opinions on some of the problems anticipated (such as drainage); she noted that in some instances that body had acted in direct opposition to the City's expressed position. She stated she felt the issue to be a one-shot affair, not precedent-setting; however, in light of the enormous community opposition, she felt neighboring property owners should be given an opportunity to purchase the land at fair market value, within a reasonable period of time, despite the fact that she felt the lot to probably be buildable and that a single-family dwelling built there would not damage the community. She commented she thought that probably the reason the Planning Board hedged on voicing an opinion was that they felt the lot to be buildable and knew they could not deny the property owner's rights. She stated she did not support use of public funds to purchase open space of the type characterized by the subject property. She noted that regardless of how the situation is resolved, there would be legal questions, and she would want to see covenants placed on the property ensuring its use. Councilmember Dalmat commented she had generally opposed past requests for resubdivision, however, this one seemed different in some aspects; she said in light of yet unanswered questions, if a vote were taken at the current meeting, she would abstain. In response to query from the Mayor, City Clerk Pusti reiterated that Mr. Lohr of Park & Planning had declined attending the current meeting on the basis that what was under consideration was a pre-preliminary plan, no preliminary plan having yet been submitted. Councilmember Iddings commented that Mr. Christeller did address questions raised by the City at the Planning Board hearing. Councilmember Williams commented that Council was faced with making a difficult moral decision, faced with public opinion on the one hand and the property owner's legal rights on the other. In response to query, Mrs. Shoepach stated that the \$18,000 raised to date by the Austin Preservation

Committee amounted to not quite half the fair market value of the land. Mr. Williams commented on Mrs. Shoepach's seeming sincerity and questioned the validity of the arguments put forth by neighbors. Councilmember Iddings commented that if the property were going to be developed, he felt Mrs. Shoepach was sincere and would do a good job, however, he was not convinced the lot had to be developed and would like time afforded for alternatives to develop; he was not sure the lot would meet subdivision requirements and was not convinced that approval would not be precedent-setting, said no strong case had yet been made as to why it would not be precedential; he would oppose the resubdivision and noted that having nothing from Park & Planning placed the City in an awkward position for decision making. He noted that should Mrs. Shoepach file a preliminary plan with Park & Planning, the City would then have to hold a public hearing, however, he stated he would make a motion, in the form of a resolution, which would express the present sense of the Council. He read and moved the said resolution; the motion was duly seconded by Councilmember Haney.

Colin Porter responded to Mr. Iddings' comments concerning precedent setting, reiterated that because a portion of the property is already a legally buildable lot, it would not be the same as putting segments of backyards together to form a lot.

Arthur Karpas, Westmoreland Avenue: summarized problems of both the land owners and the community and noted that even if the land were not developed, there would be problems related to its use due to its delicacy, previously described as being too delicate to sustain use by children as a play area. He wondered just what use would be envisioned. Following discussion, Mrs. Porter spoke concerning the history of properties on the block and how the lots were aligned over the years. Mayor Abbott commented that one thing the issue had again raised was zoning power for the city; he said he felt sure all involved would prefer that such questions could be resolved by a zoning commission comprised of city residents. He noted that vacant lots in the city, both interior and on-street, would be added to the open space inventory mentioned earlier; he remarked that there are many aspects to open space preservation, however, did not think that concept appropriately applied to the property in question.

Mr. Iddings restated his prior motion, with minor amendments proposed by Councilmember Bradley. The amendment was accepted by the seconder of the original motion. Mr. Iddings noted that reports regarding efforts at fund-raising and negotiations with Mrs. Shoepach would be expected from the Preservation Committee, said Council's opposition, in large part, is to afford opportunity for an amicable arrangement to be reached to retain the open space. Following additional discussion, Councilmember Bradley again stated for the record that she believed the lot is probably a buildable lot; she would have preferred that Park & Planning on its technical merit make a recommendation, however, unfortunately, they chose not to do so. The question was called; the resolution was passed with Councilmember Dalmat Abstaining, Councilmember D'Ovidio Excused, balance of Council voting Aye.

RESOLUTION #1985-19
(attached)

3. Resolution pertaining to New Hampshire Photo/Kissing Booth located at 6852 New Hampshire Avenue.

Paul D'Eustachio noted that the subject establishment had been closed down by Prince George's County on the grounds of its being a neighborhood nuisance, said the resolution, if passed, would reinforce that action. He noted that the owner, Mr. Sobin, had been arrested and convicted on charges of pandering both in D. C. and Arlington. He stated that the issue is economic, that neighborhood preservation, neighborhood integrity and safety are at stake. He noted that WACO had passed a supporting resolution. Councilmember Dalmat noted that residents from all areas of the city are concerned about that business; she moved passage of the resolution, duly seconded by Councilmember Aldrighetti. Councilmember Aldrighetti furnished information previously requested concerning the name of the property owner (John Spannos), address and phone number; said he had not been particularly receptive to past complaints about occupants of his property. Councilmember Haney noted a previous request that a meeting

be arranged between Mr. Spannos and city officials.

Arthur Karpas, Westmoreland Avenue Community Organization: expressed support for the resolution, said the business should be permanently closed down; he relayed concern expressed by some lawyer members of WACO that perhaps some statements in the document were too strongly stated and read a proposed substitute for the first six sections.

Ellery Denison, Hillwood Manor Community Association: expressed support for the resolution; said such businesses do not benefit the community, hoped Council and the Prince George's County authorities would do everything possible to permanently eliminate the business from the area.

William Eckert, 7106 Woodland Avenue: voiced strong support for the resolution as originally written, felt any softening amendment would detract from the impact and intent of the document and urged that not be done.

Andrew Thompson, 611 Elm Avenue: spoke concerning the efforts of a group of concerned citizens since 1982 directed toward related sexually-oriented businesses operated at that same location; urged Council's support for the resolution.

Councilmember Haney commented that Erwin Mack, President of the Takoma/Langley Business & Professional Association, who was present earlier but had to leave, had wished to go on record in support of the resolution. He additionally noted the expressed support of the New Hampshire Gardens Citizens' Association. Following additional discussion, the question was called; the resolution passed unanimously.

RESOLUTION #1985-20
(attached)

Consensus was that a letter would be sent certified mail to Mr. Spannos, owner of the property whereon the business is located, requesting a meeting with him for discussion purposes.

4. Juniper Street Bridge: approval of final plans.

In light of the absence of Mr. Lerner, Councilmember Bradley moved tabling the item. The Mayor noted that the item had been discussed in worksession, no objections voiced to the plans, and Mr. Lerner had been invited to attend that meeting. Ms. Bradley withdrew her motion. Mayor Abbott moved approval of the plans, duly seconded by Councilmember Iddings, carried unanimously.

5. First reading of an ordinance staying condemnation proceedings, 7709 Takoma Avenue, for one year.

The ordinance was accepted for first reading.

PROPOSED ORDINANCE #1985-
(attached)

6. Affirmation of prior decision re Special Exception 3612, validation of multi-family use of 952 East-West Highway.

Upon motion, duly seconded, Council voted to affirm its prior decision not to oppose granting of the Special Exception (vote was 3-1, Councilmember Bradley abstained).

7. Approval of Year 12 Community Development Block Grant Citizens' Advisory Committee.

Councilmember Bradley moved approval, duly seconded. Councilmember Haney moved addition to the list of Ron Harne, President of the New Hampshire Gardens Citizens' Association, and Tom Allegretti as representative for that association. It was noted that other additions could be made at a later date. The committee membership as presented, with the aforementioned addition(s), was unanimously approved.

It was noted a special meeting would be convened August 5 for the purpose of holding public hearings on speed hump petitions and rent stabilization guidelines. Councilmember Bradley commented that she and Mr. Haney, at a future date, would be presenting pertinent material and requests for staff to insert security provisions, such as

proper locks on doors and windows, etc., into the City's housing code.

Upon motion, duly seconded, the meeting adjourned at 12:55 A.M., to reconvene in special session on Monday, August 5, 1985, at 7:30 P.M.

...of the Board of City Commissioners...
...at the Council Meeting on Monday, August 5, 1985, at 7:30 P.M....

...Council's support for the resolution.

...Councilman Harry...
...Harry...
...Councilman Harry...

...Councilman Harry...
...Councilman Harry...

4. Junior Street Bridge: approval of final plans.

In light of the absence of Mr. ...
...Councilman Harry...
...Councilman Harry...

5. First reading of an ordinance amending Ordinance 2128-84 relating to the use of 1709 Lakota Avenue for one year.

The ordinance was accepted for first reading.

6. Affirmation of prior decision re Special Exception 3015, validation of multi-family use of 952 East-West Highway.

Upon motion, duly seconded, Council voted to affirm its prior decision.

7. Approval of Year 12 Community Development Block Grant by the Advisory Committee.

Councilman Harry...
...Councilman Harry...
...Councilman Harry...

RESOLUTION NO. 1985-19

WHEREAS, Joyce Shoepach, contract property owner of the Austin Place Property, and the Austin Place Preservation Committee, have come before the Council for a decision about the proposed subdivision of the Austin Place Property; AND

WHEREAS, although there is currently no Preliminary Plan before the Montgomery County Planning Board for the City Council to react to, the Council does want to express its position on the proposed subdivision to assist Ms. Shoepach and the Committee in planning for this property.

NOW, THEREFORE, BE IT RESOLVED THAT it is the sense of the City Council of Takoma Park that it, at this time, does not favor the resubdivision of the Austin Place Property and that, in taking this position, the City Council fully expects the community to make a vigorous and good faith effort to purchase the Austin Place Property.

ADOPTED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND JULY 22, 1985.

RESOLUTION 1985-20

WHEREAS a sexually oriented business, known as New Hampshire Avenue Photo is currently conducting business at 6852 New Hampshire Avenue, on the border of the City of Takoma Park, and

WHEREAS New Hampshire Avenue Photo is controlled by Mr. Dennis Sobin, the owner of a number of similar sexually oriented businesses in the Washington Metropolitan Area, and

WHEREAS such similar sexually oriented businesses are generally known to attract a variety of criminal and other undesirable activities such as prostitution, drug trafficking, robbery, the receiving and selling of stolen goods, the forming of large unruly crowds, the accumulation of litter and trash, and the regular harassment of patrons of nearby legitimate businesses, and

WHEREAS such criminal and other undesirable activity is clearly detrimental to the community oriented and multi-cultural neighborhoods of which the City of Takoma Park is justifiably proud, and

WHEREAS such criminal and other undesirable activity clearly accelerates the problems of economic decline and physical deterioration in community oriented and multi-cultural neighborhoods bordering on New Hampshire Avenue and within the boundaries of the City of Takoma Park, and

WHEREAS this economic decline and physical deterioration of Takoma Park's neighborhoods is clearly detrimental to the general well being of Takoma Park's citizens and the City as a whole, and

WHEREAS citizens, through their neighborhood associations - the Carol Highlands Citizens Association, the South of Sligo Citizens Association (SOSCA), the Westmoreland Area Community Organization (WACO), the B. F. Gilbert Neighborhood Association - have voiced their opposition to the operation of this establishment in their community,

NOW THEREFORE BE IT RESOLVED THAT the City Council of the City of Takoma Park formally condemn the actions of Mr. Dennis Sobin for establishing and operating this business contrary to the interests and wishes of the community and request that the Prince George's County Executive, the Prince George's County Council and the Prince George's County Police Department take immediate action to protect the affected Takoma Park and surrounding neighborhoods from the activities of New Hampshire Avenue Photo and other similar sexually oriented businesses, and further

BE IT RESOLVED THAT the City Council of the City of Takoma Park formally request that the Prince George's County Police and other appropriate officials take all legal actions available to them to insure that New Hampshire Avenue Photo ceases to conduct business.

ADOPTED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND ON JULY 22, 1985.

ORDINANCE NO. 1985-

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND

SECTION 1. THAT on January 28, 1985, the Mayor and Council adopted Ordinance No. 1985-5, declaring the structure located at 7709 Takoma Avenue, Takoma Park, Md., to be unfit for human habitation and setting the date of February 25, 1985 for a show cause hearing as to why the property should not be declared a nuisance; AND

SECTION 2. THAT the show cause hearing was not held at the scheduled time owing to the death of the owner, Edith L. Latham, on February 24, 1985; AND

SECTION 3. THAT on June 30, 1985, the City received a letter from W. Douglas Varn, 1212 Lamont Street, N. W., Washington, D. C., which in pertinent parts stated the following:

"My wife and I have reached an agreement with Mr. Deane A. Shure, attorney for the estate [of Edith L. Latham], for the purchase of the property. It is our intention to renovate the property and occupy it as our principal residence.

"The purchase is contingent, however, upon satisfactory assurances to us and prospective mortgage lenders that the condemnation process will be cancelled. Assuming that prospective mortgage lenders concur, we are agreeable to the City retaining the current, suspended status of the condemnation proceedings pending our best efforts to bring the property into compliance with the appropriate building codes at which time the condemnation will be cancelled."

SECTION 4. THAT in the light of the above assurances, the Mayor and Council hereby temporarily suspend condemnation proceedings on the property at 7709 Takoma Avenue for a period of _____, after which time it will be permanently rescinded or revived.

v

Special Meeting of the Mayor and Council

July 24, 1985
7:30 PM

COLTA APPEAL TP-171

After lengthy discussion by parties involved in the appeal, and by mutual consent, the hearing is to be continued on Monday, August 12, 1985, at 7:00 PM.

The meeting adjourned at 8:55 PM.

ITEMS FOR COUNCIL CONSIDERATION: City Administrator Wilson

1. Special Exception S-1130, continued use of an existing apartment at 1401 Council Avenue as an accessory apartment (hearing: 9-19-85, 1:30 PM, Rockville)
Citizens' comments
Council action
2. Special Exception S-1130, continued use of an existing apartment at 1106 Jackson Avenue as an accessory apartment (hearing: 9-12-85, 9:00 AM, WCB, Rockville)
Citizens' comments
Council action
3. Public hearings on speed hump petitions for:
 - a. Tulip Avenue
 - b. Pine Avenue
 - c. Birch Avenue
 - d. Hilltop Road
4. Public hearing on Rent Stabilization Guidelines
5. Resolution commemorating the 1st World Conference of Mayors for Peace through Inter-city Solidarity, sponsored by the Cities of Hiroshima and Nagasaki, Japan
Citizens' comments
Council action
6. Authorization to submit proposed Commercial Crime Prevention Code to Corporation Counsel for review (Honey)
Council action
7. Fire Tax reimbursement discussion
8. Discussion re position letter on Washington Adventist Hospital and State consultant's report recommending consolidation or closure
Citizens' comments
Council action

ADJOURNMENT

NOTE: Public Hearings will be videotaped.