

MINUTES OF A REGULAR MEETING OF THE MAYOR AND COUNCIL
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,
MONDAY, FEBRUARY 22, 1988, 7:30 P.M.

Mayor Jonathan B. Howes called the meeting to order. Council Members present were:

- Julie Andresen
- David Godschalk
- Joe Herzenberg
- David Pasquini
- Nancy Preston
- James Wallace
- Arthur Werner
- Roosevelt Wilkerson

Also present were Town Manager David R. Taylor, Assistant Town Managers Sonna Loewenthal and Ron Secrist and Town Attorney Ralph Karpinos.

Mayor Howes commented that Deborah Crane, a reporter for WCHL radio station, was leaving WCHL News where she had covered the Town Council and other local government subjects in southern Orange County and was relocating to Raleigh to work for WRAL-TV. He said the Council wanted to recognize Ms. Crane and thank her for her excellent coverage and wish her the very best in her new endeavor.

Petitions

Richard Wolfenden, speaking for various residents of Mason Farm Road, petitioned the Council to retain the current zoning designation for a parcel of land north of Mason Farm Road under consideration for rezoning. (For copy of text, see Clerk's files.)

M. A. Lyons, speaking as a resident, asked to speak to item #5, Comprehensive Rezoning, Area 20 - Dobbins Drive.

Charles Hodson, speaking as a resident, asked to speak to item #5, Comprehensive Rezoning, Area 4 - Roosevelt Drive.

Rosemary Munger, speaking as a resident of 227 McCauley St., petitioned the Council to limit parking to residents only on the south side of McCauley Street between Ransom and Pittsboro Streets between 8 a.m. and 12 noon, Monday through Friday. (For copy of petition, see Clerk's files.)

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER WILKERSON TO RECEIVE AND REFER THE PETITION TO THE MANAGER. THE MOTION PASSED UNANIMOUSLY, (9-0).

Greg Essick, speaking as a Graham Court resident, petitioned the Council to waive, reinterpret or change the guidelines regarding the number of and distribution of parking permits allocated to Graham Court if restricted parking was instituted on McCauley Street between Ransom and Pittsboro Streets. (For copy of petition, see Clerk's files.)

COUNCIL MEMBER WALLACE MOVED, SECONDED BY COUNCIL MEMBER WERNER TO RECEIVE AND REFER THE PETITION TO THE MANAGER. THE MOTION PASSED UNANIMOUSLY, (9-0).

James Pickard and Clarence Gray, speaking as residents, asked to speak to item #5, Comprehensive Rezonings, Area 21 - Old Durham Road.

Council Member Preston stated that the Municipal Building Expansion Committee would hold a meeting on Monday, February 29 at 9:30 a.m. and that the Council and Appearance Commission were invited to the meeting.

Town Attorney Ralph Karpinos reported that the Women's Center case had been postponed at the request of the plaintiff's attorney and that no new date had been set.

Minutes

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT THE MINUTES OF FEBRUARY 8, 1988 AS CIRCULATED. THE MOTION PASSED UNANIMOUSLY, (9-0).

Comprehensive Rezonings

Area 4: Roosevelt Drive

Roger Waldon, Planning Director, said at the request of a property owner, the proposal was to rezone the area from Residential-2 (R-2) to Residential-1a (R-1a). He said the staff and Planning Board recommended retaining the current R-2 zoning.

Charles Hodson, speaking as a property owner, spoke in support of retaining the current zoning.

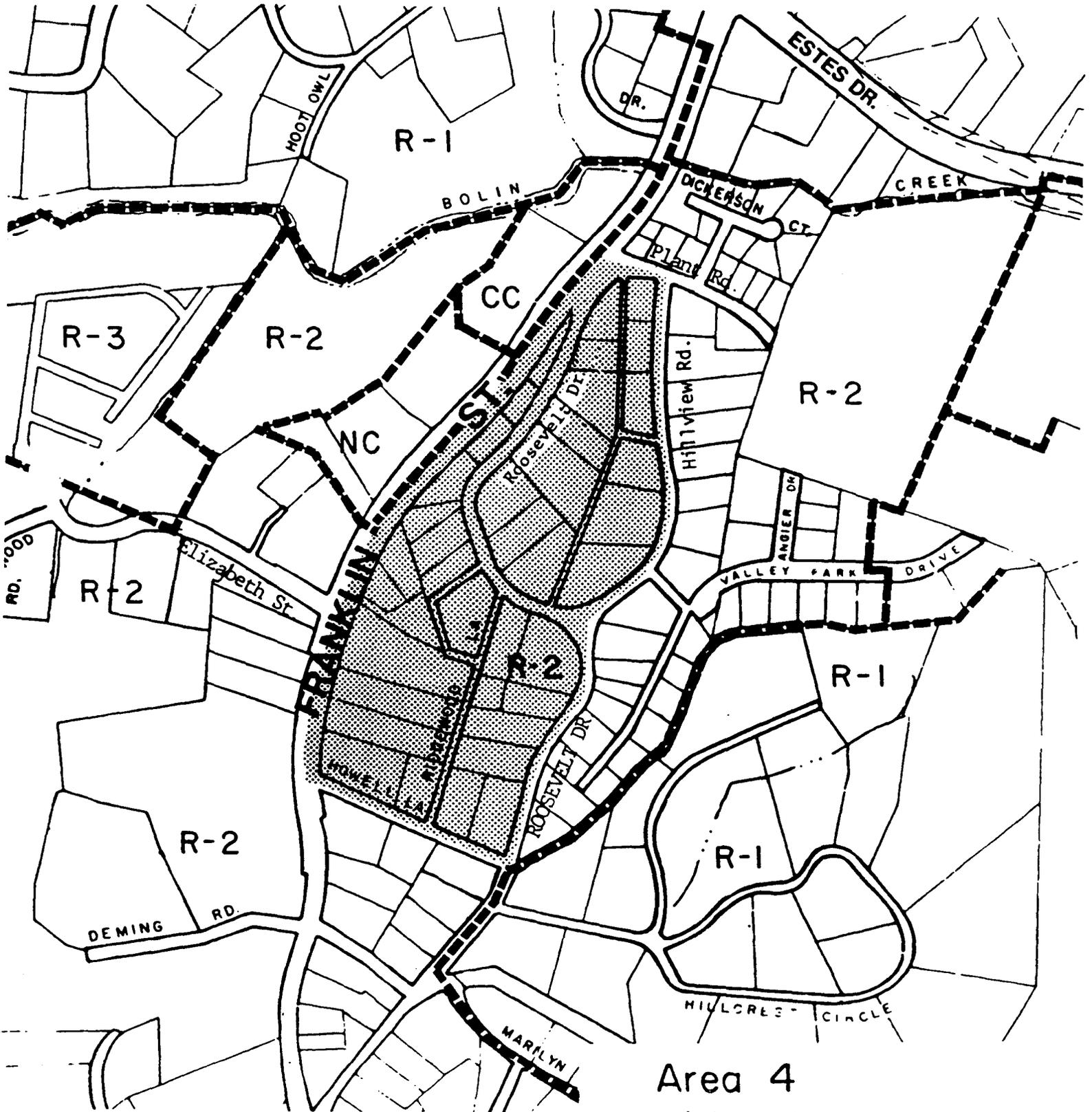
Council Member Andresen asked what was the size of Mr. Hodson's lot? Mr. Hodson replied that it was about 12,000 square feet.

Council Member Preston commented that there was also a letter from two other property owners objecting to the proposed rezoning.

COUNCIL MEMBER WALLACE MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO ADOPT RESOLUTION 88-2-22/R-1, TO RETAIN THE CURRENT R-2 ZONING.

Area 4

The shaded portion of the following map is "Area 4."



Area 4
with existing zoning

Council Member Andresen said she would prefer zoning the property either Residential-1 or R-1a. She stated that the Town had recently bought property in the area to maintain as an entrance-way and that the R-2 zoning could allow for subdivision of lots which could lead to infill.

THE MOTION CARRIED, (8-1), WITH COUNCIL MEMBER ANDRESEN VOTING AGAINST.

The resolution, as adopted, reads as follows:

A RESOLUTION DENYING A PROPOSAL TO REZONE PROPERTY
Area 4: Roosevelt Drive (88-2-22/R-1)

WHEREAS the Chapel Hill Town Council has considered a proposal to rezone property from R-1 to R-1A, such property labeled as Area 4 on the attached map; and

WHEREAS the Council does not find it appropriate to rezone this property in this manner at this time;

NOW THEREFORE BE IT RESOLVED by the Council of the Town of Chapel Hill that it denies the proposal to rezone this property as indicated above.

This the 22nd day of February, 1988.

Area 5: Culbreth/Smith Level

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT ORDINANCE 88-2-22/O-2, TO REZONE THE AREA TO R-2.

Council Member Wilkerson asked the Town Attorney if the rezoning were defensible and winable in court. Attorney Karpinos responded that in his opinion yes.

THE MOTION PASSED UNANIMOUSLY, (9-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE REZONING PROPERTY
Area 5: Culbreth / Smith Level Road (88-2-22/O-2)

WHEREAS, the Chapel Hill Town Council adopted a Land Use Plan in July, 1986; and

WHEREAS, this Land Use Plan is a component of the Town's Comprehensive Plan; and

WHEREAS, the Town Manager and Planning Board have identified areas on the Town's Zoning Atlas where existing zoning is not consistent with the Comprehensive Plan; and

WHEREAS, owners of property to be considered for rezoning, as well as owners of property adjacent to those being considered for rezoning, have been notified of these proposals to rezone property;

NOW THEREFORE BE IT ORDAINED by the Council of the Town of Chapel Hill that the Chapel Hill Zoning Atlas be amended as indicated on the attached map labeled as Area 5, rezoning property from R-4 to R-2; such amendment being necessary to achieve the purposes of the Comprehensive Plan.

This the 22nd day of February, 1988.

Area 6: Dogwood Acres Drive

Roger Waldon, Planning Director, stated that originally the staff had recommended rezoning the area from R-1 to R-2, but that since the public hearing the Town had purchased the property for a public park and therefore it would be inappropriate to proceed with the rezoning of the property.

COUNCIL MEMBER ANDRESEN MOVED, SECONDED BY COUNCIL MEMBER PASQUINI TO ADOPT RESOLUTION 88-2-22/R-3, TO RETAIN THE CURRENT R-1 ZONING. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION DENYING A PROPOSAL TO REZONE PROPERTY
Area 6: Dogwood Acres Drive (88-2-22/R-3)

WHEREAS the Chapel Hill Town Council has considered a proposal to rezone property from R-1 to R-2, such property labeled as Area 6 on the attached map; and

WHEREAS the Council does not find it appropriate to rezone this property in this manner at this time;

NOW THEREFORE BE IT RESOLVED by the Council of the Town of Chapel Hill that it denies the proposal to rezone this property as indicated above.

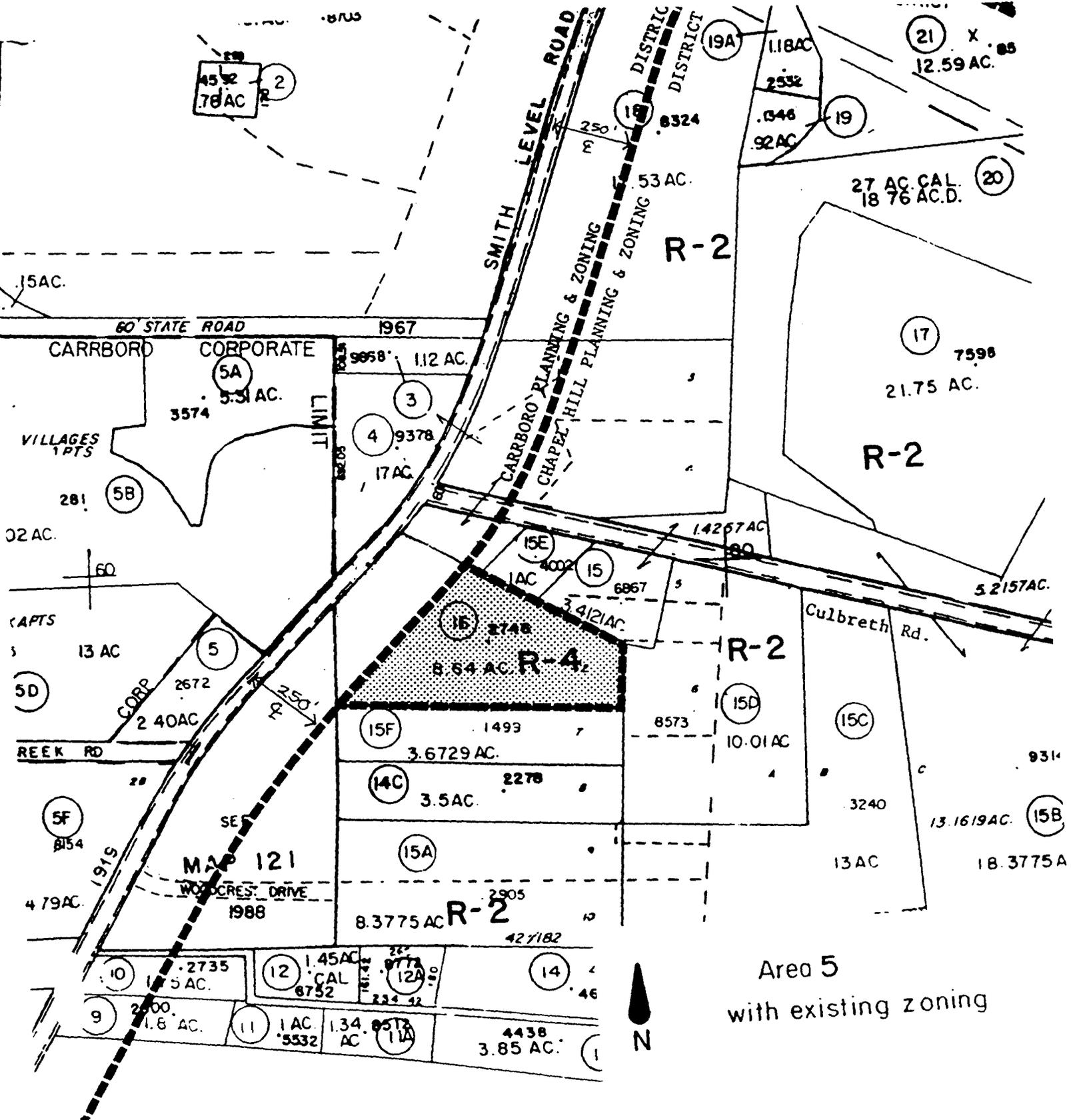
This the 22nd day of February, 1988.

Area 7: Mason Farm Road

Roger Waldon, Planning Director, said this proposal had been at the request of the University to rezone some of their property from R-1 to OI-3. He stated that at the public hearing there had been concern expressed by neighbors that the area should be retained at R-1 zoning to provide the buffer between the

Area 5

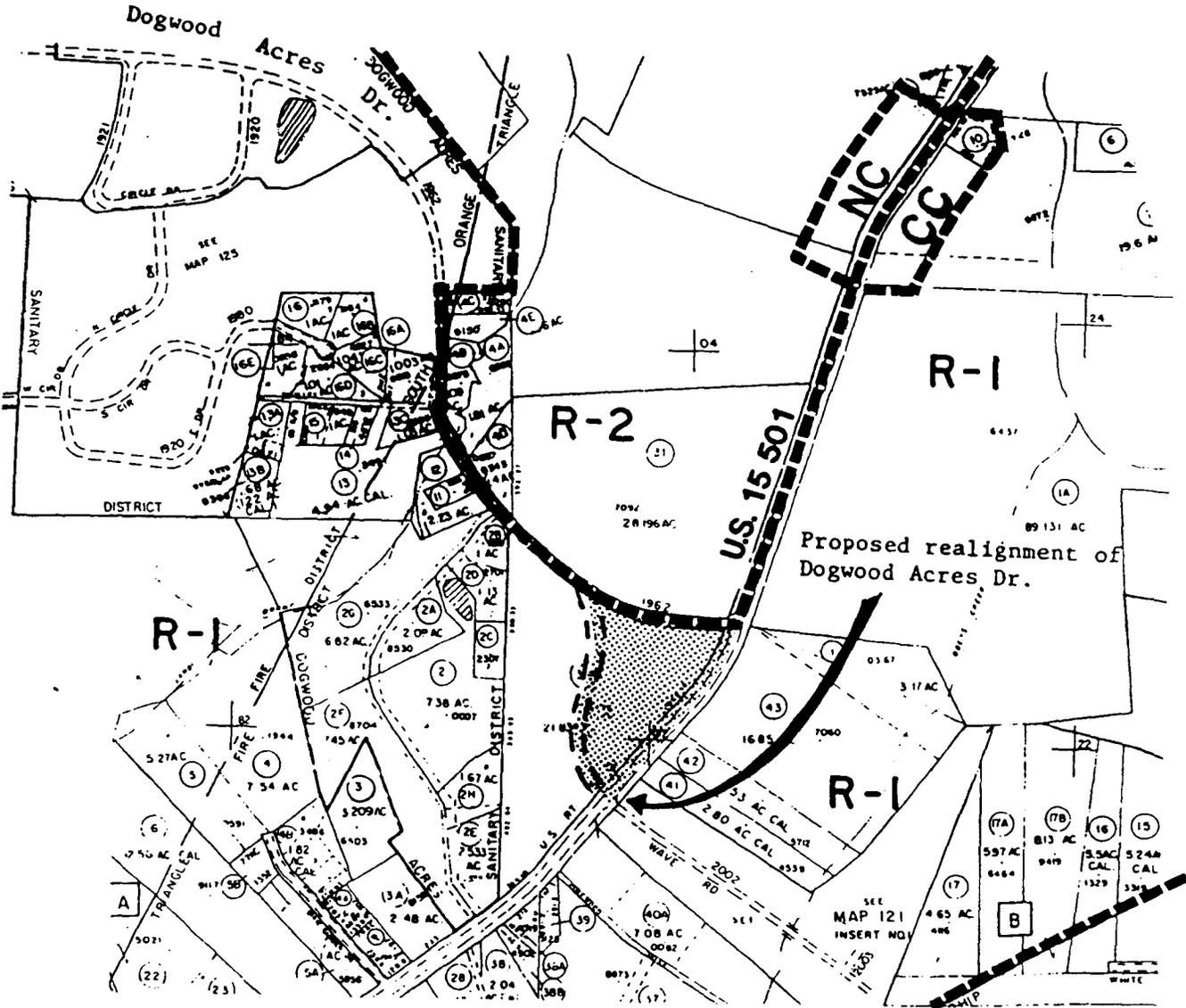
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Area 5
with existing zoning

Area 6

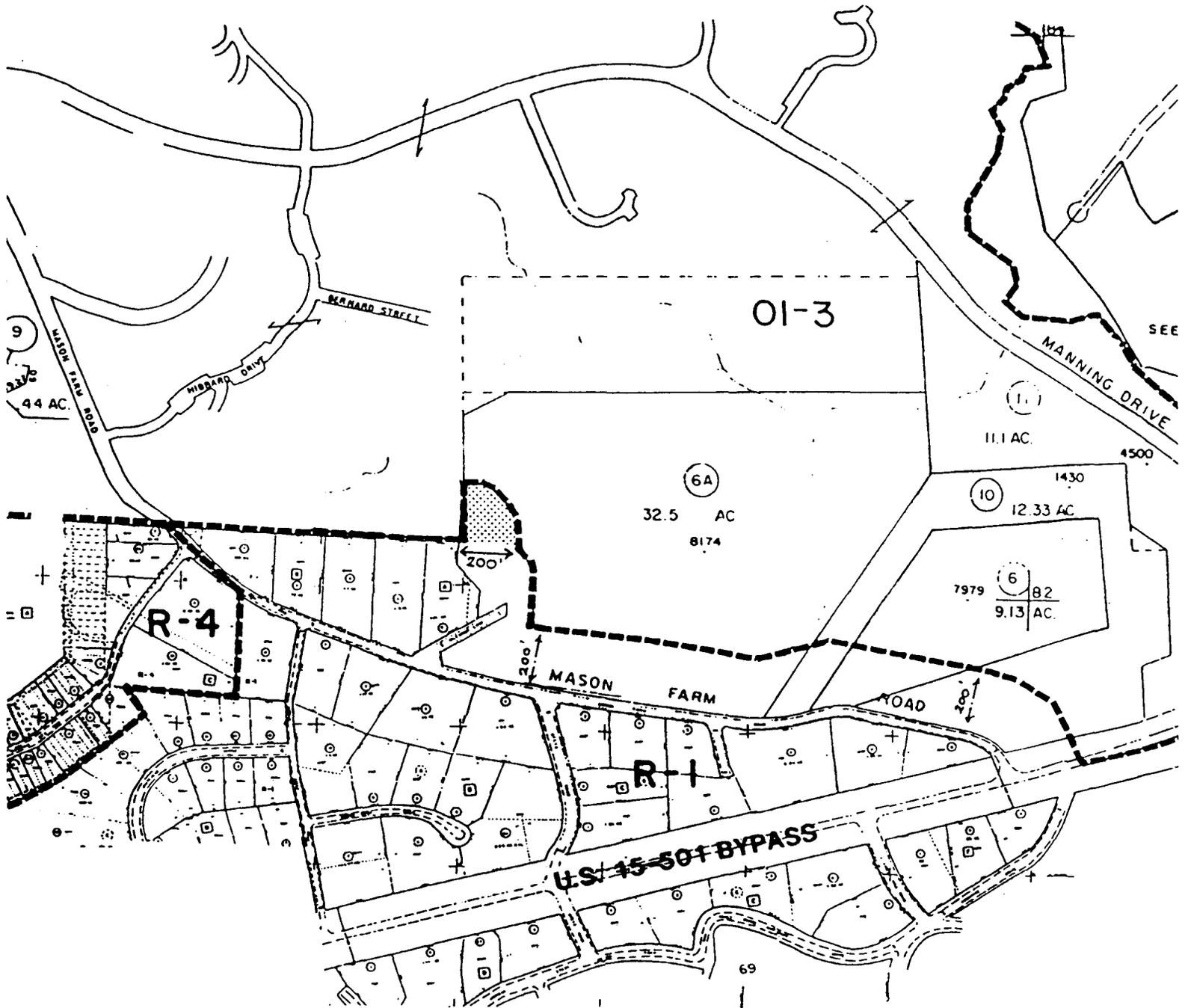
The shaded portion of the following map is "Area 6."



Area 6
with existing zoning

Area 7

The shaded portion of the following map is "Area 7."



Area 7
with existing zoning

University and Mason Farm Road residents. He said the staff now recommended that the current zoning be retained.

COUNCIL MEMBER ANDRESEN MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 88-2-22/R-4, TO RETAIN THE CURRENT R-1 ZONING.

Council Member Wilkerson expressed concern that residents were not being notified of issues that directly affected their property because of inadequacies of the notification process administered by the staff.

Manager Taylor commented that the staff had met the requirements of the Development Ordinance for notifying affected citizens of the proposed rezonings.

THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION DENYING A PROPOSAL TO REZONE PROPERTY
Area 7: Mason Farm Road (88-2-22/R-4)

WHEREAS the Chapel Hill Town Council has considered a proposal to rezone property from R-1 to OI-3, such property labeled as Area 7 on the attached map; and

WHEREAS the Council does not find it appropriate to rezone this property in this manner at this time;

NOW THEREFORE BE IT RESOLVED by the Council of the Town of Chapel Hill that it denies the proposal to rezone this property as indicated above.

This the 22nd day of February, 1988.

Area 8a: Mt. Carmel Church Road

Mr. Waldon stated that the original proposal had been to rezone the area from R-1 to RT (Rural Transition) to conform with the adopted Land Use Plan. He commented that affected property owners had attended the Planning Board meeting and expressed no objections to the proposed rezonings but that concern had been expressed at the Council's public hearing on the problem of non-conforming lots. He stated that the citizens had indicated that they would prefer to be rezoned to R-1a. Mr. Waldon said that the staff upon further consideration, agreed with the residents' suggestion feeling, that since the area was largely developed, rezoning to R-1a would provide sufficient low density zoning to provide the necessary buffer for a rural transition area.

Council Member Werner asked Mr. Waldon to compare this area with Area 17 - Erwin Road, which the staff recommended be rezoned to RT. Mr. Waldon responded that the primary difference was that the Mt. Carmel Church Road area was nearly fully developed and rezoning to RT would make most of the 69 parcels non-conforming, whereas the Erwin Road area was largely undeveloped and only about 12 lots would become non-conforming with the RT zoning.

Council Member Godschalk asked for clarification of the density differences between RT, R-1a, and R-1. Mr. Waldon responded that the minimum lot size for RT was 2 acres; for R-1a was 25,000 square feet; and for R-1 was 17,000 square feet.

COUNCIL MEMBER ANDRESEN MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO ADOPT ORDINANCE 88-2-22/O-5B, TO REZONE THE AREA TO R-1A. THE MOTION PASSED UNANIMOUSLY, (9-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE REZONING PROPERTY

Area 8A: Mt. Carmel Church Rd. (Rezoning to R-1A) (88-2-22/O-5b)

WHEREAS, the Chapel Hill Town Council adopted a Land Use Plan in July, 1986; and

WHEREAS, this Land Use Plan is a component of the Town's Comprehensive Plan; and

WHEREAS, the Town Manager and Planning Board have identified areas on the Town's Zoning Atlas where existing zoning is not consistent with the Comprehensive Plan; and

WHEREAS, owners of property to be considered for rezoning, as well as owners of property adjacent to those being considered for rezoning, have been notified of these proposals to rezone property;

NOW THEREFORE BE IT ORDAINED by the Council of the Town of Chapel Hill that the Chapel Hill Zoning Atlas be amended as indicated on the attached map labeled as Area 8A, rezoning property from R-1 to R-1A; such amendment being necessary to achieve the purposes of the Comprehensive Plan.

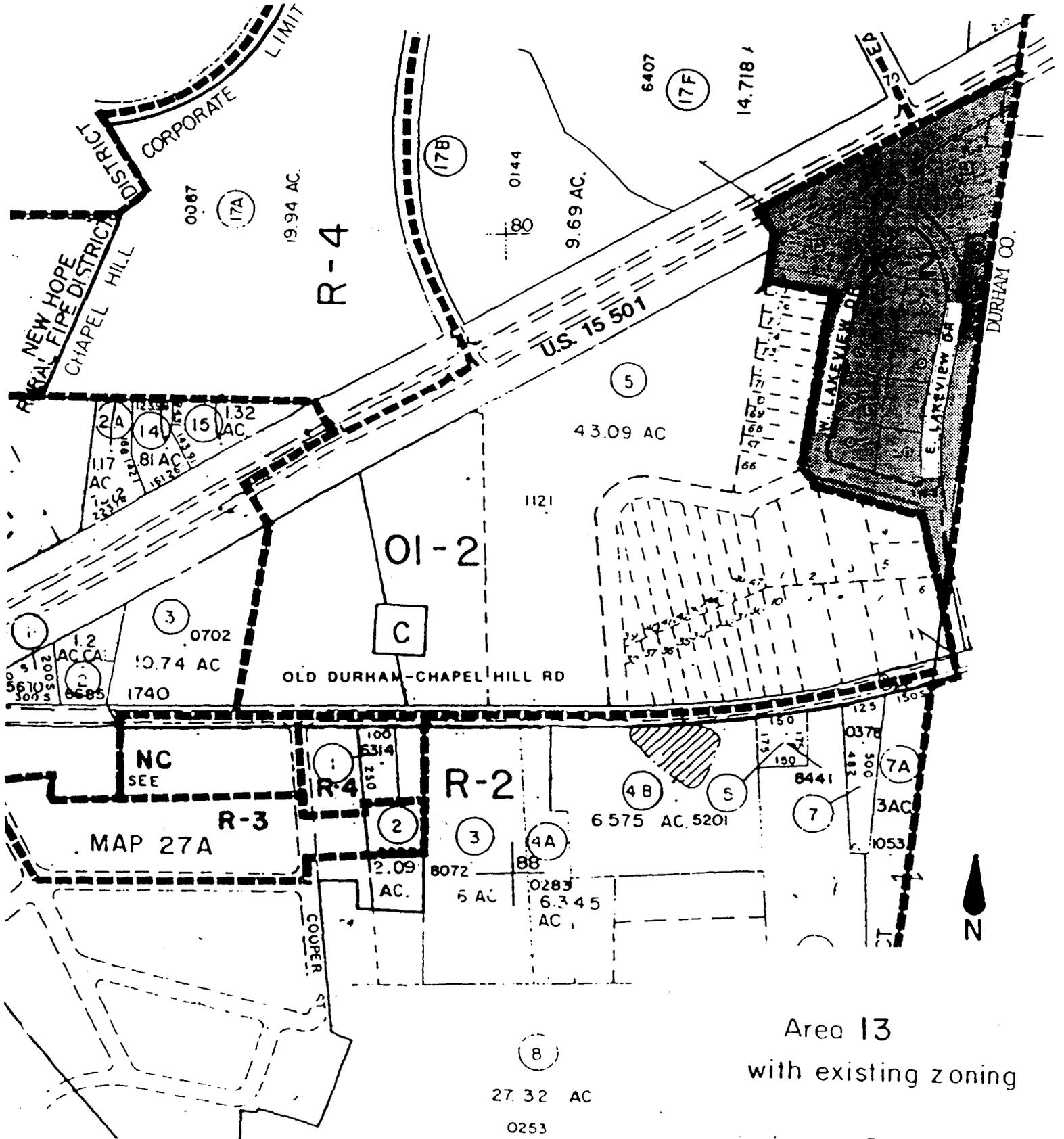
This the 22nd day of February, 1988.

Area 13: Lakeview

Council Member Andresen asked why the lots to the west of Lakeview Drive were not included in the proposal for Mixed Use/R-1. Mr. Waldon replied that the lots were part of the Blue Cross/Blue Shield property.

Area 13

The shaded portion of the following map is "Area 13."



Area 13
with existing zoning

Council Member Werner commented that the area under consideration for rezoning did not constitute 20 acres, the minimum acreage necessary to meet the mixed use threshold. He asked how the property could be used for mixed use purposes. Mr. Waldon stated that the area in Durham County adjacent to the property was already zoned Mixed Use.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT ORDINANCE 88-2-22/O-6.

Council Member Godschalk said the Council had received a letter from attorney Grainger Barrett representing Frank Christensen requesting that the Council rezone his property to Mixed Use/OI-1. He asked for the staff opinion on this request. Mr. Waldon stated that the staff recommended Mixed Use/R-1 for the area in order to avoid development of the area in small office/institutional uses versus the master plan concept. He said that by rezoning the property MU-R-1 the area would develop under R-1 zoning regulations unless the mixed use threshold were met and a master plan provided.

THE MOTION PASSED UNANIMOUSLY, (9-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE REZONING PROPERTY
Area 13: Lakeview (88-2-22/O-6)

WHEREAS, the Chapel Hill Town Council adopted a Land Use Plan in July, 1986; and

WHEREAS, this Land Use Plan is a component of the Town's Comprehensive Plan; and

WHEREAS, the Town Manager and Planning Board have identified areas on the Town's Zoning Atlas where existing zoning is not consistent with the Comprehensive Plan; and

WHEREAS, owners of property to be considered for rezoning, as well as owners of property adjacent to those being considered for rezoning, have been notified of these proposals to rezone property;

NOW THEREFORE BE IT ORDAINED by the Council of the Town of Chapel Hill that the Chapel Hill Zoning Atlas be amended as indicated on the attached map labeled as Area 13, rezoning property from R-2 to MU-R-1; such amendment being necessary to achieve the purposes of the Comprehensive Plan.

This the 22nd day of February, 1988.

Area 14: Eastowne

Council Member Werner said he was concerned about rezoning property that was essentially fully developed to mixed use. He suggested that Area 14 and part of Area 15 be combined and rezoned to mixed use. He said he would prefer referring Area 14 and 15 back to the staff and have the staff look at the possibility of using property lines to separate the two zones.

Council Member Godschalk said he was uncomfortable with splitting the area between two zones and needed additional information pertaining to property lines.

Council Member Werner said that the staff could look at the area and see if a line could be drawn using the property lines to separate the Office/Institutional zone from the Mixed Use zone and that would align with the Mixed Use zoning across 15-501.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO REFER AREAS 14 (EASTOWNE, COUNTY LINE) AND 15 (EASTOWNE, EXISTING) BACK TO THE MANAGER AND STAFF.

Council Member Godschalk stated that all the property owners involved should be notified of this proposal.

THE MOTION PASSED UNANIMOUSLY, (9-0).

Area 16: Eastowne (Adjustment)

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO ADOPT ORDINANCE 88-2-22/O-9, TO REZONE THE AREA TO OFFICE/INSTITUTIONAL-2. THE MOTION PASSED UNANIMOUSLY, (9-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE REZONING PROPERTY
Area 16: Eastowne (Adjustment) (88-2-22/O-9)

WHEREAS, the Chapel Hill Town Council adopted a Land Use Plan in July, 1986; and

WHEREAS, this Land Use Plan is a component of the Town's Comprehensive Plan; and

WHEREAS, the Town Manager and Planning Board have identified areas on the Town's Zoning Atlas where existing zoning is not consistent with the Comprehensive Plan; and

WHEREAS, owners of property to be considered for rezoning, as well as owners of property adjacent to those being considered for rezoning, have been notified of these proposals to rezone property;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that the Chapel Hill Zoning Atlas be amended as indicated on the attached map labeled as Area 16, rezoning property from R-5 to OI-2; such amendment being necessary to achieve the purposes of the Comprehensive Plan.

This the 22nd day of February, 1988.

Area 17: Erwin Road

Roger Waldon, Planning Director, said the proposal was to rezone the area from R-1 to RT in conformance with the adopted Land Use Plan. He said the majority of the area was undeveloped and that the staff felt there would be substantial benefit in rezoning the area so as to provide the type of rural buffer desired around Chapel Hill.

Council Member Godschalk asked about the location of the non-conforming lots and if they could be separated out and maintained as R-1. Mr. Waldon said the staff had looked at this and did not feel it could be accomplished without creating small spots of R-1 in the RT zone.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT ORDINANCE 88-2-22/O-10, TO REZONE THE AREA TO RURAL TRANSITION.

Council Member Preston asked for clarification of non-conforming lots. Mr. Waldon replied that the non-conformity would not prohibit the property owner from building on his lot but would place restrictions on what was built.

Council Member Wallace stated that he was in favor of the motion and that the Council should not be too concerned about not creating any non-conforming lots that they lose sight of the purpose for the rezoning which was to create the desired rural buffer around Chapel Hill.

THE MOTION PASSED UNANIMOUSLY, (9-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE REZONING PROPERTY
Area 17: Erwin Road (88-2-22/O-10)

WHEREAS, the Chapel Hill Town Council adopted a Land Use Plan in July, 1986; and

WHEREAS, this Land Use Plan is a component of the Town's Comprehensive Plan; and

WHEREAS, the Town Manager and Planning Board have identified areas on the Town's Zoning Atlas where existing zoning is not consistent with the Comprehensive Plan; and

WHEREAS, owners of property to be considered for rezoning, as well as owners of property adjacent to those being considered for rezoning, have been notified of these proposals to rezone property;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that the Chapel Hill Zoning Atlas be amended as indicated on the attached map labeled as Area 17, rezoning property from R-1 to RT; such amendment being necessary to achieve the purposes of the Comprehensive Plan.

This the 22nd day of February, 1988.

Area 20: Dobbins Drive (East of Erwin Road)

M. A. Lyons, an attorney representing property owners, said the property owners would prefer to retain the current R-4 zoning. He said the entire area was just over 20 acres and therefore would require a combination of all the lots in order to meet the mixed use threshold. He stated that it was the general consensus of the property owners that they did not want to sell their property. Mr. Lyons said therefore, the most equitable thing for the Council to do would be to retain the current zoning.

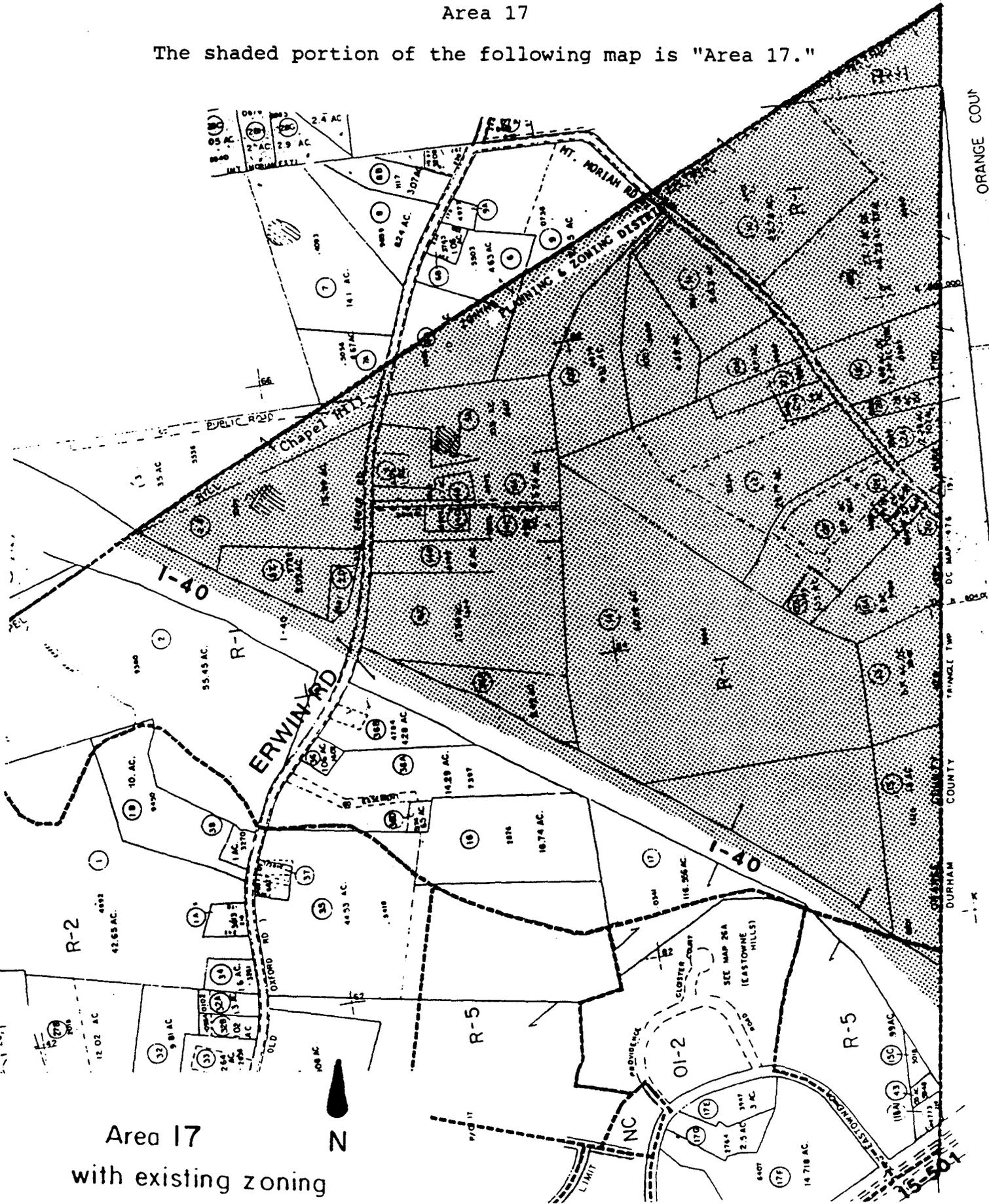
Council Member Werner asked if any non-conformities would be created if the property were rezoned. Mr. Waldon responded that he believed that all the lots would meet the R-1 minimum lot size. He said there were uses in the area which currently were non-conforming (automobile repair) that would continue to be non-conforming if the property were rezoned.

Council Member Werner said the rezoning would preclude any further subdivision of the land. Mr. Waldon said this was true. He said however, that there were provisions within the Development Ordinance which would allow for planned development projects on a minimum of five acres in a R-1 zone.

Council Member Andresen said she had some concerns about rezoning this area to mixed use because of the intensity of use associated with mixed use development and the current traffic problems in the area. She asked the staff if they had considered the traffic problems and how any mixed use development would have access to 15-501. Mr. Waldon replied that the staff had not discussed access points or traffic congestion but stated that if the property were rezoned and a project was proposed the staff and Council would review with this in mind. He pointed out that the area was currently zoned R-4 which could be developed at 10 units per acre.

Area 17

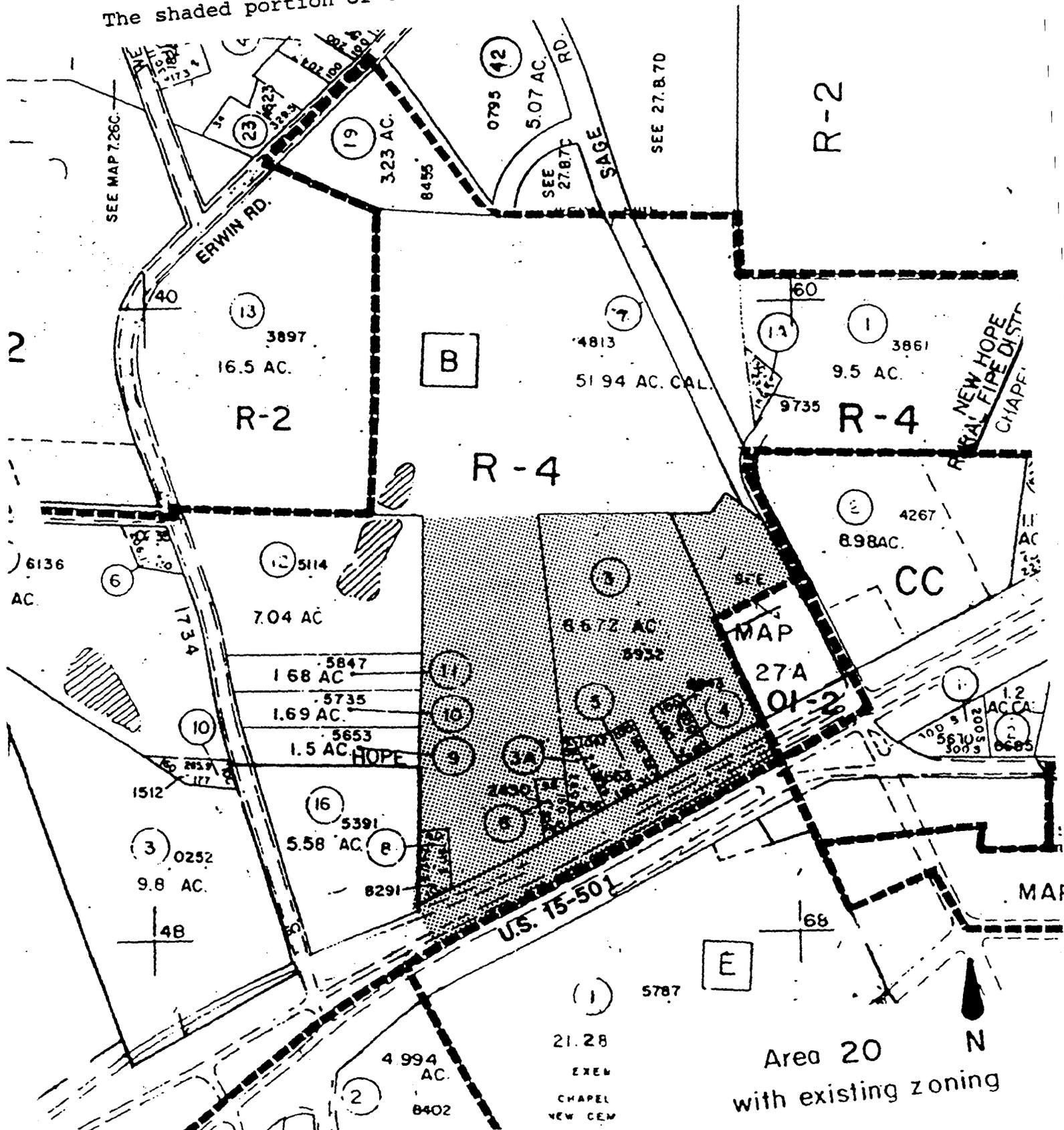
The shaded portion of the following map is "Area 17."



Area 17
with existing zoning

Area 20

The shaded portion of the following map is "Area 20."



Council Member Wallace commented that the likelihood of combining the properties to get 20 acres was probably small. He agreed with Council Member Andresen's concerns about the intersection and traffic congestion.

Mayor Howes agreed that there was probably little chance of combining the properties, at this point, into a 20-acre tract so that the mixed use regulations could be used. He said therefore the issue seemed to be whether the property should be zoned R-1 versus R-4.

Council Member Werner said he felt the Council might be doing an injustice to the property owners by, in effect, down zoning the area from R-4 to R-1.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO ADOPT RESOLUTION 88-2-22/R-11, TO RETAIN THE CURRENT R-4 ZONING. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION DENYING A PROPOSAL TO REZONE PROPERTY
Area 20: Dobbins Drive (E. of Erwin Rd.) (88-2-22/R-11)

WHEREAS the Chapel Hill Town Council has considered a proposal to rezone property from R-4 to MU-R-1, such property labeled as Area 20 on the attached map; and

WHEREAS the Council does not find it appropriate to rezone this property in this manner at this time;

NOW THEREFORE BE IT RESOLVED by the Council of the Town of Chapel Hill that it denies the proposal to rezone this property as indicated above.

This the 22nd day of February, 1988.

Area 21: Old Durham Road

Mr. Waldon said the proposal was to rezone the area from Neighborhood/Commercial to Residential-3 to conform to the adopted Land Use Plan. He stated however, that the staff and Planning Board recommended that the current zoning be retained. He said the Planning Board had cited the lack of NC (Neighborhood/Commercial) zoning in Chapel Hill and the need for further study of this area as the basis for their recommendation. Mr. Waldon stated that the staff concurred with the Planning Board.

Council Member Andresen expressed concern that by having the area zoned NC it meant that any NC use could be developed on the property. She said she would prefer to rezone the property to R-3 and use the Special Use Zoning procedure to allow commercial

use of the property. Mr. Waldon agreed that there was a wide variety of uses permitted in the NC zone and that the Council would have greater control of development on the property if Special Use Zoning were used.

Council Member Preston stated that she understood the neighbors concerns about the potential for traffic increases and cut through traffic if the properties were developed under NC uses. Mr. Waldon commented that the area was currently zoned NC but that there were no proposals for the area and if and when one was proposed, the staff would scrutinize the proposal with regard to traffic impact and ingress/egress points.

James Pickard and Clarence Gray, speaking as the property owners in Area 21, spoke against the proposed rezoning. They stated that the Council had rezoned their property to Neighborhood/Commercial several years ago and that they were content with that zoning. They said that all the developed property along Old Durham Road adjacent to their property was developed as NC or CC. They pointed out that the property across Old Durham Road was the site for Performance Chevrolet and that that development would have a greater impact on the surrounding neighborhood than any possible development of their properties. They urged the Council to keep the current zoning.

Council Member Wallace asked what the property had been zoned prior to the last rezoning. Mr. Pickard replied that he thought it had been zoned residential.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG TO ADOPT ORDINANCE 88-2-22/O-12 TO REZONE THE AREA TO RESIDENTIAL-3.

Council Member Godschalk said he strongly opposed the motion. He said the layout of the lots were such that they faced Old Durham Road and therefore he felt it was erroneous to think that the lots would be further developed for residential use. He pointed out that the staff and Planning Board recommended retaining the current zoning so that further study could be done in relation to the development of the Comprehensive Plan.

Council Member Preston agreed with Council Member Godschalk. She said that the neighborhood had been before the Council on previous occasions to discuss their concerns for traffic in the area. Ms. Preston said that as such the Council and she was sure the property owners were aware of the concerns. She said she did not think the area would be developed at a density to cause major concerns for the neighboring property owners. Council Member Preston said that by rezoning the area against the property owners wishes, the Council was taking away the property owners rights.

Council Member Andresen spoke in support of the motion saying she felt the rezoning of five years ago had been a mistake and that NC zoning was wrong for this area.

THE MOTION CARRIED, (5-4), WITH COUNCIL MEMBERS GODSCHALK, PRESTON, WALLACE, AND MAYOR HOWES VOTING AGAINST.

A second reading will be necessary at the next regular meeting.

Area 23: Pritchard Avenue

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT ORDINANCE 88-2-22/O-13, TO REZONE THE AREA TO RESIDENTIAL-3.

Council Member Preston spoke in support of the motion saying that a detailed history of the area had been distributed to the Council and that she felt the area should be rezoned. She said that the timing was right for the rezoning because all the property was currently being used for residential purposes.

Council Member Andresen agreed with the staff that further study of the downtown area was needed but that she favored the rezoning.

Council Member Herzenberg stated that at the public hearing, Council Member Smith had commented that the rezoning offered the Council the opportunity correct what he felt was an error in the zoning.

Council Member Godschalk stated that he would not vote on this issue since he owned property in the area.

THE MOTION PASSED UNANIMOUSLY, (8-0), WITH ONE ABSTENTION.

The ordinance, as adopted, reads as follows:

AN ORDINANCE REZONING PROPERTY
Area 23: Pritchard Avenue (88-2-22/O-13)

WHEREAS, the Chapel Hill Town Council adopted a Land Use Plan in July, 1986; and

WHEREAS, this Land Use Plan is a component of the Town's Comprehensive Plan; and

WHEREAS, the Town Manager and Planning Board have identified areas on the Town's Zoning Atlas where existing zoning is not consistent with the Comprehensive Plan; and

WHEREAS, owners of property to be considered for rezoning, as well as owners of property adjacent to those being considered for rezoning, have been notified of these proposals to rezone property;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that the Chapel Hill Zoning Atlas be amended as indicated on the attached map labeled as Area 23, rezoning property from TC-2 to R-3; such amendment being necessary to achieve the purposes of the Comprehensive Plan.

This the 22nd day of February, 1988.

Special Use Zoning - Growin' Green

COUNCIL MEMBER HERZENBERG MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT ORDINANCE 88-2-22/O-14.

Council Member Preston spoke in support of the motion, saying she felt the rezoning was appropriate in that area. She pointed out that many of the neighbors had spoke in support of the rezoning at the public hearing.

Council Member Pasquini spoke against the motion. He said he would prefer that all the litigation with regard to Special Use Zoning be completed before the Council rezoned any more property using the Special Use Zoning regulations.

Council Member Andresen said that she felt the proposal was a good use of conditional use zoning.

THE MOTION CARRIED, (8-1), WITH COUNCIL MEMBER PASQUINI VOTED AGAINST.

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING THE CHAPEL HILL ZONING ATLAS (88-2-22/O-14)

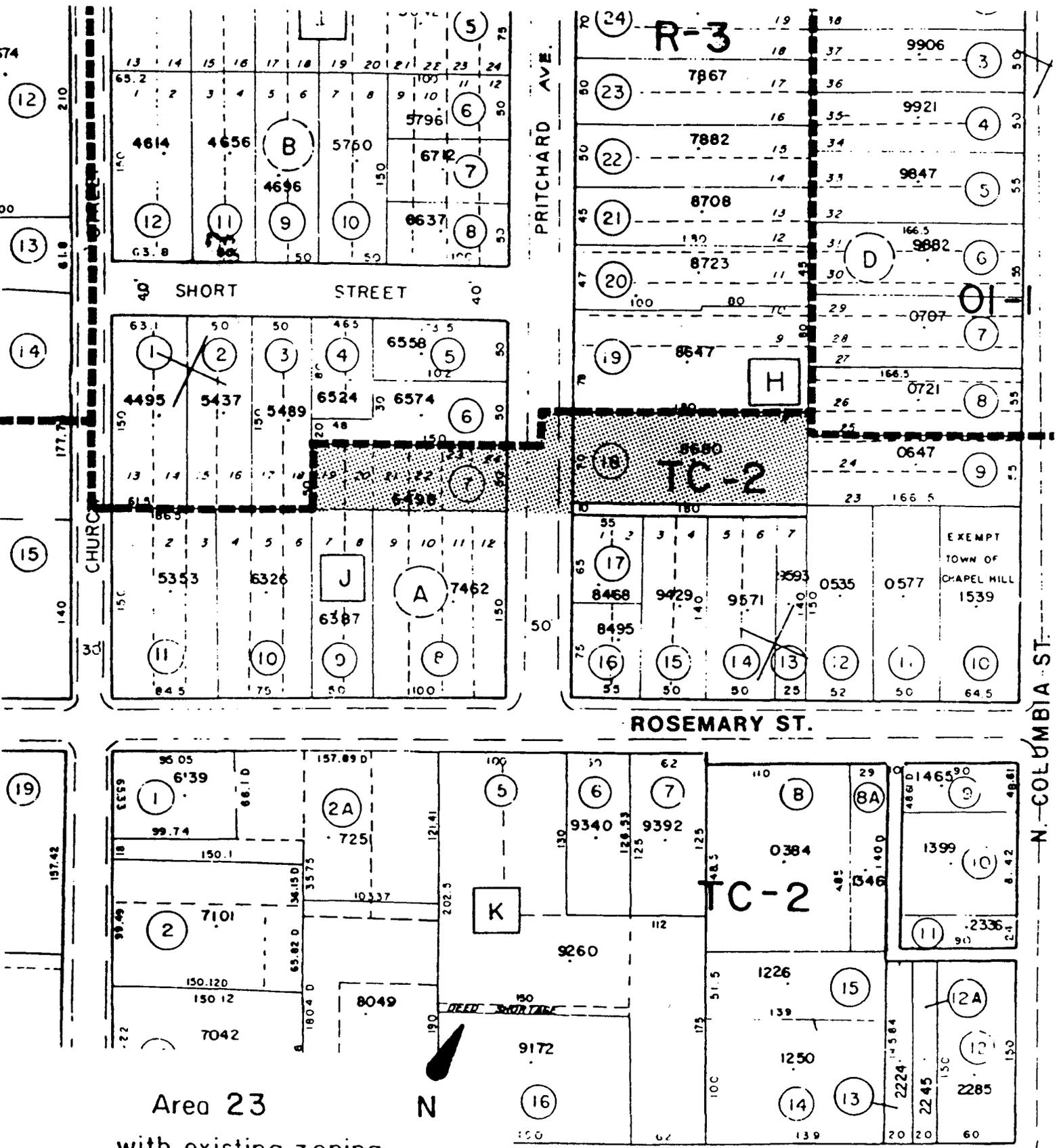
WHEREAS, the Council of the Town of Chapel Hill has considered the application of the Growin' Green landscape business, to amend the Zoning Atlas to rezone property described below from Residential⁴ to Neighborhood Commercial-S (Special Use Zoning), and finds that the amendment achieves the purposes of the Comprehensive Plan; and

WHEREAS, the Council finds that any potential use under Neighborhood Commercial-Special Use Zoning (NC-S) would be suitable for the property proposed for zoning provided the findings required for a Special Use Permit can be made based on appropriate conditions attached to any Special Use Permit issued;

NOW, THEREFORE, BE IT ORDAINED by the Council that the Chapel Hill Zoning Atlas be amended as follows:

Area 23

The shaded portion of the following map is "Area 23."



Area 23
with existing zoning

SECTION I

That the property identified as Chapel Hill Township Tax Map 29, Lot 2 located on the east side of Airport Road, opposite Critz Drive, plus one-half of the adjoining right-of-way of Airport Road, be rezoned from Residential-4 to Neighborhood Commercial-S (Special Use Zoning). The legal description of the property is as follows:

BEGINNING at an iron in the eastern margin of NC 86 (Airport Road) at the southwest corner of Lot 9 of North Forest Hills Subdivision, and running thence along and with the line of Lots 8 and 9 of North Forest Hills Subdivision South 83 degrees, 58 minutes, 41 seconds East 305.17 feet to an iron, the southeast corner of Lot 8 of North Forest Hills Subdivision; running thence South 10 degrees, 25 minutes, 49 seconds West 147.71 feet to an iron, the southeast corner of the lot herein conveyed; running thence along and with the line of Tract #2 of the A.W. Ray property, South 88 degrees, 09 minutes, 54 seconds West 273.65 feet to an iron in the eastern margin of NC 86 (Airport Road); and running thence along and with the eastern right-of-way of said NC 86 (Airport Road) North 00 degrees, 59 minutes, 45 seconds West 186.07 feet to the point and place of BEGINNING, containing 1.10 acres, more or less, and being same property as surveyed and platted by Freehold Land Surveys, Inc. dated April 12, 1984, entitled "PROPERTY OF ROBERT BAUCOM AND DEBORA BAUCOM" to which plat reference is hereby made for a more particular description of same.

SECTION II

That all ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 22nd day of February, 1988.

Growin' Green - Special Use Permit

Roger Waldon, Planning Director, said that the proposal was for a Special Use Permit to operate a landscape nursery business on the site. He said the staff felt the proposal achieved the purposes of the Comprehensive Plan. Mr. Waldon stated that the applicant proposed to meet the Town's buffer standards by providing a combination of permanent and "temporary" plantings and that a fence was proposed for the site. He stated that the buffer would be an alternative buffer and would have to be approved by the Appearance Commission.

Council Member Andresen said that the applicant had proposed a split rail fence as part of the buffer.

Council Member Preston asked if finding number two in the resolution regarding the used of the property should be modified to indicate that the property owner intended to reside on the site as well as conduct the landscape business. Mr. Waldon said amending the finding would be in order.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 88-2-22/R-15A WITH THE AMENDMENT THAT FINDING #2 INDICATE THAT THE PROPERTY WOULD BE USED ONLY FOR A RESIDENCE AND OPERATION OF A LANDSCAPE NURSERY. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION APPROVING AN APPLICATION FOR A SPECIAL USE PERMIT FOR THE GROWIN' GREEN LANDSCAPE BUSINESS (29-2) (88-2-22/R-15a)

BE IT RESOLVED by the Council of the Town of Chapel Hill that it finds that the Growin' Green Landscape Business proposed by Robert and Debora Baucom on property identified as Chapel Hill Township Tax Map 29, Lot 2, if developed according to the site plan dated October 24, 1986 and July 31, 1987 (revised) and the conditions listed below, would:

1. be located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
2. comply with all required regulations and standards of the Development Ordinance, including all applicable provisions of Articles 12, 13 and 14, and the applicable specific standards contained in Sections 18.7 and 18.7.2, and with all other applicable regulations;
3. be located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or be a public necessity; and
4. conform with the general plans for the physical development of the Town as embodied in the Development Ordinance and in the Comprehensive Plan.

These findings are conditioned on the following:

1. That construction begin by February 22, 1989 and be completed by February 22, 1990.
2. That the owner will use this property only for a residence and operation of a landscape nursery business, primarily wholesale.
3. That improvements be made to Airport Road along the site's frontage that are consistent with one-half of a principal arterial (1/2 of a 90-foot right-of-way; 1/2 of a 65-foot pavement with curb and gutter; and a sidewalk).

4. That final street plans, grading plans, utility plans, and stormwater management plans (with hydrologic calculations), be approved by the Town Manager before issuance of a Zoning Compliance Permit or application for final plat approval, and that such plans conform to plans approved by this application and demonstrate compliance with all applicable conditions and the design standards of the Development Ordinance and the Design Manual.
5. That sight triangle easements be provided on the final plat.
6. That the applicant take appropriate measures to prevent the deposit of wet or dry silt on adjacent paved roadways.
7. That final utility plans be approved by the Town Manager, OWASA, Duke Power, and Southern Bell, before issuance of a Zoning Compliance Permit.
8. That a detailed landscape plan including the fence design and landscape maintenance schedule, including the buffer planting and maintenance agreement with the Ashley Forest Homeowners' Association, be approved by the Appearance Commission prior to the issuance of a Zoning Compliance Permit.
9. That the landscape easement and maintenance agreement with the Ashley Forest Homeowners' Association be recorded prior to the issuance of a Zoning Compliance Permit.
10. That storage of bulk containers of chemicals and fertilizers be located in one centralized location within the site, and the storage and inventory of chemicals and fertilizers be in accord with the N. C. Hazardous Chemicals Right-to-Know Act.
11. That the exterior of the existing house be maintained as residential in appearance and that the detailed building elevations of the greenhouses be approved by the Appearance Commission prior to issuance of the Zoning Compliance Permit.
12. That a soil erosion and sedimentation control plan be approved by the Orange County Erosion Control officer before issuance of a Zoning Compliance Permit.
13. That any plans for improvements to State-maintained roads be approved by NCDOT prior to issuance of a Zoning Compliance Permit.
14. That continued validity and effectiveness of this approval is expressly conditioned on the continued compliance with the plans and conditions listed above.
15. That if any of the above conditions is held invalid, this approval shall be void.

BE IT FURTHER RESOLVED that the approval of this Special Use Permit is conditioned upon the owner of this property agreeing, in writing, to all of the above conditions.

BE IT FURTHER RESOLVED that the Council hereby approves the application for the Growin' Green Landscape Business Special Use Permit in accordance with the plans and conditions listed above.

This the 22nd day of February, 1988.

N.C. Medical Associates Building - Special Use Permit

Council Member Preston said that she would not vote on this issue since she had an interest in the proposal.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER WALLACE TO ADOPT RESOLUTION 88-2-22/R-16A. THE MOTION PASSED UNANIMOUSLY, (8-0), WITH ONE ABSTENTION.

The resolution, as adopted, reads as follows:

A RESOLUTION APPROVING AN APPLICATION FOR A SPECIAL USE PERMIT FOR NORTH CAROLINA MEDICAL BUILDING ASSOCIATES BUILDING (88-2-22/R-16a)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the North Carolina Medical Building Associates Building (office building for Lots 2 and 3, Eastowne) proposed by Medical Building Associates, on property identified as Chapel Hill Township Tax Map 26A, Lots 2 and 3, if developed according to the site grading and utility plan dated July 21, 1987 (8/21/87, 9/9/87, 11/13/87 revisions) and the conditions listed below would:

1. be located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
2. comply with all required regulations and standards of the Development Ordinance, including all applicable provisions of Articles 12, 13 and 14, and the applicable specific standards contained in Section 18.7 and 18.7.2, and with all other applicable regulations;
3. be located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or be a public necessity; and
4. conform with the general plans for the physical development of the Town as embodied in the Development Ordinance and in the Comprehensive Plan.

These findings are conditioned on the following:

1. That construction begin by February 22, 1989 and be completed by February 22, 1990.
2. That a plat recombining Lots 2 and 3 be recorded prior to the issuance of a Zoning Compliance Permit.
3. That a "B" type buffer be provided, or an easement be secured from the adjoining property owner along the western property line to assure compliance with buffer standards, and be recorded prior to the issuance of a Zoning Compliance Permit.
4. That final street plans, grading plans, utility and lighting plans, stormwater management plans (with hydrologic calculations), be approved by the Town Manager before issuance of a Zoning Compliance Permit or application for final plat approval, and that such plans conform to plans approved by this application and demonstrate compliance with all applicable conditions and the design standards of the Development Ordinance and the Design Manual.
5. That sight triangle easements be provided on the final plat.
6. That final utility plans be approved by the Town Manager, OWASA, Duke Power, Southern Bell, Public Service Gas Co., and Carolina Cable before issuance of a Zoning Compliance Permit.
7. That a soil erosion and sedimentation control plan be approved by the Orange County Erosion Control Officer before issuance of a Zoning Compliance Permit.
8. That tree protection fences (to protect significant existing trees and their root systems) be shown on the final grading plan, and that said fences be installed prior to any grading activities taking place.
9. That a detailed landscape plan, including buffer planting and landscape maintenance schedule, be approved by the Appearance Commission prior to the issuance of a Zoning Compliance permit. A "B" type buffer is required surrounding the site.
10. That detailed building elevations and lighting plan be approved by the Appearance Commission prior to issuance of the Zoning Compliance Permit.
11. That a fire flow report prepared by a registered professional engineer, showing that flows meet the minimum requirements of the Design Manual, be approved prior to issuance of a Zoning Compliance Permit.

12. That a covered bus stop with bench be provided on Providence Road, east of the entry driveway.
13. That the driveway apron and sidewalk be constructed to Town standards.
14. That the applicant take appropriate measures to prevent the deposit of wet or dry silt on adjacent paved roadways.
15. That the boundaries of the Resource Conservation District be shown on the final plat and final plan with a note indicating that "Development shall be restricted within the Resource Conservation District in accordance with the Development Ordinance."
16. That all variances necessary for development within the Resource Conservation District be obtained before application for final plat or final plan approval.
17. That continued validity and effectiveness of this approval is expressly conditioned on the continued compliance with the plans and conditions listed above.
18. That if any of the above conditions is held invalid, this approval shall be void.

BE IT FURTHER RESOLVED that the Council hereby approves the application for the North Carolina Medical Building Associates Building Special Use Permit in accordance with the plans and conditions listed above.

This the 22nd day of February, 1988.

Special Use Zoning - Calling Public Hearing on Applicability in Residential Zones

Council Member Preston said the proposal was to call a public hearing to discuss amending the Development Ordinance to preclude special use zoning in land zoned RT, R-1a, R-1, R-2 and R-3. She said she and Council Member Herzenberg felt it was important to make it clear to the citizens who live in these areas that they would not be threatened by any kind of special use zoning.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG TO ADOPT RESOLUTION 88-2-22/R-17.

Council Member Wallace said the proposal would not preclude rezoning. Council Member Preston agreed.

Council Member Pasquini asked why R-4 was not included in the proposal. Council Member Preston said that she had felt that R-4 was a more intense residential zone and that Special Use Zoning was probably appropriate in that zone.

Council Member Pasquini said he would prefer to have the public hearing advertised broadly enough to consider the use of Special Use Zoning in all zones.

Council Member Godschalk commented that earlier discussion on a rezoning for Old Durham Road had indicated that the way to deal with commercial uses in that area if they were to occur would be to use the special use zoning procedure. He said the majority of the Council voted to rezone the area from NC to R-3. He pointed out that with the proposed change in Special Use Zoning, part of the logic behind the rezoning of the Old Durham Road property was invalid. He also said that by precluding the use of Special Use Zoning in all zones would be denying the Council one of the major tools for reviewing the quality of development. Mr. Godschalk said this would force individuals to apply for rezoning when the Special Use Zoning tool could have been used.

Council Member Andresen said she agreed with some of Council Member Godschalk's points. She said she would have difficulty with voting for the removal of Special Use Zoning in R-3 zones.

Council Member Pasquini offered a friendly amendment to include R-4 and R-5 zones in the notice for the public hearing. Council Members Preston and Herzenberg agreed.

Council Member Andresen asked when the staff evaluation of downtown zones would be available for the Council. She said it seemed to her that if the Council were considering changing the ordinance it might be a piecemeal approach if at a later time the Council were to address the problem of transition and buffer areas in the downtown area. She wondered if there would be a way to have the public hearings at the same time. Mr. Waldon responded that the schedule of public hearings for the next several months were extremely full and that he was not optimistic of getting substantive work done on transition areas around the downtown until the items already scheduled were completed.

Council Member Andresen said the problem as she saw it was that some of the Council might be more disposed to voting for the ordinance change to remove special use zoning in certain areas if there were to be something else to substitute in its place. Mr. Waldon said that he did not expect to have a proposal for the Council by the June 20 proposed public hearing date. Council Member Andresen said that she would prefer to call the public hearing on special use zoning for a later date so that the transition zone proposals could be included.

Council Member Preston said that the Council could go ahead and hold the public hearing in June but not hold off of acting on the matter if it appeared desirable by the Council.

Council Member Godschalk commented that the Council was to consider taking action to start a Main Street program downtown and that it would be unlikely that there would be anything

substantive from this program by June. He said that it would be more likely over a course of a fourteen or sixteen month period before there would be some firm recommendations. He said if the proposal was related to the downtown area then he felt it was premature to have a public hearing on it until there was more information on what the options were with downtown.

Council Member Wallace asked how this would have affected the zoning of the Women's Center. Mayor Howes replied that if the amendments proposed in the public hearing had been adopted the Women's Center would not have been allowed to apply for Special Use Zoning.

Mayor Howes said he would vote in favor of calling the public hearing because he felt it was an important issue. He said he felt public input was very important. Mayor Howes stated that the Special Use Zoning was a tool of considerable flexibility that was afforded to the Council and developers and protection to the neighborhoods. He said it also provided non-residential uses in residential neighborhoods and this he said he felt was the issue which needed to be discussed at the public hearing. He said the Council needed to hear from the public on this matter as a matter of policy and not as it related to any particular project.

Council Member Preston said she agreed with Mayor Howes' comments and urged citizens to attend the public hearing and discuss the issue.

Council Member Herzenberg said that there had not been any general public comment on this issue. He stated that at the previous public hearing on this issue only two individuals made comments.

Council Member Andresen asked once the public hearing was held, how long could the Council delay action on the issue. She asked how long before the staff expected to have information on transition zones in the downtown area. Manager Taylor said he felt the staff and Council needed to consider the items relating to the Comprehensive Plan before addressing another major project like the downtown area. Council Member Andresen asked for an idea of when this might be. Manager Taylor responded that it could possibly be by the end of 1988.

Attorney Karpinos stated with regard to how long the Council could delay action on items heard at a public hearing that he would prefer that the Council not delay for a considerable length of time. He said he would be uncomfortable with delaying past the early fall with information presented at a June public hearing. He stated that if the Council were to defer action for longer than September or October he would prefer that the Council call another public hearing.

Mayor Howes commented that the Council could always not act if there were persuasive evidence that this was relevant to the downtown or anything else. He said the public hearing called for discussing proposed changes and if the changes were not made the current ordinance remained in effect.

Council Member Werner said that the proposal was to consider changing special use zoning as a policy matter and that he was afraid that the public hearing would be a rehash of the Women's Center issue. He pointed out that of the Special Use Zoning requests the Council had considered, only one had been in the downtown. Council Member Werner said that he was really concerned from listening to the discussion that evening that what the Council was encouraging people to do was to come and talk about the Women's Center. He stated that when the Council adopted the Special Use Zoning he did not think the Council had looked at it particularly as it related to downtown. He said that he thought Council Member Andresen's point was relative in that if the real motive behind the proposal for changing the Special Use Zoning regulations was downtown and the Council was planning to do something about rezoning downtown then he felt the actions should be done together. He stated that if the Council were going to make a decision on changing special use zoning it should be made throughout the entire town and not just because the Council wanted to do something for a particular area.

Council Member Preston agreed.

Council Member Wallace stated that the first proposed use of the Special Use Zoning had been for the Mental Health Center and that this proposal had been dropped from consideration because another site had been found. He said the Council then approved the application from the Women's Center. He said that he felt the public hearing should be held to discuss the policy issues involved. Mr. Wallace stated that he agreed that the Council would lose a tool of great magnitude if it eliminated the Special Use Zoning. He said the be forced to rezone everything would be disastrous. He stated that he hoped citizens would come and discuss the issue whether it related to downtown or Morgan Creek.

THE MOTION, AS AMENDED, CARRIED, (8-1), WITH COUNCIL MEMBER GODSCHALK VOTING AGAINST.

The resolution, as adopted, reads as follows:

A RESOLUTION CALLING A PUBLIC HEARING ON AMENDING THE DEVELOPMENT ORDINANCE (88-2-22/R-17)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby calls a public hearing for 7:30 p.m. Wednesday, June 20, 1988 in the Municipal Building Meeting Room, 306 N. Columbia Street, Chapel Hill on amending the Development Ordinance to preclude special use zoning of land currently zoned Residential.

BE IT FURTHER RESOLVED that the Council hereby refers this matter to the Planning Board for their recommendations to be presented to the Council at the June 20, 1988 public hearing.

This the 22nd day of February, 1988.

Development Ordinance Text Amendment - Calling Public Hearings on Proposed Changes

Manager Taylor said the proposal was to call several public hearings to discuss issues agreed upon at the meeting with the Planning Board. He said the schedule was from March 23 to June 20.

Council Member Andresen asked if the wording for the advertisement of the public hearing on the Resource Management Ordinance (Tree Ordinance) might be written in sufficiently broad language to include suggestions from the Sierra Club so that if the Council wanted to make substantial changes it could without calling another public hearing. Manager Taylor replied yes and suggested that the resolution be modified to state that it would include the issues raised in the letter of February 20 from the Sierra Club to the Council.

COUNCIL MEMBER HERZENBERG MOVED, SECONDED BY COUNCIL MEMBER WERNER TO ADOPT RESOLUTION 88-2-22/R-18 AS AMENDED.

Council Member Werner said he was concerned that by setting the proposed schedule of public hearings for the remainder of the fiscal year the staff was tacitly throwing out the public facilities ordinance. He said he felt the Town still needed an adequate Public Facilities Ordinance and that the Traffic Management Ordinance, while needed, was not all that should be included in a Public Facilities Ordinance. He said he would like to see the Town working toward a Public Facilities Ordinance. He said there were capacity problems with the schools and the water situation was uncertain and there were definite drainage problems. He said the Council had been told that it would be difficult to do and he was not disputing this, but he was concerned that by adopting the proposed schedule it was stating that the Public Facilities Ordinance was no longer on the schedule.

Council Member Andresen agreed with Council Member Werner's concerns. She asked the Manager whether there was compelling evidence that the Council should not consider some of the things the Council had discussed like schools.

Manager Taylor said that he had been under the impression that the Council had agreed at their meeting with the Planning Board that the issue had distilled itself down to where there was only one major issue that the Town could deal with through the Public Facilities Ordinance concept and that this was streets. He stated that the Town did not control the schools or water system.

Council Member Andresen asked if it were clear that the Town could not regulate these other things. She said she knew it might be difficult but was it impossible.

Roger Waldon, Planning Director, said that he did not see the Traffic Management Ordinance as a replacement for an adequate Public Facilities Ordinance (PFO). He said that what had been indicated was that an adequate PFO as exists in some other areas did not transfer easily into the Chapel Hill context. He stated the staff was continuing to look at what other communities were doing. Mr. Waldon said that what was occurring was that the Town had an opportunity in the interim to address one of the most critical problems and that the staff would go ahead with this attempt to manage the traffic situation better as the public facility that was deteriorating the most. He said this did not preclude continuing to look for other management tools.

Council Member Andresen said that she had no objection to the emphasis on traffic but the Council would need to have enabling legislation to accomplish this.

Council Member Godschalk said that the Traffic Management Ordinance was a first step but was not the entire program. He said that the Council would be well advised to seek some generic enabling legislation to enable the Town to manage other impacts and make sure the facilities were adequate. He said the Traffic Management Ordinance would be allowable under this generic legislation, as well as some other ordinances like stormwater capacity management. He stated that he hoped that however the work were organized and advertised it would be able to be put into that kind of framework.

Council Member Werner said that working on the Traffic Management Ordinance now was fine, but that work should continue towards a Public Facilities Ordinance.

Council Member Godschalk stated that if it were possible the Town might want to think about some of the issues in the context of a joint action with at least Carrboro because Chapel Hill and Carrboro were basically one urban area. He stated that to the extent that the Town could find a way to coordinate with Carrboro it would be greatly beneficial.

Mayor Howes said that it appeared to him that the discussion implied that the call of the public hearings, especially with regard to the Traffic Management Ordinance, should be broader. Manager Taylor said that he thought what would be involved would be a public hearing on the Traffic Management Ordinance which was part of a comprehensive Public Facilities Ordinance and that the staff would work more diligently on the other components of such a PFO. He said there were at present no staffing or work done on any of the other elements which could be presented at the public hearing for the public to comment.

Council Member Godschalk asked if the public could comment on proposed legislation that would request authority for the Town to have the power to set adequate public facilities' standards and also on the specifics of a Traffic Management Ordinance? Manager Taylor stated that the Council had already called for a public hearing to discuss special legislation.

Council Member Wallace suggested adding in the advertisement that this did not preclude further public services ordinances.

Mayor Howes said that the Council had discussed at the retreat in January of the continued necessity of a broad scale approach to an adequate Public Facilities Ordinance. He said he thought it was correct for the Manager to have interpreted from the consensus reached at the joint meeting with the Planning Board that the Traffic Management Ordinance was all that could be accomplished in the shortest time. He stated that Council Member Werner's concerns were appropriate and that the Council did not want all the energy spent solely on the consideration and implementation of a Traffic Management Ordinance. Mayor Howes said that any broad scale approach to this issue would require legislation of such complexity and potential controversiality that it would not be considered in the 1988 short session of the General Assembly. He stated that he felt the Council should move forward with the proposed schedule but keep in mind that preparations needed to be made to put a proposal before the General Assembly in the 1989 Session.

Council Member Wallace said that in the interim the Council should not take actions which would restrict what the Council would be able to do if authorizing legislation were passed.

THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

RESOLUTION SCHEDULING PUBLIC HEARINGS (88-2-22/R-18)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the following proposals shall be considered at upcoming Public Hearings according to the following schedule:

- March 23: - DOTA to Adjust Membership of Planning Board and Board of Adjustment, according to provisions of the Town's Joint Planning Agreement.

- April 13: - Joint Public Hearing with Orange County and Carrboro to consider changes to the Joint Planning Area Land Use Plan, to consider rezoning property in the Joint Planning area according to provisions in the Joint Planning Agreement.

- April 18: - Resource Management DOTA (Tree Ordinance)
 and would include the issues raised in the
 letter of February 20 from the Sierra Club
 to the Council
- Traffic Management Ordinance DOTA
- Water Quality Critical Area DOTA

- May 16: - Entranceways DOTA
- Entranceways Zoning Atlas Amendment

- June 20: - DOTA to amend Special Use Zoning Provisions

BE IT FURTHER RESOLVED that the Town Manager is directed to prepare information about and analysis of these proposals, advertise as stipulated by General Statutes, and submit such information and analysis to appropriate Town advisory boards for consideration and recommendation prior to public hearing dates.

This the 22nd day of February, 1988.

Joint Planning - Request for Orange County to Use Chapel Hill Development Regulations in the Chapel Hill Transition Area

Manager Taylor said that the proposal was a formal request from the Town to the County for the County to adopt Chapel Hill's Development Ordinance for application in the transition zones of the Joint Planning Area in accordance with the Joint Planning Agreement.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER WALLACE TO ADOPT RESOLUTION 88-2-22/R-19. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION REQUESTING ORANGE COUNTY TO ADOPT CHAPEL HILL'S DEVELOPMENT ORDINANCE AS PART OF THE JOINT PLANNING AGREEMENT (88-2-22/R-19)

WHEREAS Orange County and the Town of Chapel Hill have signed a Joint Planning Agreement; and

WHEREAS Section 2.1 of that agreement calls on Orange County to adopt by reference the Chapel Hill Land Development Ordinance and make its provisions applicable to that portion of the Transition area located within the Chapel Hill Joint Development Review Area; and

WHEREAS Section 2.6.C of that agreement specifies procedures by which subsequent amendments to the Chapel Hill Development Ordinance may be incorporated further by reference by Orange County for application in transition areas;

NOW, THEREFORE, BE IT RESOLVED the Council of the Town of Chapel Hill that the Orange County Board of Commissioners is hereby requested to take the action specified in Section 2.1 of the Joint Planning Agreement, adopting by reference the Chapel Hill Development Ordinance for application to that portion of the Joint Planning Area's Transition Area located within the Chapel Hill Joint Development Review Area.

BE IT FURTHER RESOLVED that the Orange County Board of Commissioners is hereby requested to consider this action at a Public Hearing scheduled for April 13, 1988.

This the 22nd day of February, 1988.

Main Street Program

Roger Waldon, Planning Director, said the proposal was for Chapel Hill, Carrboro, and segments of the business community to jointly apply for designation for Chapel Hill - Carrboro to be a Main Street community. He said the thrust of the program would be to focus on the downtowns of Chapel Hill and Carrboro. He stated that if the communities were designated as Main Street cities then the commitment on the part of the communities was to focus on downtown, provide staffing for a downtown program and the benefits that would come from the affiliation with the Main Street program would be a wide array of technical assistance in terms of ideas and personnel to help work on the project to vitalize and revitalize downtown areas. Mr. Waldon said the application would need to be submitted soon and outline an annual budget of about \$60,000 per year with the cost of the program to be shared by Chapel Hill, Carrboro and the private businesses.

Council Member Pasquini said the scope of work that was attached in the memorandum appeared he said to be weak. He asked if it would be enhanced. Mr. Waldon replied yes, that what was provided in the memorandum was just a brief overview of some of the things that would be done.

Council Member Andresen said she was excited with this opportunity for this program and that she felt there would be a strong application with Chapel Hill and Carrboro jointly applying. She also said that she had attended a Main Street conference and found it to be one of the best conferences she had attended.

COUNCIL MEMBER WILKERSON MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG TO ADOPT RESOLUTION 88-2-22/R-20.

Council Member Pasquini said he would like further discussion on this issue. He said that for a 3-year program, \$67,000 was a lot of money for Chapel Hill to be investing, especially when there were no defined goals or distinct scope of work. He stated that he was concerned with spending this amount of money in this manner when this money could possibly be better spent on other

projects or personnel for the Town. He also asked what would happen if the private sector or Carrboro did not raise their portion of the funding.

Manager Taylor stated that at this point, the proposed resolution was contingent upon the private sector and Town of Carrboro providing their portion of the funding. He said if the others were unable to provide funding, then the Council would have the opportunity to make another decision on Chapel Hill's participation.

Council Member Godschalk said he had some of the same concerns as Council Member Pasquini. He stated that on one hand the Council wanted to promote the best planning and design for the Chapel Hill and Carrboro's downtown areas and that he felt outside resources would be necessary. He said that the proposal before the Council was fairly expensive. Mr. Godschalk pointed out that the Main Street program was often done in cities that did not have very much in-house planning capabilities. He said he was torn between wanting to see something done and getting the private sector involved in this but he said he did not think the Town could expect a very dramatic outcome in the Chapel Hill area from having a full-time person as a program manager and a resource group visit. He also said typically, smaller cities participated in Main Street programs.

Council Member Werner said he also shared some of the concerns expressed. He said he was concerned about the structure of the proposal. Mr. Werner said the program was set up as a three year program with the Town committed to put up a minimum of \$22,500 per year contingent upon funding from Carrboro and the private sector. He stated that possibly the first year would work out fine but he was concerned that the second and third years might not be as successful.

Manager Taylor responded that the resolution stated that the Town's participation was contingent upon the other parties providing their funding. He said each year would stand on its own with regard to funding from the Town. He also said that he was not sure that in the long run if the Town would not be better off using the \$22,000 to hire another planner and assign that planner full time work on the downtown. Manager Taylor said, however, that he did not think this would accomplish the goal of working with Carrboro and the private sector for a coordinated, joint effort.

Council Member Andresen said that what was exciting about the proposal was the commitment of the three entities and she felt it was worth the expense. She said the Town would have the opportunity to review the progress and decide each year if it wanted to continue.

Council Member Godschalk asked what was the extent of the commitment from the downtown group. Manager Taylor replied that at this point there was a verbal commitment from Mr. Hakan that he would see that the funds were raised. He said he was confident the private sector would provide the funding for the first year. He said the success of the program the first year would dictate whether or not the program proceeded further.

Mayor Howes said that this program afforded the opportunity for Chapel Hill and Carrboro to work together to improve the downtown. He said that with the safeguards outlined, there were avenues to allow the Town to get out of the program if the additional support did not materialize. He also stated that the Town should not expect any miracles as a result of the program. He said the principle benefit at the outset would be the joint effort.

THE MOTION CARRIED, (7-2), WITH COUNCIL MEMBERS PASQUINI AND WERNER VOTING AGAINST.

The resolution, as adopted, reads as follows:

A RESOLUTION AUTHORIZING A MAIN STREET PROGRAM APPLICATION (88-2-22/R-20)

WHEREAS, the Council of the Town of Chapel Hill is committed to public/private efforts to enhance and market the downtown area of Chapel Hill as a commercial/retail center characterized by a sense of community vitality, pedestrian orientation, and attention to human scale; and

WHEREAS, the Council recognizes the value of preserving existing buildings and the Franklin Street streetscape that symbolizes the Town of Chapel Hill across the State of North Carolina; and

WHEREAS, the Council expresses its support for participation in the Main Street program in conjunction with the Town of Carrboro and the Chapel Hill-Carrboro Development Commission;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby authorizes the Town Manager to work with officials from the Town of Carrboro and the Chapel Hill-Carrboro Downtown Commission to prepare an application for participation in the Main Street Program; commits the Town, subject to annual appropriation, to payment of \$22,500 annually for three years as its share of the anticipated program budget (based on a formula of 50% private sector funding; 37.5% Town of Chapel Hill funding; and 12.5% Town of Carrboro funding); and authorizes the submission of the application on behalf of the Towns of Chapel Hill and Carrboro and the Chapel Hill-Carrboro Downtown Commission to the Department of Natural Resources and Community Development.

BE IT FURTHER RESOLVED that the Council authorizes the Town Manager or the Mayor in lieu of the Manager where required by program regulations to act as the designated representative of the Town in connection with the application, and to provide such additional information as may be required.

This the 22nd day of February, 1988.

Downtown Shuttle Bus

Manager Taylor said that this was a proposal to provide a 90-day trial downtown shuttle bus in conjunction with the Downtown Commission to gauge public response to a free shuttle between Chapel Hill and Carrboro. He said the Commission was interested in providing something like a trolley system for the downtown area but wanted to find out if there was sufficient interest in the project to justify the cost. Mr. Taylor said that within the 90-day trial period there would be 63 service days, assuming the shuttle would not run on Saturdays or Sundays. He stated that the total cost of the program was around \$20,000 to operate the fare-free service and to paint two of the old buses to make them distinctive for the special route. Mr. Taylor said that UMTA would fund approximately half of the costs and the private sector would donate \$5000, while the Town and Carrboro would split the remaining \$5000 cost (3/4 Chapel Hill; 1/4 Carrboro).

Council Member Preston said she favored the experiment. She said understood that at present only the old buses were available, but that once the experiment worked and the group got ready to buy buses or trolleys, that the trolleys would be attractive and offer easy on and off access. She said she felt this would make individuals more inclined to use the shuttle. Ms. Preston asked why the service period was scheduled to end at 2:30 and not 3:00 p.m.? Manager Taylor responded that the cost was based on hours of service and the extra thirty minutes would add to the cost of service. He said the staff also felt 2:30 was long enough after the lunch crunch to provide the shuttle service. Mr. Taylor stated that the downtown parking lots began clearing around 2:30 and therefore parking would be more available.

Council Member Herzenberg asked if the Manager had an indication as to when the trial period would begin. Manager Taylor replied no, not until Carrboro agreed to participate and the private sector agreed and the funds were allocated. He said many would like to have the trial period this spring, but if this were not possible, he would prefer to wait until next fall.

Council Member Herzenberg said that if the project was to be delayed until next fall he felt it should be referred to the Transportation Board for their review and recommendations.

Council Member Andresen questioned whether or not the Town should also refer the proposal to the Carrboro Transportation Board. She said a merchant at Carr Mill Mall had expressed concern that maybe the students would park at Carr Mill Mall and ride the bus to class and not leave parking spaces for patrons of the Mall. Mr. Taylor said he would prefer that the Town furnish this information to the Town of Carrboro and let them refer it to appropriate Town bodies there.

Council Member Godschalk said he did not think what was proposed would be a real experiment. He said the hours of service were too short for people to get in the habit of riding the bus. He said the question was not the parking shortage but when people want to move back and forth between Chapel Hill and Carrboro. He said he felt the older buses would be the wrong type, not the convenient jump-on/jump-off buses that normally were used in downtown shuttle situations. Mr. Godschalk stated that as such he did not feel they would give a fair indication of what a real shuttle would accomplish. He reiterated that he did not think it would be a valid experiment and should not be judged by how intensively it was used because it was not really what was needed to do the job.

Council Member Pasquini said that based on Mr. Godschalk's comments he wondered why this proposed trial run should be done, even though he guessed it would not be a bad thing to do to see if there were any interest. He asked if the shuttle would compete with existing bus routes. Manager Taylor replied yes to some degree, but unless an individual was going from downtown Chapel Hill to downtown Carrboro he did not think they would use this service.

Council Member Pasquini asked if there were a regular bus route going from downtown Carrboro to Chapel Hill. Manager Taylor responded that there was a regular bus route that went through Carrboro on Franklin Street to downtown Chapel Hill. Mr. Pasquini asked if this route would be suspended during the trial period. Manager Taylor replied no, that the shuttle service would be in addition to the current routes.

Council Member Werner said that in spite of the fact that this might not be an ideal experiment he thought it was a great idea. He said if some work were done prior to placing the trial shuttle in service to establish just what the Town wanted answered as a result of the trial, then it might be a more valid experiment. He said he hoped the Council could get a report on the experiment within thirty days of the trial.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG TO ADOPT RESOLUTION 88-2-22/R-21.

Council Member Andresen said that if the study showed that all the parking lots were full and people were using the shuttle it might indicate that more parking were needed downtown.

Mayor Howes said he agreed with the cautionary statements made about what to expect from the experiment. He said he thought it was a worthwhile trial but he questioned whether it could be called an experiment if there were no hypotheses to be tested. Mayor Howes said measures needed to be set against which to judge whether or not the experiment worked. He stated that this would require more study, planning and developing goals for the experiment. Mayor Howes said he would prefer that the Town not rush into this hastily because as a trial it may fail and as an experiment it may say nothing, but if the Town waited and used the right kind of vehicles, decorated in an exciting way, with a certain theme and started it in the fall, he felt it would be a more valid test. He also said that the Town needed to assure that the Town's Transportation Board was consulted in the development of this idea.

Council Member Godschalk said that the Council might ask the staff to look at the possibility of getting the right kind of vehicles on a lease basis rather than using old buses.

Council Member Wallace commented that one of the most successful downtown shuttles he had seen were in the Caribbean and in San Francisco with the street cars.

Council Member Wilkerson said he was amazed how on one hand the Council talked about fiscal responsibility with regard to the Main Street program and then on the other hand have no problems with doing the same thing for a shuttle trial. He pointed out that \$3700 for a ninety day trial equated to almost \$18,000 per year.

Mayor Howes suggested that the staff provide the Council with a regular report on the status of the proposal as it moved forward.

Manager Taylor said the staff would work with Carrboro and the Downtown Commission to put together a project that might allow for the leasing of buses or trolleys and develop a more in-depth program with implementation for the fall. He said once the specifics were worked out he would bring this information back to the Council for review and consideration. He stated that adoption of the proposed resolution indicated that the Council supported the efforts.

Mayor Howes said the resolution would represent a statement of commitment but that the actual scheduling and details would be presented at a later date.

THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION AUTHORIZING THE MANAGER TO IMPLEMENT A 90-DAY TRIAL DOWNTOWN SHUTTLE BUS PROGRAM (88-2-22/R-21)

WHEREAS, the Council supports the efforts of the Chapel Hill-Carrboro Downtown Commission as created following the 1987 Public-Private Partnership Conference; and

WHEREAS, the Downtown Commission has identified traffic congestion, the availability of convenient parking, and mobility within the downtowns of Chapel Hill and Carrboro as areas in need of improvement; and

WHEREAS, the Downtown Commission believes the implementation of a downtown fare-free shuttle bus service may help alleviate the problems facing the downtown areas; and

WHEREAS, the Downtown Commission has committed its best efforts to raise up to \$5,000 amounting to approximately 1/2 of the local costs necessary for a 90-day downtown shuttle bus trial program;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Manager is hereby authorized to implement in cooperation with the Downtown Commission and the Town of Carrboro, a 90-day trial downtown shuttle bus program, using Town funds, vehicles and federal operating subsidies in substantially the manner as described in the Manager's report on this subject dated February 22, 1988, said report shall become part of the permanent record of this meeting.

This the 22nd day of February, 1988.

Noise Ordinance - Status Report

Ron Secrist, Assistant Town Manager, said the Council had amended the Town's noise ordinance a year ago and that this was a one year status report on the amendments. He stated that the key amendments included lowering the maximum sound level with a permit from 85 to 75 decibels and reducing the hours that permits were valid to reach the maximum sound from 1 a.m. on Friday and Saturday to midnight. He said the report provided twelve months of statistics on noise related complaints received and noise permits issued. Mr. Secrist stated that the Town had experienced a 30% increase in complaints and the number of permits had decreased by about 9%.

Mr. Secrist said the Council had also appointed a 27 member noise ordinance committee last April. He said the committee met and divided into two subcommittees. He said the monitoring subcommittee met this fall to analyze the types of complaints and permits issued, and the revision committee met to analyze the

ordinance and issued a report included in the Council's memorandum. Mr. Secrist said the revision committee's recommendation was for five possible changes to the noise ordinance, primary of which was the creation of a UNC campus zone. He stated that the purpose of this zone was to encourage the relocation of more musical events to on-campus locations. He said the staff recommended that the two subcommittees provide complete reports to the full noise ordinance review committee this spring and that the full committee report to the Council shortly thereafter with any further proposed amendments to the ordinance.

He stated that its continually reinforced to those who deal with the noise ordinance on a regular basis that the issue of sound and its affects on individuals was a difficult one to address by measurements and standards. He said management commended the Police officers for the professional manner in which they have been dealing with calls for service regarding noise complaints. He said the staff would continue to seek alternate and additional ways to be responsive to problem sounds and nuisances while administering an ordinance that allows higher noise levels requested by citizens within both restricted time and noise level periods.

Council Member Andresen said the memorandum did not mention the skateboard rink problem. Mr. Secrist said with regard to the skateboard issue there were no violations of the noise ordinance when the rink has been in operation at the time it had been checked and monitored. He said that as Council Member Godschalk brought up at the last Council meeting, there was a nuisance regarding skateboard rinks and the staff was addressing the issue through the Development Ordinance.

Council Member Andresen asked when the Council could expect to receive the final report from the noise ordinance committee. Mr. Secrist said that the noise ordinance committee, if it reconvened soon, would be ready after about one meeting to review with the Council the recommendations and reports of the subcommittees. He said he felt it would be appropriate to ask the monitoring subcommittee to observe the proposed events (to be considered next on the agenda) and for the report to come to the Council after those events.

Council Member Godschalk asked why the staff felt the number of complaints had risen even though it did not appear to be related to fraternity and sorority parties. Mr. Secrist responded that his response was only speculation but that he thought there were two major reasons: a few large apartment complexes have been occupied at a greater level in the past year and a majority of the complaints do come from apartment complexes; and the discussion and attention afforded the noise ordinance amendments last year made people more aware of noise and more willing to express their concerns about noise. Mr. Secrist said it was interesting that at the last meeting of the monitoring committee, which was composed of individuals from throughout the community, it was the

consensus that the Town had enjoyed a quieter fall, but complaints were up. He said that even though the number of complaints were up, he thought noise with regard to the intensity of the complaints and intensity of the problem to the Police Department had been less.

Council Member Godschalk asked if the majority of complaints came from within the apartment complexes or from adjacent single-family residences. Mr. Secrist said he thought they were about equal. Captain Gregg Jarvies stated that the majority of the complaints were probably from within the apartment complexes.

Council Member Godschalk said that the review indicated that there were no problems with the current noise ordinance and that the proposed changes in the noise ordinance were to set up a new zone but not change the decibel levels or hours. Mr. Secrist said that after working with the ordinance over the last year he thought the major amendments made by the Council last February had not negatively contributed to the opportunity for people to have outdoor noise events or to the increase in complaints.

Council Member Werner asked if it had been the experience of the staff that a noise ordinance was a useful tool for the Police in quieting nuisance occurrences even if the noise ordinance was not being violated. Mr. Secrist said the noise ordinance was clearly of assistance because a Police Officer could respond to a complaint, go to the complainant and learn the source of sound, go to location where the sound was emanating and negotiate and request with the person involved to please lower the sound because it was a nuisance to someone else. He said under the provision of the noise ordinance the police would be called and take a reading. He said even if the reading did not reveal a violation, and very often this was the case, the officers have been very successful at working among the neighbors to try to lower those sounds. He said it was clear, though, that from the general nuisance level that the noise ordinance was not dealing effectively with nuisances. He said he felt the Town needed to do more studies on this issue. Mr. Secrist said the noise ordinance was very effective for large outdoor assemblies with outdoor amplification.

Mayor Howes asked about large indoor events and the applicability of the noise ordinance. Mr. Secrist said the staff regularly monitored large indoor events on campus at property lines at the request of residents and for the staff's own information and at no time has the sound at a particular property line exceeded the limits. Mayor Howes said however that the noise had been found to be intrusive to residents. Mr. Secrist agreed.

Carolina Beach Blast - Noise Ordinance Amendment

Manager Taylor said the proposal was to amend the noise ordinance to allow a musical event on campus between the hours of 1:00 p.m. and 6:00 p.m. on Sunday, April 10. He said the staff believed that this was where most of the large events should occur and were supportive of this event.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER WERNER TO ADOPT ORDINANCE 88-2-22/O-15. THE MOTION PASSED UNANIMOUSLY, (9-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING CHAPTER 11 OF THE TOWN CODE OF ORDINANCES REGARDING NOISE CONTROL FOR A SPECIAL UNC CAMPUS EVENT TO BE HELD ON APRIL 10, 1988 BETWEEN 1 P.M. AND 6 P.M. (88-2-22/O-15)

WHEREAS, Ehringhaus Residence College, University of North Carolina at Chapel Hill, as sponsor of a proposed event called "Carolina Beach Blast", tentatively scheduled for Sunday, April 10, 1988 from 1 to 6 p.m., has requested the Town Council to amend the Town's Noise Control Ordinance to enable the event to include outdoor amplified music; and

WHEREAS, a change in Chapter 11 of the Town Code of Ordinances regarding the time during which a permit to use sound amplifying equipment outdoors and to exceed the normal sound levels, would be required to approve this request; and

WHEREAS, the sponsors of the Carolina Beach Blast will work cooperatively with University officials and the community at large to limit the effect of the event on the surrounding neighborhoods; and

WHEREAS, the Vice Chancellor and Dean for Student Affairs and Chief of the Department of Public Safety of the University of North Carolina have submitted letters in support of the event and amendment to the Noise Control Ordinance;

NOW THEREFORE BE IT ORDAINED by the Council of the Town of Chapel Hill the Chapter 11 of the Town Code of Ordinances is hereby amended as follows:

SECTION I

AMEND Section 11-39 (d) (3) as follows:

(3) Daytime/Evening sound levels in excess of sixty (60) dB(A) will be permitted upon the issuance of a permit and allow sound levels exceeding those set above as follows:

- Thursday Evening 75dB(A)
(5:00 p.m. - 11:00 p.m. Thursday)
- Friday Evening 75dB(A)
(5:00 p.m. - midnight Friday)
- Saturday 75dB(A)
(10:00 a.m. - midnight Saturday)

Sunday
(1:00 p.m. - 6:00 p.m.)

75dB(A)

SECTION II

Section I of this Ordinance shall be effective only on April 10, 1988 between 1:00 p.m. and 6:00 p.m., after which times in the previously adopted Ordinance (87-2-9/0-1) shall again become effective.

This the 22nd day of February, 1988.

Pi Kappa Phi Burn-Out - Noise Ordinance Amendment

Manager Taylor said that this event had taken place for several years and that last year the staff had recommended against the amendment to the noise ordinance because of a lot of problems with the event. He said the Town had made recommendations as to what it felt was necessary for the fraternity to do in order to obtain staff approval. He stated that the fraternity had accomplished the tasks and therefore the staff recommended approval of the amendments. Mr. Taylor said the fraternity had obtained approval from the adjoining property owners, homeowners associations and worked out security and traffic plans with the Police. He said he commended them for the positive steps they had taken. He stated that the staff still wanted the monitoring committee to monitor both of these events and make their own independent analysis. Mr. Taylor also said the staff would still prefer that this event take place on the main part of the UNC campus.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER WALLACE TO ADOPT ORDINANCE 88-2-22/0-16. THE MOTION PASSED UNANIMOUSLY, (9-0).

Mayor Howes said he also commended the fraternity for doing a good job of taking care of the past problems and lining up the support needed.

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING CHAPTER 11 OF THE TOWN CODE OF ORDINANCES REGARDING NOISE CONTROL FOR A SPECIAL EVENT TO BE HELD ON APRIL 8, 1988 BETWEEN 3:30 AND 5:00 P.M. (88-2-22/0-16)

WHEREAS, the sponsor of the 1988 Burnout Event, Pi Kappa Phi fraternity, is proposing to hold the event at 216 Finley Golf Course Road on Friday, April 8, 1988 to raise funds for the North Carolina Burn Center; and

WHEREAS, this event includes plans for outside amplified sound between 3:30 and 5:00 p.m.; and

WHEREAS, a change in Chapter 11 of the Town Code of Ordinances regarding the time during which a permit to use sound amplifying

equipment outdoors and to exceed the normal sound levels, would be required to approve this request; and

WHEREAS, the sponsors of the proposed Burnout event have worked cooperatively with Town and Finley Golf Course officials and surrounding neighborhood homeowners associations in order to limit the effect of the proposed event on the surrounding community; and

WHEREAS, organizers of the event have submitted a plan which includes measures to control parking and traffic, litter, illegal consumption of alcoholic beverages, and proposes providing shuttle bus service, adequate portable restroom facilities and event security personnel to attendees;

NOW THEREFORE BE IT ORDAINED by the Council of the Town of Chapel Hill that Chapter 11 of the Town Code of Ordinances is hereby amended as follows:

Section I

AMEND Section 11-39 (d) (3) as follows:

(3) Daytime/Evening sound levels in excess of sixty (60) dB(A) will be permitted upon the issuance of a permit and allow sound levels exceeding those set above as follows:

- Thursday Evening 75dB(A)
(5:00 p.m. - 11:00 p.m. Thursday)
- Friday 75dB(A)
(3:30 p.m. - midnight Friday)
- Saturday 75dB(A)
(10:00 a.m. - midnight Saturday)

Section II

Section I of this Ordinance shall be effective only on April 8, 1988 between 3:30 and 5:00 p.m., after which times in the previously adopted Ordinance (87-2-9/0-1) shall again become effective.

BE IT FURTHER ORDAINED that the memorandum dated February 9, 1988 to Town Manager David R. Taylor, from 1988 Burnout Chairman Jay Mahoney be maintained as a part of the permanent record of this meeting and the contents and conditions described in said memorandum be included as conditions that accompany the issuance of a noise permit for the 1988 Burnout Event.

This the 22nd day of February, 1988.

Water Resources - Capacity Use Designation - Upper Eno

Greg Feller, Assistant to the Manager, said the proposal would offer support for the preparation of a plan for equitable allocation of water supply and equitable financing of new water sources of the Upper Eno River Basin. He said the issue of capacity use was before the Council as a result of a request by the Orange County Commissioners to the State in 1986 due to low flows in the Eno River. He said there was a Water Use Act for North Carolina allowed the Environmental Management Commission (EMC) to adopt regulations and controls on water use in an area where there had been a problem of low flows or where the demand for water was reaching or would soon reach the supply available. He said that at the public hearing held in early February by the State, the County had stated that it reluctantly supported the capacity use designation and requested a period of three to four months to develop a water management plan. He also said that at the public hearing a member of the staff of OWASA questioned whether or not the capacity use designation was necessary. Mr. Feller said the area involved was primarily in Hillsborough but the staff felt the Council should comment on the matter as part of the Town's interest in water resources and other planning issues in the Triangle and as the Town has an interest in water sharing which could be affected by capacity use designation.

Council Member Andresen said that the individuals who needed to get together on the management plan were the County, Hillsborough, and the Orange-Alamance water system. Mr. Feller agreed and said also the NRC and Environmental Management Commission would be involved.

Council Member Andresen asked if Mr. Feller felt this group would be able to establish a plan. Mr. Feller stated that the local entities were under the direct threat of the State making the designation and as such this was a powerful incentive he felt for the local entities to develop a plan.

COUNCIL MEMBER ANDRESEN MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 88-2-22/R-22.1.

Mayor Howes said he felt the adoption of the resolution was the appropriate action to take by the Council.

Council Member Wallace said the support of the preparation of a water management plan did not in any way denote adoption of a final document. He said that if the capacity use designation were adopted it would be the second area in the state with the first one being adopted in 1967 in relation to the Texas-Gulf phosphate plant. He said that designation related to the withdrawal of excessive quantities of water while the Eno River proposed designation would relate to the ultimate rationing of water.

Council Member Godschalk said that he agreed with Pat Davis of OWASA who stated that the capacity use designation would be a default transfer of authority from the responsible local entities to the regulatory and administrative bodies of the State. Council Member Godschalk said he fully supported the preparation of a water management plan but he said he had concerns about supporting a capacity use designation.

THE MOTION PASSED UNANIMOUSLY, (9-0).

Mayor Howes stated that capacity use legislation was not designed for the purpose for which it was being considered in the upper Eno and if the State was to get into the business of water management, as it perhaps should, it should do it like the state of Florida had done and have a comprehensive water management approach that respected the role of local governments.

The resolution, as adopted, reads as follows:

A RESOLUTION REGARDING THE UPPER ENO RIVER (88-2-22/R-22.1)

WHEREAS, the Council of the Town of Chapel Hill supports the careful management of water resources; and

WHEREAS, the Council desires that water resources in the Triangle region be managed equitably and in the long-term interest of the citizens;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council supports the preparation of a water management plan for the Upper Eno River, which plan:

- a. Provides for the equitable allocation of water resources among various needs including public drinking water supplies, habitat for fish and vegetation, recreation areas, and agricultural irrigation; and
- b. Reflects consideration of the objectives of State agencies, local jurisdictions and other parties which would be affected by the plan; and
- c. Enables continued sharing of water among water systems such as the Town of Hillsborough and OWASA; and
- d. Identifies solutions to long-term water supply needs with equitable financing techniques such as recovery of costs from benefitting water users.

BE IT FURTHER RESOLVED that the Council authorizes the submittal of this resolution to the N. C. Division of Water Resources.

This the 22nd day of February, 1988.

Water and Sewer Policy - Orange County Proposal

Greg Feller, Assistant to the Manager, said the proposed resolution would endorse the proposed water and sewer policy for Orange County. He said the staff felt the draft policy was consistent with the Joint Land Use Plan and Agreement in that it discussed water and sewer lines in the Urban and Transition areas, opposed water and sewer extensions in the rural buffer and watershed areas, and addressed special use requirements for various types of alternate systems.

Council Member Pasquini said he had read the proposed policy and disagreed with a number of the points in the policy. He asked if the purpose of the resolution was to endorse the policy or to question some of the statements contained within. Manager Taylor replied that the County had asked the Town to provide comments on the policy. He said the County had not scheduled the public hearing on this issue until July therefore there was plenty of time for the Council to consider this matter.

Council Member Pasquini said he felt the proposal was an important policy and that he would like to spend more time reviewing and discussing the issue. Manager Taylor said that due to the lateness of the hour, he would prefer that the Council defer action on this issue until the next meeting and in the interim have the Council contact him with their questions on the proposal.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO DEFER ACTION ON THIS ITEM UNTIL THE NEXT REGULAR MEETING AND TO PROVIDE THE MANAGER WITH QUESTIONS AND COMMENTS WITH REGARD TO THE PROPOSAL PRIOR TO THE NEXT MEETING.

Council Member Godschalk said one general point underlying all the questions would be the rationale for why the County should get into the water and sewer business at this time.

Council Member Wallace said that this was what concerned him. He said that at the same time the County was making objections regarding the capacity use designation it was proposing to establish a county-wide water policy. He said it appeared that such a policy would consume OWASA and any other water system in the county. He said he would like this spelled out in the most detail before any further action was taken on this issue.

THE MOTION PASSED UNANIMOUSLY, (9-0).

Franklin Hills - Street Names

Manager Taylor said the proposal would set the names of the streets in Franklin Hills with Deepwood Road remaining the name of the road by the townhouses; Deming along the new phase; and the interior court would be Hotelling Court.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER GODS-CHALK TO ADOPT RESOLUTION 88-2-22/R-23.

Council Member Preston thanked the staff for their work on this matter and arriving at an equitable solution.

THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION REGARDING THE NAMES OF STREETS IN THE FRANKLIN HILLS AREA (88-2-22/R-23)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby:

1. Affirms that Deepwood Road shall be the name of the street previously known as Deepwood Road west of Elizabeth Street and extending to Wild Iris Lane.
2. Affirms its January 23, 1984 resolution and intent to name the street north of Franklin Street in the Franklin Hills area as Deming Road, which name shall extend from Franklin to Wild Iris Lane.
3. Names the cul-de-sac shown in the Franklin Hills II preliminary plat as Hotelling Court.

This the 22nd day of February, 1988.

Tandler Homeownership Demonstration Project - Status Report

Council Member Pasquini suggested deferring this item until the next regular meeting as he had several questions to ask and since it was after 11:00 p.m. He said that if the item were deferred he would prefer that it be scheduled at the beginning of the next meeting.

Manager Taylor said that if the Council desired to defer the discussion of the status report he had no problem with that but that he would prefer that the Council act on the acquisition of the sewer easement.

Mr. Pete Thorne and Marshall Isler of Capricorn/Isler, Inc., the Town's partners in the homeownership project, commented that they had not attended a Council meeting at which the project was to be discussed that the matter had not been deferred to another meeting. Mr. Thorne said that delays at this point were expensive, especially as it was the advent of spring. He said they would do their part in cooperating on the venture. Mr. Isler said the major problem in a delay at this time was that the site work to be done on the Legion Road site would require negotiation with the contractor. He said they had selected a contractor but there was a question as to the scope of work. He stated that resolution R-24.1 addressed reducing the scope of work and if

adopted it would allow for negotiations with the contractor to get the work started.

Manager Taylor said adoption of resolution R-24.1 would not take anything away from the status report or discussion on the issue but allows for negotiating with the developer for amendments to the contract so that the Town could move forward with the public improvements. He said this would allow for separating the Legion Road site from the Merritt Mill Road site from the contract.

Council Member Werner asked for clarification of where in Resolution R-24.1 it addressed Legion Road as opposed to Merritt Mill Road development. Manager Taylor said the resolution would authorize negotiations to develop amendments to the contract. He said at the present time the public improvements were included in one contract. He said in essence what would be done was a splitting of the public improvements so that the Legion Road contracts for public improvements could be done separately.

Council Member Godschalk said that he did not feel that this was what was indicated in the resolution. He said that if all that was needed at this point was to separate the contracts for public improvements then he would prefer that the resolution be written to expressing those sentiments rather than the current R-24.1 which included language relating to reducing the number of units at the Merritt Mill site. He said the Council could then discuss the status report and potential reduction of units at the next meeting.

Manager Taylor suggested that the resolution be modified to read:

"BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council authorizes the Manager to let a contract for public improvements for the Tandler East (Legion Road) site, separately from the public improvements for the Tandler site on the east side of Merritt Mill Road.

This the 22nd day of February, 1988."

He said this would separate out the authority to go ahead with the Legion Road public improvements while the Council and staff continue discussions on the program as a whole.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER WERNER TO ADOPT RESOLUTION 88-2-22/R-24.1 AS AMENDED.

Council Member Wilkerson said he was having a difficult time understanding why the Council and Town was proceeding with this issue in the manner in which it was without taking time to really look at each action the Town was taking. He said that he had looked at the figures for the project and they indicated serious cost overruns in all areas all of which were part of the public improvements being made on the site. He said the report indicated it was questionable if the Town would go through with the

entire project and yet the Council was in the process of approving another portion of the proposal without any real understanding as to why the cost overruns were occurring. Mr. Wilkerson said he was extremely concerned that once again the Council was deferring discussion of this issue. He said that part of the reason the problems were occurring was because the Council had not received adequate progress reports. He said he had been requesting for some definitive information on why the project had limped along in the manner that it had and he said he had not received any answers. He said he did not appreciate the staff scheduling this item for the latter part of the agenda because once again it was being deferred.

Manager Taylor asked the Council if it wanted to take the time at this point to discuss the issues. He said the staff was prepared to answer all the questions that could be answered and were not attempting to delay the matter.

Mayor Howes said the redrafting of Resolution R-24.1 had been done in an effort to expedite what could be expedited but not to avoid the in-depth discussion all the Council Members wanted to have on this issue. He said to have a substantive discussion at this late hour would not be beneficial. He asked for the Council's opinion.

Council Member Pasquini said he did not think the Council was ready at this point to have a lengthy discussion on the project. He said that if the Council wished to meet at an earlier date than the next regular meeting which was in three weeks then he had no problems with that.

Council Member Wilkerson stated that he would not be in town over the next two weeks.

Council Member Wallace asked if adoption of the motion would set into motion anything that could not be undone. Manager Taylor said that adoption of the motion could mean that a start would be made on the construction of the Legion Road site and to the extent that the Town would have obligated funds for that purpose would mean that there would be some cost involved. He said that all of the original estimates for the utilities and street improvements were grossly off for the entire project. He said he did not think adoption of the motion meant that at some point the Council could not proceed with the nine units on the east side of Merritt Mill Road but he did believe that it did commit the Council to proceeding with the units at the Legion Road site.

Council Member Godschalk said that he shared some of Council Member Wilkerson's concerns and would like to take time to discuss the issues involved but that he did not feel able to do so that evening.

Council Member Wallace asked if there were anything the Town could do once it was known why the cost overruns existed that

would alter the project beyond what the Council proposed to do that evening. Mayor Howes said that the only thing that he felt the Council might do differently and which the Council would have to discuss would be the lots on the east side of Merritt Mill Road.

Council Member Pasquini also said there was the question of how much of the second mortgage the Town would be able to recover for the units which were going to be built.

Council Member Wilkerson said he was concerned that the funds which would be appropriated for the public improvements to the Legion Road site along with the current cost overruns would cause the Council to scrap the possibility of continuing with the other nine units on the east side of Merritt Mill Road because the Council would feel that the cost was too high, especially since they had agreed to make the improvements at the Legion Road site.

Mayor Howes said he did not feel the Council would retreat from the project. He said he felt the Town and Council had shown its support for affordable homeownership and would continue to do so.

THE MOTION CARRIED, (8-1), WITH COUNCIL MEMBER WILKERSON VOTING AGAINST.

The resolution, as adopted, reads as follows:

A RESOLUTION AUTHORIZING THE MANAGER TO LET A CONTRACT (88-2-22/R-24.1)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council authorizes the Manager to let a contract for public improvements for the Tandler East (Legion Road) site, separately from the public improvements for the Tandler site on the east side of Merritt Mill Road.

This the 22nd day of February, 1988.

Tandler Homeownership Demonstration Program - Sanitary Sewer Easement - Request for Authorization for Condemnation

Manager Taylor said that this was a request for authorization for condemnation of an easement that the Town had thought it had reached an agreement with the other party to sell to the Town.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO ADOPT RESOLUTION 88-2-22/R-24.2. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION AUTHORIZING THE MANAGER TO INSTITUTE CONDEMNATION PROCEEDINGS FOR THE HOMEOWNERSHIP PROGRAM ON MERRITT MILL ROAD PROJECT (88-2-22/R-24.2)

WHEREAS, it is a high priority of the Council to begin construction of the public improvements (sewer connection) for the Homeownership Program on Merritt Mill Road; and

WHEREAS, the acquisition of the sanitary sewer easement is necessary before undertaking the construction of the project; and

WHEREAS, the Town is negotiating fully and fairly with the affected property owner and desires to complete acquisition;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that it authorizes the Manager to institute condemnation proceedings under G.S. 40A-42 if necessary to complete the following acquisition based on the fair market value of (88-1-11/R-20), or as subsequently modified:

<u>Parcel No.</u>	<u>Owner</u>	<u>Interest to Be Acquired</u>	<u>Area Sq. Ft.</u>	<u>Just Comp.</u>
91-H-4	Elizabeth Jolly	Sewer Easement	2,542	\$1200

This the 22nd day of February, 1988.

Consent Agenda

Council Member Werner asked that item #a, Duke Power Easement, be removed from the consent agenda.

COUNCIL MEMBER WALLACE MOVED, SECONDED BY COUNCIL MEMBER GODS-CHALK TO ADOPT RESOLUTION 88-2-22/R-25. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolutions and ordinances, as adopted, read as follows:

A RESOLUTION APPROVING VARIOUS ORDINANCES AND RESOLUTIONS (88-2-22/R-25)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby adopts the ordinances and resolutions submitted by the Manager in regard to the following:

- b. Town Code Amendment re Litter Receptacles (0-17).
- c. CATV Franchise - 2nd Reading (88-2-8/O-1).
- d. Staff Assistance to Council/Legal/Manager's Office (0-18).

- e. Traffic Regulations for New Streets (O-19).
- f. Reschedule Two Meetings (O-20).
- g. Recycling Grant Application (R-27).

This the 22nd day of February, 1988.

Litter Receptacles

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING SECTION 8-33 OF THE CODE OF THE TOWN OF CHAPEL HILL RELATED TO USE OF TOWN LITTER RECEPTACLES (88-2-8/O-17)

BE IT ORDAINED by the Council of the Town of Chapel Hill:

SECTION I

Amend Section 8-33 of the Town Code to read as follows:

Sec. 8-33. Use of public litter receptacles restricted.

Cans or litter receptacles provided by the Town of Chapel Hill are placed on the streets, sidewalks, and in parks and other Town facilities for the use of the public in disposing of litter. No person shall use such cans or areas adjacent to such cans for disposal of garbage, refuse or rubbish collected or accumulated on private property. Persons making deliveries of newspapers or other merchandise shall not use street cans or areas adjacent to such cans for disposal of garbage or refuse generated in the operation of their or their employer's business.

SECTION II

This ordinance shall be effective upon adoption.

This the 22nd day of February, 1988.

Cabletelevision Franchise - Durham Cablevision

The ordinance, as adopted, reads as follows:

AN ORDINANCE GRANTING A FRANCHISE TO CABLEVISION OF DURHAM, INC. TO CONSTRUCT AND MAINTAIN A CABLE TELEVISION SYSTEM WITHIN CERTAIN PORTIONS OF THE TOWN OF CHAPEL HILL IN THE COUNTIES OF ORANGE AND DURHAM, STATE OF NORTH CAROLINA, AND TO CONDUCT AND CARRY ON WITHIN SAID TOWN OF CHAPEL HILL THE BUSINESS AUTHORIZED BY LAW FOR A CABLE TELEVISION SYSTEM (88-2-8/O-1)

BE IT ORDAINED by the Council of the Town of Chapel Hill:

Section 1: Grant and Term; Franchise Area. Cablevision of Durham, Inc., its successors and assigns, is hereby granted for the term from and after the effective date hereof through August 20, 1994 (as requested by Cablevision of Durham, Inc.) the right, privilege and franchise to construct or have constructed, operate and maintain a cable TV system and to engage in the business of providing a cable TV service in a delineated area of the Town and areas which may be annexed by the Town within such delineated area, and for that purpose to erect, install, and construct upon, across and along any public street, such wires, cables, conductors, and other property excepting poles as may be necessary and appurtenant to the cable TV system; and in addition, so to use, operate, and provide similar facilities or properties rented or leased from other persons, including but not limited to any public utility or other grantee franchised or permitted to do business in the Town.

The CATV system and service herein franchised shall be used and operated solely and exclusively for the purpose expressly authorized by ordinance of the Town of Chapel Hill and no other purpose whatsoever.

Section 2: Renewal. The franchise herein granted may be renewed for an additional period of ten (10) years upon terms satisfactory to both the Town and Cablevision of Durham, Inc., its successors and assigns.

Section 3: Non-exclusive. The right herein granted to construct and operate a cable TV system shall be non-exclusive, and the Town reserves the right to grant similar franchises to any person or persons at any period during the present franchise.

Section 4: Construction of System. All highways, roads, streets, sidewalks, avenues, lanes, alleys, bridges, and other public places that may be disturbed or damaged in the construction or maintenance of said cable TV system, shall be promptly replaced by said Cablevision of Durham, Inc. at its own expense and to the satisfaction of the Town Manager or Town Manager's designee of the Town of Chapel Hill. All fixtures shall be substantial and so located as not to interfere with the public use of said highways, roads, streets, sidewalks, avenues, lanes, alleys, bridges, or other public places, or to endanger the property or persons of

the citizens of said Town. And in case said Cablevision of Durham, Inc. shall fail to replace or repair said highways, streets, roads, avenues, lanes, sidewalks, alleys, bridges, or other public places within ten (10) days after written notice to do so from the Director of Public Works, the same may be replaced or repaired by the proper authorities of said Town of Chapel Hill, and the said Cablevision of Durham, Inc., in the event thereof, shall forthwith pay to the said Town of Chapel Hill the cost of such work.

Section 5: Relocation of Fixtures. In the event at any time during the period of this franchise the Town shall lawfully elect to alter or change the grade or level of any street, alley or public way, upon reasonable notice by the Town, Cablevision of Durham, Inc. shall remove, relay, and relocate its wires, cables and other fixtures including the level of any manhole necessitated by surfacing or resurfacing, at its own expense.

Section 6: Temporary Removal. Cablevision of Durham, Inc. shall, on the request of any person holding a building moving permit issued by the Town, temporarily raise or lower its wires, if technically feasible, to permit the moving of buildings. In the event it is determined that it is not technically feasible to raise or lower the wires, a written statement to this effect reciting the reasons therefore shall be filed with the Town. The expense of such temporary raising or lowering of wires shall be paid by the person requesting the same, and Cablevision of Durham, Inc. shall have the authority to require such payment in advance.

Section 7: Ordinances Applicable. Cablevision of Durham, Inc. shall be subject to the Ordinances of said Town of Chapel Hill relative to the use of such highways, roads, streets, avenues, lanes, sidewalks, alleys, bridges or other public places and relative to cable television systems, including, without limitation, Article V of Chapter 10 of the Town Code, and the Town's Development Ordinance, Design Manual and Standard Specifications and Details.

Section 8: Tree-Trimming. Cablevision of Durham, Inc. shall have the authority to trim trees upon and overhanging streets, alleys and sidewalks and public places of the Town so as to prevent the branches of such trees from coming into contact with the wires and cables of Cablevision of Durham, Inc., all trimming to be done under the supervision and direction of the Town at the expense of Cablevision of Durham, Inc.

Section 9: Location Maps. Cablevision of Durham, Inc. agrees to maintain, either in its own offices or by filing with the Town, copies of all maps showing the location and type of all wires, cables, and other fixtures situated within the planning district of the Town; in addition, Cablevision of Durham, Inc. shall submit certain maps to the Town annually in accord with Section 10-87(e) of the Town's Code of Ordinances.

Section 10: Assignability. No transfer of control of the cable TV system shall take place, whether by forced or voluntary sale, lease, mortgage, assignment, encumbrance or any other form of disposition without prior notice to and approval by the Council which shall not be unreasonably refused. The notice shall include full identifying particulars of the proposed transaction, and the Council shall act by resolution. Council shall have sixty days within which to approve or disapprove a transfer of control; if no action is taken within sixty days, approval shall be deemed to have been given.

Section 11: Franchise Fee. Cablevision of Durham, Inc. shall pay to the Town a franchise fee as set forth in Section 10-91 of the Code of Ordinances, Town of Chapel Hill, as it may be amended.

Section 12: Hold Harmless. Said Cablevision of Durham, Inc., its successors and assignees, shall hold said Town of Chapel Hill free and harmless from all damages or claims for damages arising by reason of the negligent construction or maintenance of said lines, wires, appliances, fixtures, and appurtenances.

Section 13: Compliance with Cablevision of Durham's Application. The terms of the application by Cablevision of Durham, Inc. dated November 6, 1987 and January 5, 1988 for provision of cable TV service submitted to the Town of Chapel Hill are hereby adopted by reference as part of this franchise ordinance to the extent that they are more restrictive on Cablevision of Durham, Inc. than are the ordinances of the Town of Chapel Hill including this franchise, provided, that the following clarifications and conditions shall apply:

- (a) The Durham County franchise agreement of Cablevision of Durham, Inc. dated December 14, 1979 is incorporated herein by reference.
- (b) The franchise fee required under Town Code Section 10-91 shall not be divided with another locality.
- (c) Cablevision of Durham, Inc. shall extend service on request within 6 months to any area which has an average density of 40 homes per linear mile of streets and/or easements in which cable lines would be reasonably extended.
- (d) Cablevision of Durham, Inc. shall extend service to East and West Lakeview Drives within 90 days of the adoption on second reading of this franchise ordinance.
- (e) Cablevision of Durham, Inc. shall transmit to the Town, within 30 days of effective date of amendments to the Durham City and Durham County franchise agreements with Durham Cablevision, copies of such amendments. The Town shall have the right at its sole election, but not the obligation, to incorporate such amendments into the Town of Chapel Hill franchise granted to Cablevision of Durham, Inc.

Section 14: Franchise Area. The franchise area shall be the area which is (1) within the Town of Chapel Hill corporate limits, as may be amended, and (2) in Durham County west of Pope Road and I-40 and north of Ephesus Church Road; and shall also include East and West Lakeview Drives in Orange County

Section 15: Acceptance: This franchise is subject to acceptance pursuant to Section 10-83 of the Town Code.

Section 16: Effective Date. This Ordinance shall take effect immediately upon being adopted at two (2) regular meetings of the Council of the Town of Chapel Hill as provided by law. The franchise shall be effective upon acceptance as required above.

This the 8th day of February, 1988. (First Reading)

This the 22nd day of February, 1988. (Second Reading)

Position Classification and Pay Plan Amendment - Staff Assistance to Council, Manager and Attorney

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING THE POSITION CLASSIFICATION AND PAY PLAN (88-2-22/O-18)

BE IT ORDAINED by the Council of the Town of Chapel Hill that the Council hereby amends the "Ordinance Establishing a Position Classification and Pay Plan and Longevity Plan for Employees of the Town of Chapel Hill and Bonds of officials Beginning October 1, 1987 (87-5-26/O-5) as follows:

In Section IV, C, DELETE the lines:

	Full-time No. Hrs.	Part-time No. Hrs.	Grade
(Town Manager's Office)			
Executive Secretary	17.5		16

and ADD the line:

Executive Secretary	27.5		16
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This the 22nd day of February, 1988.

Traffic Regulations - New Streets

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING CHAPTER 21 OF THE CODE OF ORDINANCES
(88-2-22/O-19)

BE IT ORDAINED by the Council of the Town of Chapel Hill:

SECTION I

That Section 21-13 of the Town Code of Ordinances, "right-of-way and stop regulations," is amended by inserting the following therein, in appropriate alphabetical order:

Through Streets

Stop Streets

Honeysuckle Road
Rosebud Lane

Rosebud Lane
Half Moon Point

SECTION II

That Section 21-11(B)(2) of the Town Code of Ordinances, "Twenty-five (25) miles per hour on the following streets:", is amended by inserting the following therein in appropriate alphabetical order:

Half Moon Point
Rosebud Lane

SECTION III

These ordinances shall be effective on Monday, March 7, 1988.

SECTION IV

All ordinances and portions of ordinances in conflict herein are hereby repealed.

This the 22nd day of February, 1988.

Council Meetings - Rescheduling May 23 and July 6

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING THE TOWN COUNCIL'S SCHEDULE OF REGULAR MEETINGS (88-2-22/O-20)

BE IT ORDAINED by the Council of the Town of Chapel Hill that the Council hereby amends the schedule of regular meetings as follows:

Reschedule the May 23, 1988 meeting to Wednesday, May 25, 1988.

Reschedule the July 6, 1988 meeting to Tuesday, July 5, 1988.

This the 22nd day of February, 1988.

Recycling Grant Application

The resolution, as adopted, reads as follows:

A RESOLUTION AUTHORIZING THE TOWN MANAGER TO SUBMIT THE TOWN'S APPLICATION FOR A GRANT TO FUND A COMMERCIAL CARDBOARD RECYCLING PROGRAM (88-2-22/R-27)

WHEREAS, the present Orange County Landfill is due to be full within ten years or less at the current rate of use; and

WHEREAS, the State of North Carolina has adopted as policy the goal of reducing the State's use of landfills by 90% in the next 18 years; and

WHEREAS, the Town of Chapel Hill, on behalf of the Orange Regional Landfill Owner's Group, has initiated a recycling program in Orange County to try to extend the life of the landfill as well as conserve our resources and would like to extend this program to all sectors of the community;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council endorses full and authorizes the Town Manager to submit the Town's proposal to the State of North Carolina's Pollution Prevention Pays Challenge Grant Program to help fund the pilot project for commercial corrugated cardboard recycling at area businesses and institutions.

This the 22nd day of February, 1988.

Dobbins Drive Right-of-Way - Duke Power Dedication

Council Member Werner asked if the Town would propose closing Dobbins Drive east of Erwin Road as it currently existed. Manager Taylor said that once the intersection was realigned then a portion of the current Dobbins Drive would be closed.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO ADOPT RESOLUTION 88-2-22/R-26. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION THANKING DUKE POWER FOR GRANTING TITLE TO LAND AND ACCEPTING SAME (88-2-22/R-26)

WHEREAS the Duke Power Company has again demonstrated its public spirit by offering to the Town of Chapel Hill the deed to land at the intersection of Dobbins Road and Erwin Road, and;

WHEREAS the Town of Chapel Hill needs this land for construction of road improvements at this intersection;

NOW THEREFORE BE IT RESOLVED by the Council of the Town of Chapel Hill that it formally accepts this right-of-way dedicated by Duke Power Company, and expresses its appreciation for the cooperation exhibited by Duke Power Company.

This the 22nd day of February, 1988.

Executive Session

COUNCIL MEMBER WALLACE MOVED, SECONDED BY COUNCIL MEMBER PASQUINI TO ADJOURN TO EXECUTIVE SESSION TO DISCUSS LITIGATION AND INTEREST IN REAL PROPERTY. THE MOTION PASSED UNANIMOUSLY, (9-0).

The meeting adjourned to executive session at 11:29 p.m.

The Town Council in executive session authorized the payment of the \$1000 deductible under the Town's insurance policy in order to settle two claims against the Town arising out of a September 26, 1987, incident involving a Town Police Officer, Ron Pannell. In addition, pursuant to G.S. 160A-168(c)(7) the Council gave its concurrence to the Manager releasing information from the personnel file of the Police Officer to one of the claimants in the September 26, 1987, incident, upon a determination by the Manager and Council that the release of that information is essential to maintaining the level and quality of city services. The Council further directs that this determination shall be available for public inspection and become part of the employee's personnel file.

COUNCIL MEMBER WILKERSON MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADJOURN THE MEETING. THE MOTION PASSED UNANIMOUSLY, (9-0).

The meeting adjourned at 11:34 p.m.

