


Systems of N.C. for the general contract; of \$6,394.00 from Alternate Electric for the electrical contract; and of \$2,968.00 from Sparrow & Sons, Inc. for the plumbing contract; total of \$59,282, and that the remainder of the budgeted amount be used for installation of site hardware and grading work, to be done by in-town labor. Said motion was unanimously carried.

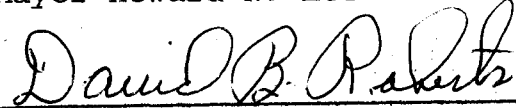
Franklin Street Closing Alderman Smith moved, seconded by Alderman Welsh that the Board approve the closing of Franklin Street on Sunday, October 5, 1975, from 12:00 noon until 7:00 p.m. for the Fall Street Fair sponsored by the Recreation Department. Said motion was unanimously carried.

Planning Board--Nominations Alderman Welsh moved, seconded by Alderman Gardner, that the names of Bill Levine and Wesley Eagan be placed in nomination for the vacancy existing on the Planning Board, with the term expiring in 1979. The motion carried unanimously.

Executive Session--Property Acquisition Alderman Welsh moved, seconded by Alderman Marshall, that the Board adjourn to an Executive Session to consider property acquisition. Said motion was unanimously carried.

There being no further business to come before the Board of Aldermen, said meeting adjourned at 10:20 p.m.



Mayor Howard N. Lee


Town Clerk, David B. Roberts

MINUTES OF A PUBLIC HEARING AND A REGULAR MEETING OF THE MAYOR AND THE BOARD OF ALDERMEN OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING, MONDAY, SEPTEMBER 22, 1975, 7:30 P.M.

The Board of Aldermen met for a joint public hearing with the Planning Board, followed by a regular meeting, on September 22, 1975 at 7:30 p.m. in the Municipal Building. The roll was reported as follows:

- Present: Howard N. Lee, Mayor
Gerald A. Cohen
Thomas B. Gardner
Shirley E. Marshall
Sid S. Rancer
R. D. Smith
Alice M. Welsh

Absent: None

A quorum of the Board was present and in attendance at the meeting. Also present were Town Manager K. Jenne, Town Clerk D. Roberts, and Town Attorney E. Denny. Planning Board members present were J. Howes, C. Weiss, and P. Parker.

PUBLIC HEARING

Rezoning Mayor Lee said that the Public Hearing is called to consider the rezoning of land zoned R-10A and located east of Hillsborough Street, to R-10; and of land zoned R-10A and located on the north side of East Rosemary Street between Spring Lane and Hillsborough Street to either R-6 or R-10. He explained the procedure to be followed at this hearing.

Mr. Mike Jennings, Planning Director, presented the background report, and showed the areas under consideration on a map. He listed the consequences of rezoning the areas and making the fraternities and sororities

in the areas non-conforming. He said that fraternities and sororities are now allowed in R-10A and University-A districts; and in courts are allowed as unified developments in essentially all residential districts, with a lot requirement of three acres minimum and presence of three houses. He said that the Town is working on a comprehensive planning study, will analyze the trends in the memberships of the fraternities and sororities and extrapolate the need for land in the future. He said that recently in Washington, Oregon it was found by the courts that any zoning not done in accordance with a comprehensive plan could not be validated, and the City's actions were overturned by the courts. Mayor Lee asked for comments in opposition to the proposed rezoning. Mr. Alan Pugh read the following statement:

STATEMENT TO THE BOARD OF ALDERMEN OF THE TOWN OF CHAPEL HILL
BY THE NORTH CAROLINA CHAPTER OF THE DELTA UPSILON FRATERNITY
RE-ZONING PUBLIC HEARING
SEPTEMBER 22, 1975

Ladies and Gentlemen, the members and alumni of the North Carolina Chapter of the Delta Upsilon Fraternity wish to thank the Board of Aldermen for the opportunity to express our opposition to this proposed re-zoning. My name is Alan Pugh, and I represent the fraternity. We occupy lots 19 and 20 in block E of Tax Map 79, which is located at the corner of East Rosemary and Hillsborough Streets.

The fraternity wishes to address two issues which we believe face the Board and the citizens of Chapel Hill as they consider this proposed zoning change. First, is the effect of this proposed change on our fraternity. Second, is whether this proposed action is wise as a part of a long-range planning policy for the Town of Chapel Hill as it relates to fraternities and sororities.

1. THE EFFECT OF THIS PROPOSED ZONING CHANGE ON THE FRATERNITY

Background: The location of the Delta Upsilon Fraternity

The Delta Upsilon Fraternity moved to its present location in 1956. The fraternity purchased the Bain House and its adjacent buildings located on lot 19. The Bain House was used by a sorority as far back as the early 1930's when the Pi Beta Phi's occupied the structure. It has been used as a boarding house, or as a fraternity or sorority since that time. In 1965, we purchased the Dey House located on lot 20. In 1966, the Board of Aldermen passed a special use permit to allow the fraternity to use the Dey House as part of its complex. In 1972, the Board granted another special use permit which allowed the D.U.'s to demolish or remove all the structures located on the two lots and to construct a new building. Last week the Board allowed the fraternity to modify that special use permit so that the Dey House and the Bain House could be preserved with an addition to be built onto the rear of the Bain House. Both lots 19 and 20 have been zoned for fraternity-sorority use since Chapel Hill first enacted a zoning ordinance more than 20 years ago.

B. Zoning laws and special uses

There is a great deal of confusion as to the effect of such a zoning change as is proposed to the Board. Indeed there is much perplexity as to zoning laws and special uses in general. If an area is zoned for a particular use, then a property owner may develop his land for that purpose. If the use is special in that it may affect surrounding property

owners or the community, the Town of Chapel Hill has the authority to impose reasonable guidelines on the construction of buildings on such property. If however property is not zoned for a particular use, no special use permit can be granted. The zoning law is the basic land use control mechanism.

If the property owned and occupied by the Delta Upsilon Fraternity is re-zoned from R-10-A to R-10, the fraternity would become a non-conforming use. Fraternity and sorority houses are permitted only in R-10-A and University-A districts. Fraternity and sorority courts are permitted in R-20, R-15, R-10, R-10-A, R-5, R-4, and University-A districts. The Board may wish to ask the Planning Board to consider that interesting provision.

We are very much distressed at the prospect of becoming a non-conforming use of structures as defined in Section 5-G of the zoning ordinance. Why do we have this fear?

The background report given to the Board states that under the non-conforming provisions of Section 5-G, the use may in essence be continued provided that the use is not extended or enlarged, and provided that if any structure is destroyed by any means to an extent of more than 60% of its assessed taxable value or its bulk, it shall not be reconstructed except in conformith with the provisions of the Zoning Ordinance. We believe that such an interpretation is erroneous. There is absolutely no provision in Section 5-G which states anything relative to the 60% figure. Section 5-G.1 declares that "no existing structure devoted to a use not permitted by this ordinance in the district where it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located".

The only section of the ordinance in which the 60% provision appears is in Section 5-D, which relates to non-conforming structures, not to non-conforming uses. It states: "Where a lawful structure exists at the effective date of the adoption or amendment of this ordinance that could not be built under the provisions of such ordinance or amendment by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, and where such structure is used for purposes permitted by by the provisions of the ordinance or amendment, such structure may be continued so long as it remains otherwise lawful, subject to the following provision:" Provision 2 then states the 60% figure. This provision relates only to non-conforming buildings which are being used in conformity with the zoning laws. It has no bearing on non-conforming uses period.

Section 5-G under which the fraternity will fall declares that no structure shall be reconstructed. What does this mean? The clear intent of the non-conforming use as outlined in Section 5-A is that such non-conformities shall not be enlarged upon, expanded, extended, or made more permanent. Given such a mandate, what is to determine the percentage of repair or reconstruction that would be allowed should the buildings occupied by the fraternity be damaged. Section 5-H states that "nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any city official charged with protecting the public safety". But what would be the guidelines to such an official. If the fraternity's buildings were damaged up to the 10% limits allowed for repairs, would permission be granted to rebuild? What if 25% were destroyed, or 40%, or 59%. There is no clue in the ordinance as to what would be the policy as it relates to a non-conforming use. The ordinance deals with such a problem only in reference to a non-conforming structure. It makes clear that the 60% provision deals with a structure "where such structure is used for purposes permitted by the provisions of the ordinance or amendment," in other words, a conforming use.

All this may seem like so much legal technicality, but it places property owners in a position of fear and uncertainty.

Assume for a moment, however, that the 60% reconstruction provision did in fact apply to a non-conforming use. The position of the fraternity would remain perilous. We presently use 4 buildings on our property. After the construction of our new addition, the fraternity will occupy two buildings. The Dey House is presently used and will be used in the future for sleeping quarters.

It is impossible for the fraternity to support itself unless it receives the income generated by the rooms which are and will be rented in the Dey House. Suppose that a fire destroyed more than 60% of the Dey House, and the fraternity received funds from its insurance company for re-construction. It would be illegal for us to rebuild the Dey House for fraternity purposes, and the fraternity would then not be able to support itself. And yet the Bain House complex would remain with its new \$110,000 addition. To whom would we sell such an enormous structure. Who could use it as a residence? What other fraternity would buy property which had already been declared a non-conforming use?

We are upset that the Planning Board with the caliber and expertise of its members would suggest that our property should become a non-conforming use. We are especially saddened because of the reasons which have been given to justify such a drastic action.

In its memorandum to the Board of Aldermen, the Planning Board declared that the R-10-A zone is "inappropriate for the area, that the R-10-A boundary should be held at Hillsborough St., and that unless the residential area east of Hillsborough St. is re-zoned to R-10, additional R-10-A zoning will be requested in the area for properties abutting the present R-10-A zoning line".

In order to discover what that mystifying statement meant, we read the minutes of the Planning Board meeting of June 3, 1975. The discussion of the issue took place mainly between two individuals who are not now members of the board. The discussion ran something in this vein. That the basic problem was that the people in the Rosemary-North St. area feared that a particular owner of property in that area was looking for a client to sell a large chunk of property, presumably this client might be a fraternity or sorority. There was additional discussion in which the sentiment was voiced that some property owners had "come to terms on future development which is turning it over to the highest bidder". One member said that the Board is trying to protect a residential area east of Hillsborough Street.

Ladies and Gentlemen, this fear is as groundless as the proposed remedy is outrageous. No purchaser of property in that residential area east of the present boundaries of the fraternity-sorority district will convince, pressure or bully this Board to approve such a zoning change that the Planning Board fears. And yet because of this fear the Planning Board feels the need to attack a long standing fraternity-sorority zone because of the infinitesimal chance that any additional R-10-A zoning would be approved. The seeming unconcern with which some would disrupt and disturb property owners of long standing, and the cavalier manner with which "non-conforming use" would be affixed to such property owners is shocking.

The only other reasons for this proposed change that we have been able to discover are vague statements relating to the proposed historic district. Let me interject at this point that I am a member of the National Trust for Historic Preservation and that the fraternity strongly supports the historic district. There is absolutely no conflict between the present R-10-A zoning, and the proposed historic district zoning. The state law under which this area would be zoned historic will protect all historic buildings regardless of their use. To claim that fraternities and sororities must be discouraged in the historic district is belied by the fact that the historic district

will include the block bounded by Franklin, Hillsborough, East Rosemary, and Robertson Streets. This area contains 4 fraternities and 4 sororities, yet it is not affected by this proposed re-zoning.

It has been suggested as an alternative to this proposed re-zoning, that the Board of Aldermen could re-zone all the property in question except that which is presently being used by a fraternity or sorority. This would indeed protect our fraternity and allay those very real dangers which would accompany our designation as a non-conforming use. Such an action would not solve the second, more important issue which faces this Board. That is should fraternities and sororities be part of a long-range plan, and if so what is their place in such a plan.

We believe that fraternities and sororities provide the students an alternative in board and housing which is vital to the University and to this community. Contrary to myth, their main function is not a social club. They are for the vast majority of the time a place for a student to eat, sleep, and study. They provide a home base for both students and alumni of the University. They can be most favorable compared to high-rise dormitories, and vast impersonal apartment complexes.

These organizations perform a useful function for the Chapel Hill community. As they are traditionally located close to campus, they diminish the reliance of the student upon automobiles. They provide a tax base for the town of over \$3,300,000. The fraternities and sororities in the East Rosemary, Hillsborough, Franklin Street area alone have a valuation of over \$1,300,000. Fraternities and sororities have helped to insure that many of the large old homes in the community will be preserved, homes which now, and at an ever increasing rate in the future will be beyond the financial ability of most families to buy and especially to maintain. This is one of the factors which has preserved the East Franklin Street area from the fate of West Franklin. We believe in the future that fraternities and sororities can continue to protect the grand old homes of the community. To serve as buffer zones from business or apartment encroachment. If fraternities and sororities perform a useful function, is this district an appropriate area for them, as a matter of long-range planning?

The issue here is not whether fraternities and sororities should be allowed in a residential district. This is a fraternity-sorority district, it borders on a Residential District. It also borders on a Central Business District, a Limited Business District, and a University-A District. This fraternity-sorority district has existed basically as it is today since the first zoning law was passed. Before that zoning it was used for that purpose.

We believe that the original zoning recognized that there were many fraternities and sororities in this area. We believe that the zoning law recognized this and approved it. We feel that the original zoning provided room for additional houses should the need arise. The need has arisen and the need has been met. If this zoning remains stable, it will meet the need in the future. We submit that this is as wise a planning concept today as it was in 1955.

It has been suggested by some that the Board of Aldermen should be primarily concerned with the interests of so-called permanent residents in determining long-range planning policy. We believe that students in general and fraternities and sororities in particular deserve just as much consideration in determining long-range planning policy. We help support the local economy, we pay substantial taxes here, and we vote here. We are submitting a petition signed by 666 students to add to the petition signed by over 87% of the property owners asking this Board to leave this zoning district as it is. This, we believe, is the best course for the future.

Any problems caused by unreasonable noise can be dealt with by a sound noise ordinance combined with a degree of understanding and communication among all parties. Any concerns over additional fraternities and sororities can be mitigated by the effective employment of the special use permit, as was shown last week.

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As a matter of fairness and equity, and as an intelligent approach to planning for this community we respectfully ask this Board to leave the R-10-A district as it is.

Ms. Trish Hunt said that she is speaking for the Alpha Delta Pi sorority, which is located in Area 1 of the proposed rezoning. She said that the sorority spent a tremendous amount of money to buy the property, since it was zoned R-10A, and is now spending a large amount of money yearly for upkeep. She said that the sorority has good relations with the neighbors, and that it wants to keep the house in a manner that would be conducive to the Rosemary Street situation. She said that the Alpha Delta Pi sorority has used the house since 1943, and that she feels it is outrageous that an attempt should be made to rezone the area. She said that zoning makes property expensive, and that one problem that exists for the middle income people in Chapel Hill is that the zoning is so tight that they cannot afford to buy land. She said that nobody would buy the sorority house for the amount of money that has been put in it, if the zoning were changed. She said that she does not feel the present zoning is in conflict with the historic district. She urged the Board of Aldermen not to rezone the area, since this would not be in the best interest of the students or of justice.

Ms. Lloydette Hoff read the following statement:

REMARKS OF LLOYDETTE HOOF

Good evening, my name is Lloydette Hoof and I am speaking in opposition to the re-zoning proposal as a representative of the national sorority of Kappa Alpha Theta and as a former member of the University of North Carolina Chapter of Kappa Alpha Theta.

In 1966 when the University of North Carolina invited Kappa Alpha Theta to colonize here in Chapel Hill, the property at 227 E. Rosemary was purchased - at this time the property was zoned R-10-A. In 1970, the sorority obtained a special use permit to construct a Chapter house on this property. At this time it was reaffirmed that this was a proper use for this property. At that time and since, Kappa Alpha Theta has invested substantially in the building and improvement of this property.

This re-zoning proposal implies that the fraternities and sororities on Rosemary Street, including the Kappa Alpha Theta house, are a detriment to this area. To consider the Kappa Alpha Theta house a detriment, however, is unfounded. Let me quote, for example, from this Sunday's issue of the Durham Morning Herald where the Kappa Alpha Theta Chapter of the University of North Carolina was chosen for the Herald's garden tour of homes.

Quoting in relevant part: "The...members of this sorority have a beautiful house on E. Rosemary Street...Set way back from the busy street, the rustic exterior blends right in with the surrounding trees. This surely must satisfy all passersby in this town...."

And again "When the Thetas moved to their new house..., the grounds were dry and barren. Now they spend their spare time trying to keep the area green and beautiful."

This, of course, is known as responsible citizenship and "being a good neighbor".

The neighboring property surrounding the Kappa Alpha Theta house is largely rental property which is consistent with the use made of the Theta house. There are, in fact, on Rosemary Street, five other sororities and fraternities, a student-church center, two Churches, a realtor and a telephone exchange-all in keeping with the affirmed use of this property. These blocks on Rosemary Street make an excellent and, in the case of Kappa Alpha Theta, a beautiful buffer zone between the commercial areas of Chapel Hill and the purely residential.

In addition, the Kappa Alpha Theta sorority has provided ample parking spaces for its members at the rear of the property - thus assuring that there is no congestion entering or leaving our property. At the same time, however, the Theta house is close enough to campus and town for members to walk-thus again cutting down on traffic.

Finally, the Kappa Alpha Theta house in particular is not only an excellent buffer in technical zoning terms, but is also a fine liason between Town and Gown as well. We are indeed a part of Chapel Hill as well as the University. We pay approximately \$5,000.00 a year in City and County Taxes, approximately \$408.00 a year sewer assessment and approximately \$624.00 a year to the schools of Chapel Hill from which we gain no benefit. Our members are registered voters and give unflinchingly of their time and money to purely Chapel Hill Community-based philanthropic endeavors.

Thus, I feel this re-zoning would not be in the best interest of the Town of Chapel Hill for the very reason that the fraternities and sororities in this area are not detriments to the Community, but quite to the contrary, are substantial benefits to Chapel Hill which should be nurtured and maintained.

Ms. Susan Coenen said that she is a long-time resident of the Town and a charter member of the Historic Association, and that she feels fraternities and sororities are not a detriment but a help in preserving the historic character of the community. She said that the areas considered for rezoning have been shared by University-owned houses, private residences, student rooming houses, and fraternities and sororities since the nineteenth century. She mentioned a number of examples of private residences renting rooms to students. She said that the zoning of the area has always allowed fraternities and sororities, which cannot compete noisewise with the unceasing traffic noises. She said that she feels it is unreasonable, grossly unfair, and definitely discriminatory to rezone arbitrarily at this late date. She said that, because of the area's proximity to the center of town, it would be unrealistic to zone the area purely residential. She said that the area has not been financially wealthy in the past, but that it had a feeling of neighborhood; and that an attempt should be made to preserve the feeling of neighborly friendliness and tolerance.

Mr. Richard McEnally, the faculty adviser for Delta Upsilon fraternity, said that, while he is not opposed to seeing part of the area under consideration rezoned, he is opposed to the rezoning of the existing fraternities and sororities, since making these properties non-conforming would prevent the owners from enjoying their property to the full extent. He said that, as a faculty adviser, he would have to caution the fraternity against spending large amounts of money to maintain its property, if the property were non-conforming. He said that he lives near McCauley Street, and that this street shows the deleterious effect of people not maintaining their properties.

Mr. Ed Brecht of 404 East Rosemary Street said that he has lived in his house since 1951, and that he feels the fraternities and sororities make very good neighbors. He said that the Delta Upsilon fraternity had a party on the lawn the last Saturday night, and that the noise could barely be heard in his house across the street. He said that he opposes the rezoning of the area.

Ms. Angie McMillan, vice-president of a group of alumni working with the Alpha Delta Pi sorority, said that the sorority is encouraged to maintain the property and to be a good neighbor.

Mr. John Foushee said that he feels the areas under consideration should not be rezoned, since fraternities and sororities can preserve and restore houses, which few individuals can afford to do.

Mr. Giles Horney of Spring Lane said that residents of the area were opposed to a proposed sorority in the area in 1966, but that the sorority has been a good neighbor. He said that he does not feel that the zoning should be changed again.

Ms. Alice Martin, president of the Kappa Alpha Theta sorority chapter, said that the sorority only has parties for alumni or members, and no alcoholic beverages are served. She said that the sorority has the second highest scholastic record on the campus; that it does not create noise; that it maintains the property, and contributes to the community in various ways, such as serving as tutors, giving parties at day care centers, helping with the Heart Fund, and providing coordinators and donors to the blood assurance program. She said that she feels the sorority gives to the community, and is a part of it.

Mayor Lee asked for comments in support of the proposed rezoning.

Mr. George Conklin said that, while he feels the problem of noise and the Zoning Ordinance should be kept separate, practically they cannot be separated, since fraternities and sororities are noisy. He said that the nature of Rosemary Street should be protected on historic grounds, and that some deterioration is now evident, which he feels is due to the presence of fraternities and sororities in the area. He said that he feels fraternities assume rights that no private citizen would assume, as far as noise is concerned, and that the Police Department seems to be unable to control the noise. He said that he feels a firm control by the Town on noise should be exercised, since presently there is no protection to any private resident in the area in this regard.

Mr. R. H. Lamberton read the following statement:

September 22, 1975

To: The Mayor and Board of Aldermen

Re: Rezoning of portions of the existing R-10A zone in the Rosemary, Hillsboro Street Area.

From: R. H. Lamberton

My wife and I live at 315 East Rosemary, the northwest corner of Rosemary and Hillsboro Streets. We are in an R-6 zone. To the east, south and west the zone is R10-A. To the north the zone is R-6. We hereby request rezoning to R-10 for our property, a zoning which would be more compatible with that which is under consideration on our four sides.

We understand that Area 1, will be considered for rezoning from R-10A to R-10. We support this change as we understand such a rezoning would be consistent with existing residential zoning to the north and east and would have the additional benefit of prohibiting the further encroachment by fraternity and sorority houses on what is basically a residential area.

We also understand that consideration will be given to rezoning Area 2 to our west from R-10A to either R-6 or R-10.

We request that the area to our immediate west, i.e. the area lying north of Rosemary between Cottage Lane and Hillsboro now zoned R-10A and R-6 (our property) be made R-10. If this were done it would be contiguous to the existing and proposed R-10 zone east of Hillsboro Street.

The area west of Cottage Lane, i.e. north of Rosemary between Spring and Cottage Lanes, is now zoned R-10A. We suggest that it might better be zoned R-6. This would prevent the further incursion of fraternity and sorority houses to the area but permit the more dense development of an area which does not have the same residential characteristics as the area recommended for R-10 zoning.

We suggest further that there should be a complete reexamination of the Town's overall policy in relation to fraternity and sorority houses. We believe the existing policy which permits fraternity and sorority houses to be built in any residential zone (see Sections 4-C-9 and 4-C-10 of the Zoning Ordinance) was ill conceived when originally adopted. To continue such a policy merely because it has existed previously only compounds the original mistake.

We recognize the fact that fraternity and sorority houses now exist in residential zones due to what we consider to have been past error by your predecessors. We concede that to require existing fraternity and sorority houses to move would work severe hardships in most instances. For this reason, under rezoning designed to prohibit further incursions, some form of "grandfather" clause may be indicated for existing facilities. If no better way is found, we suggest that the Delta Upsilon, Alpha Delta Pi and Kappa Alpha Theta houses located in the area under consideration be "spot" zoned much as was done for the Phi Mu's on Henderson Street. If necessary, let them remain in an R-10A zone but correct the boundaries to coincide with their actual boundary lines. We note that boundary lines have been corrected in Area 1 but not in Area 2.

But having recognized the problem which the fraternities face, let me ask that they recognize the problem which faces residents in the neighborhood. We live in the neighborhood year in and year out. We want to be "good neighbors" to the fraternities. And we want them to be "good neighbors" to us. This means we both should keep up our property and behave in a manner compatible with a residential neighborhood. There are few, if any, complaints in our neighborhood about the sororities. It is the fraternities about which there is great concern over loud and excessive noise and shoddy appearance due to inadequate repair and maintenance. This is not a problem with all fraternities.

Our point here is that zoning is only part of the problem. The control noise and appearance are inseparable corollaries which need simultaneous consideration with zoning and zoning regulations.

At the meeting of September 15, the Board of Alderment were presented with a draft amendment to the anti-noise ordinance, Section 11-39. It reads as follows:

"The operation of a sound amplifying system or device in a residential district outside a structure (is prohibited) between the hours of 10 P.M. and 10 A.M."

We understand that this amendment is legally acceptable to the Town Attorney and that it will be considered by the Board of Aldermen at its next meeting. Its passage is essential.

We said that appearance is a factor in rezoning this area. We would note that unlike residences, fraternity and sorority houses are exceptions to the permitted uses in a residential zone. They require Special Use Permits before they can operate. Stipulations relating to appearance may be and usually are attached. We suggest that if a rezoning occurs, and fraternities and sororities are permitted to remain in a residential neighborhood, there should be criteria established by the Town which, if not met, would subject them to specific fines and, in extreme cases, even cancellation of the Special Use Permit.

It seems to us who live in the neighborhood year in and year out and who have substantial investments in our homes, that if we do not oppose the continued presence of fraternity houses in the neighborhood, they should not oppose giving us reasonable assurance that they will be "good neighbors".

Given past experience and the fact that the leadership and much of the membership of fraternities and sororities changes each year, it would appear that the only realistic way to assure that the "good neighbor" policy will prevail is to define what is prohibited - and give the prohibitions the backing of law.

Good residential neighbors don't want to invoke the law to secure compliance. Complaints to the police are a last resort. What we seek is a clear statement of what is and what is not permissible which will be interpreted the same way by resident, fraternity and law enforcement officers.

An anti-noise ordinance which specifies what may not be done and when, and an appearance stipulation, both backed by stated penalties are more than supplements to a zoning ordinance. They are the means by which fraternity houses may be accommodated in a residential neighborhood given today's new realities such as amplified sound.

If ways can not be found to provide the needed protection for the neighborhood then there will be no option for the neighbors but to seek what the Planning Board has already considered, i.e. a rezoning which would eventually outflow even existing fraternity and sorority houses in the neighborhood.

Most of the neighbors do not particularly care which choice you make, but certainly the fraternities and sororities will have a preference. For most of us, the one option which is totally unacceptable is what now exists -- no real limits on the further incursion of fraternity and sorority houses into an otherwise desirable neighborhood.

To summarize, if existing fraternity and sorority houses are to be permitted to remain in a residential neighborhood, there must be effective anti-noise and appearance safeguards.

If such safeguards are not adopted, then in the area under consideration, there is no option left but to change the zoning to make existing fraternity houses non conforming uses.

In either event, the further incursion of additional fraternity and sorority houses into the neighborhood should be prohibited by some means.

Ms. Nancy Preston read the following statement:

STATEMENT BY THE CHAPEL HILL PRESERVATION SOCIETY
(presented by Nancy Preston, President)

September 22, 1975

Public Hearing on Rezoning of Designated Areas on Hillsborough
and Rosemary Streets from R-10A to R-10 or R-6

The Chapel Hill Preservation Society has and will continue to maintain a strong, serious interest and investment in the Rosemary-Hillsborough Street area that is under consideration for rezoning from R-10A to R-10 or R-6. In order to protect and enhance the livability and visual character of this important area, we have already bought and sold property in the vicinity subject to deed restrictions intended to protect the area. It is highly probable that, with the aid of our revolving fund, we will be involved in many additional transactions in this area in the future to insure that it does not deteriorate. Our position with regard to the immediate proposed amendment and related matters is stated below:

1. The historic area is widely acknowledged throughout the community as one of the vital neighborhood areas in Chapel Hill. Its visual character is, by any standard, outstanding. The value of properties in the area is high. Additionally, its historical and architectural importance is already attested by the fact that it has been designated by the Secretary of the United States Department of the Interior as a National Register Historic District--one of the first, largest, and most important districts of its kind in the entire State of North Carolina.
2. We acknowledge as both a practical matter and one of basic fairness that a number of fraternities and sororities have been and, within the limits of neighborly behavior, should be permitted to remain as conditional uses within the area, as and where they now exist.
3. We favor such amendments as may be necessary to the ordinance to insure that existing fraternities are permitted to remain. Subject to special use permit conditions, we consider that they should also be allowed to repair any damage that may arise as a result of natural

catastrophe or accident--provided that none of them is permitted, even under these rare and exceptional circumstances, ever to enlarge their areas of operation or to increase the intensity or density of operation. We feel, considering the length of time that some fraternities and sororities have existed in the neighborhood, that it would be unfair and impractical to require that they be removed or phased out.

4. However, we feel most strongly, and we have good reason to believe that a majority of residents agree, that additional fraternity or sorority developments or expansions should not be allowed to take place anywhere within the historic district. It is our position that the historic district has already reached its capacity to absorb additional fraternity or sorority development. We feel that it might be reasonable to consider exceptions to this policy only where fraternity or sorority development would be the only solution to preserving an unusually significant property, such as one on the National Register, that might otherwise be lost--and even in this rare situation, a fraternity or sorority should be permitted within the district only after the most stringent controls with respect to architectural design, site planning, traffic and parking, noise, adequate landscaping, and other requirements have been imposed to minimize the impact of these customarily damaging incidents of fraternity life.

5. Our position is that past attempts by the Town to control noise, which appears to be the most frequently discussed nuisance aspect of fraternity and sorority life, have so far been a total failure. Conditions on special use permits aimed at controlling noise through special design and construction requirements imposed on new buildings and alterations of existing buildings are, in our view, unlikely to be successful because of the limitations on the technical capacity and the resultant administrative reluctance of building inspection and other enforcement personnel. Similarly, the police department does not appear to have the capacity or willingness to enforce the anti-noise ordinance adopted by the town several years ago. Therefore, we feel that the town should either commit itself to strict, unyielding, and vigorous enforcement of existing ordinances through zoning or otherwise, or abandon these ordinances and develop new requirements and enforcement techniques that will work. We want it. The residents want it. And there is solid support throughout the entire Chapel Hill community for getting a firm handle on the noise problem once and for all. In this connection, we specifically request that every candidate for election to the Board of Aldermen, and each nominee for a position on the Appearance Commission, Planning Board, and Board of Adjustment state specifically and unequivocally before his or her appointment (or, in the case of elected officials, accepting office) precisely what his or her position is on this matter. We will raise the issues if candidates and nominees do not.

6. We strongly favor the immediate adoption of the proposed historic district regulations that have been submitted to the Planning Board and will soon be to the Board of Aldermen, which have been discussed for more than two years. Yet another comprehensive plan for Chapel Hill is now being prepared and will be presented for consideration to the appropriate boards and the public. We recognize that the proposed approach of implementing the historic district (i.e., an overlay district as opposed to the zoning map amendments) is in accordance with sound planning principles, and we also sense a wide community consensus that the pace of actual and impending harmful developments in the historic district requires that this area should be protected now by every means at hand. We urge that:

(1) the Planning Board and its staff, as part of the comprehensive plan, come up with specific guidelines for the conservation of all properties in the historic district so that property owners, fraternities and sororities, residents, and enforcement personnel will know what is expected of them;

(2) that the Planning Board and Board of Aldermen specifically endorse these policies by separate resolutions. We recommend that such protective policies be incorporated into subsequent revisions of the zoning ordinance to insure that they have the force of law; and

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(3) that the Board of Aldermen provide whatever additional funds, personnel or technology may be required to insure fair but tough enforcement or noise abatement and other protective requirements.

7. We submit that the rezoning currently under consideration, which, as we understand it, calls for a complete halt to the expansion of fraternity and sorority operations in the area, is a good thing not only for the small area currently under consideration, but absolutely essential for protecting the remainder of the proposed historic district as well. Of all the larger historic district, the area now under consideration is most immediately proximate to the central business district and the campus, and it is therefore the key to protecting the remainder of the area. We consider passage of the proposed amendments absolutely vital to the interest of the entire town.

8. The Chapel Hill Preservation Society will welcome each and every opportunity henceforth to work constructively with fraternities and sororities, property owners, and the town to seek fair solutions to this decades-old problem.

Mr. Werner Hausler of 513 East Rosemary Street said that he feels both areas under consideration should be rezoned, and presented a petition signed by 28 residents of the area. He said that the neighborhood has diverse population, and that it is a desirable area because of the proximity to the center of town and to the University. He said that the neighborhood has a strong commitment of preserving the neighborhood, together with a strong concern for the Town, its development, character, and future growth. He said that the residents want to encourage housing, since a critical issue for towns is the retaining of residential neighborhoods close to downtown areas. He said this required direction, and a commitment to preserve and enforce the existing neighborhoods, as well as the encouragement of new ones. He said that zoning established land values, and that maintaining the R-10A zone in those areas where there are no fraternities or sororities now will keep the land values excessively high, preventing the variability of housing in the center of town. He said that the area residents accept the fraternities and sororities now in the area, but that they wish to discourage any additional encouragement into these existing residential areas of a use that they feel is basically incompatible, and that they therefore support the proposed rezoning to a purely residential zone.

Mr. Jim Igoe of 204 Cottage Lane said that the Kappa Alpha Theta sorority is a good neighbor, but that its presence makes a difference for the historic district, since it replaced a Victorial house. He said that the presence of the sorority in the neighborhood has caused additional problems in the past, such as parking. He said that while the sorority is not noisy, the fraternity across the street is. He said that the question is whether East Rosemary Street should be totally fraternities and sororities, or whether the residential use should be preserved.

Mr. Watts Hill, Sr., Vice-president of the Preservation Society, said that he finds no fault with the existing fraternities and sororities in the area, except for the problem of noise which can be heard a long distance. He said that the argument is not to remove the existing fraternities and sororities, but to control them. He said that it is time that the Town took a broad overall view in regard to a comprehensive plan, a planning and zoning plan, and a historic district. He said that he supports Mr. Lamberton's and Ms. Preston's statements.

Ms. Carolista Baum of 515 East Rosemary Street said that the neighborhood has a problem with noise, and that it is time for the Town to take a firm look to see what can be done about it, so people can buy property and live in the area without being disturbed. She said that, while the existing fraternities enhance the neighborhood in many ways, the area cannot support any additional fraternities and sororities.

Mr. George Knoerr read the following statement:

First, I would like to record as being in favor of the plan to rezone areas 1 and 2 to R-10 or R-6. and the continuation of the Special Use permits for the existing fraternities and sororities.

However, this rezoning seems highly controversial. On the other hand there is the matter of the small areas north of the D U property and the land just east of the sorority which is east of the D U property.

I bring this up separately because there seems to be no objections, that I know of, to rezone these areas. I have discussed this with Mr. Pugh and Mr. Berger, as well as neighbors, and find no objections to the changes I suggest.

I would like to recommend that the area immediately north of the D U property and the small strip of land east of the sorority be considered as a third area.

The original zoning of these lands completely disregard the property lines and was simply a line drawn north and south and then east and west. The eastern end cuts thru the sorority property and almost thru the center of our lot (lot 22), running from east to west. Each of these properties are now part R-10 and part R-10A. I would like to see the R-10A confined on the north of the DU property to their property line and lots 21 and 22 made part of the R-10 area. Naturally, all the sorority property should be R-10A.

There is plenty of precedent for this. To the west of Hillsborough Street the zoning is now corrected to conform with the property lines.

I am fully aware of the fact that this is small potatoes in comparison to the major rezoning program; it is a matter that should be resolved at this time to prevent problems arising in the future. Lots 21 and 22 combined are too small for a new fraternity's use and Hillsborough north of Rosemary deserves R-10 zoning.

Margaret and George Knoerr
208 Hillsborough St.

Mayor Lee asked for comments from the Board.

Alderman Smith said that he feels the main problem expressed at this hearing has been the problem of noise, and that he feels this should be of immediate concern to the Town Manager. Alderman Welsh said that she is concerned about the existing fraternities and sororities being made non-conforming and not being able to rebuild if destroyed more than 60%, and that the Planning Department should look at this clause carefully. She said that she feels the majority of persons present at this hearing agree that the residential use of the property by the existing fraternities and sororities should be protected; that provisions should be made for the possible future expansion of sororities and fraternities; that noise is a problem and its enforcement is unsatisfactory; and that the historic preservation is worthwhile. Alderman Cohen said that he feels the zoning for the existing fraternities and sororities should remain R-10A, and that the Town needs to consider how many lots in the present R-10A zone might be needed for sororities in the future, since the enrollment of women at the University is increasing. Alderman Gardner said that he feels that the Planning Board will wish to consider the matter of rezoning in relation to the Town's long-range plan, in view of the Oregon case mentioned by Mr. Jennings. Alderman Marshall said that changing of this zoning would not be in conformance with certain of the four positive findings that the Board has made in relation to fraternities and Special Use. Alderman Rancer said that he is not in favor of rezoning the existing fraternities and sororities, but that he feels there should be restrictions on any further expansion of fraternities and sororities in the area. He said that the Town Manager should investigate where the Town is lax in enforcing the Noise Ordinance. Mayor Lee said that he feels any recommendation from the Planning Board to rezone the area, in the absence of a comprehensive plan, would raise valid legal questions. He said that group living zones have a place in the long-range plan for the Town. He said that the Town Manager has indicated that he will direct the Police Department to enforce the

Noise Ordinance, and that an attempt will be made immediately to improve the tools of enforcement. Alderman Smith moved, seconded by Alderman Welsh, that the question of rezoning land zoned R-10A and located east of Hillsborough Street to R-10 be referred to the Planning Board for their consideration and recommendation back to this Board. Said motion was unanimously carried. Alderman Welsh moved, seconded by Alderman Gardner, that the question of rezoning land zoned R-10A and located on the north side of East Rosemary Street between Spring Lane and Hillsborough Street to either R-6 or R-10 be referred to the Planning Board for their consideration and recommendation back to this Board. Said motion was unanimously carried.

The Public Hearing adjourned at 9:30 p.m.

REGULAR MEETING

Alderman Smith moved, seconded by Alderman Welsh, that minutes of the meeting of September 15, 1975 be approved as corrected. Said motion was unanimously carried.

Petitions

Mayor Lee petitioned the Board to draft a resolution, to be distributed to all Planning Board members, regarding the lack of attendance of Planning Board members at Public Hearings. Alderman Marshall moved, seconded by Alderman Rancer, that the petition be received, and a resolution regarding this matter drafted for consideration at the Board meeting of October 6, 1975. Said motion was unanimously carried.

Ms. Jane Sharp petitioned the Board to include a Solid Waste Study for the Town in the 1975-76 Budget, and presented a summary of items to be included in such a study. Alderman Smith moved, seconded by Alderman Gardner, that the petition be received, and the matter referred to the Town Manager for consideration and recommendation back to this Board, and to Orange County and Carrboro for the scheduling of meetings for further discussion. Town Manager Jenne said that funds are available in the 1975-76 budget for a study on routing and on alternative means of garbage collection, and asked whether the proposed study is intended to be an expansion of the scope of this specific study. Alderman Rancer read an article on the status of scrap recycling, and said that he feels a further study is not warranted, since a number of studies have been made Nationally and are available. Mayor Lee said that he strongly supports the launching of a realistic workable recycling program, and said that the proposed study is in addition to the study that is already budgeted. Said motion was unanimously carried.

Mayor Lee read a letter of resignation from Mr. Marvin Silver, Chairman of Transportation Advisory Council, effective September 21, 1975, because of his candidacy for the Board of Aldermen. Alderman Welsh moved, seconded by Alderman Smith, that the resignation be accepted, and a letter of commendation and appreciation be sent to Mr. Silver. Said motion was unanimously carried.

Budget Amendment

Mayor Lee read the following ordinance to amend the ordinance concerning appropriations and the raising of revenue for the fiscal year beginning July 1, 1975:

AN ORDINANCE TO AMEND THE "ORDINANCE CONCERNING APPROPRIATIONS AND THE RAISING OF REVENUE FOR THE FISCAL YEAR BEGINNING JULY 1, 1975."

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE TOWN OF CHAPEL HILL that the budget ordinance of the Town of Chapel Hill entitled "An Ordinance Concerning Appropriations and the Raising of Revenue for the Fiscal Year beginning July 1, 1975" as duly adopted June 27, 1975, be and the same is hereby amended as follows:

Section I

GENERAL FUND

General Government	<u>Adopted</u>	<u>Increase (Decrease)</u>	<u>Revised</u>
<u>Mayor's Office</u>	67,485	4,165	71,650
<u>Town Manager</u>			
Administration	108,895	(10,200)	98,695
Employee Services	10,255	4,200	14,455
Staff Services	<u>39,860</u>	<u>465</u>	<u>40,325</u>
Total Net Changes		(5,535)	
<u>Tax Office</u>	20,560	2,590	23,150
<u>Town Clerk</u>	30,080	(800)	29,280
 <u>Social and Physical Development</u>			
<u>Human Services</u>			
Program Coordination	90,910	4,885	95,795
Police Social Work	23,375	(3,645)	19,730
Housing/community Dev.	32,585	(935)	31,650
Office for Children	10,000	<u>(1,400)</u>	8,600
Total Net Changes		(1,095)	
<u>Inspections</u>	91,970	700	92,670
 <u>Public Works</u>			
Admin/Engineering	90,490	15,240	105,730
Operating Services	670,610	(15,240)	655,370
Public Buildings & Grounds	<u>162,400</u>	<u>12,500</u>	<u>174,900</u>
Total Net Changes		12,500	

	<u>Adopted</u>	<u>Increase (Decrease)</u>	<u>Revised</u>
Public Safety			
<u>Police</u>			
Administration	91,565	2,000	93,565
Staff Services	111,480	770	112,250
Patrol	443,810	(14,000)	429,810
Total Net Change		(11,230)	
<u>Public Safety</u>	102,610	32,360	134,970
<u>Traffic</u>	50,785	1,370	52,155
<u>Fire</u>			
Suppression	468,630	(3,325)	465,305
Leisure Activities			
<u>Recreation</u>			
Administration	72,790	2,805	75,595
General Recreation	110,005	5,055	115,060
Athletics	60,590	1,020	61,610
		<u>8,880</u>	
Total Net Change		8,880	
<u>Library</u>	73,000	8,610	81,610
<u>Sundry</u>			
Wage/Fringe	138,360	(19,625)	118,735
Contingency	20,950	5,750	26,700
		<u>(13,875)</u>	
Other Funds			
<u>Waste Water</u>			
Collections	106,285	45,675	151,960
<u>Transportation</u>			
Administration	42,825	(500)	42,325
Operations	655,150	(500)	654,650
Maintenance	150,985	1,000	151,985
Total Net Change		-0-	
<u>General Revenue Sharing</u>	558,810	70,000	628,810
<u>Capital Improvements</u>	502,260	80,550	582,810
<u>Revision of Article II</u>			
Fund			
<u>General</u>	<u>Estimated</u>	<u>Increase (Decrease)</u>	<u>Revised</u>
Property Taxes	2,324,120	31,735	2,355,855
Other Agencies	1,459,450	1,240	1,460,690
Approp. Fund Balance	665,125	<u>2,340</u>	667,465
Total Net Changes		35,315	
Wastewater Fund	542,000	45,675	587,675
General Revenue Sharing	558,810	70,000	628,810
Capital Improvements	502,260	80,550	582,810

Section II

All ordinances portions of ordinances in conflict herewith are hereby repealed.
This the 22nd day of September, 1975

Alderman Cohen moved, seconded by Alderman Marshall, that the ordinance be adopted as read. Said motion was unanimously carried.

Recycling Implementation Committee Report

Ms. Jane Sharp presented a written report from the Recycling Implementation Committee. She said that the

proposed mandatory deposit ordinance on all beverage containers in Orange County is based on an Oregon ordinance, which has been found constitutional in courts. Town Attorney Denny said that he feels that, under North Carolina statutes, any small area attempting such an ordinance could be successfully enjoined, and that a bottler would have no difficulty obtaining a restraining order until the ordinance has been court tested; in addition, such an ordinance would be impractical to enforce for a small area. He said that he would not see any problem with a state-wide ordinance. He said that, regarding the proposed recycling program, while the Town has the legal authority to require residents to separate their trash by types, it would be a difficult matter to enforce. Alderman Smith moved, seconded by Alderman Gardner, that the report be accepted and scheduled for discussion at a later time. Said motion was unanimously carried.

Soil Erosion and Sedimentation Control Ordinance

Ms. Jane Sharp presented a summary of an ordinance to provide for the control of soil erosion and sedimentation in Orange County. She said that the State has asked Counties to enforce their own plan, and that it is necessary to set a meeting with Orange County and other Towns in the County to discuss the proposed ordinance. Town Attorney Denny said that it is preferable that Orange County write the ordinance, and the towns indicate by resolution that they are joining in, to ensure the uniformity of ordinances throughout the county. Alderman Smith moved, seconded by Alderman Welsh, that the Town Manager send a letter to the Chairman of the Orange County Board of Commissioners indicating this Board's desire that the County adopt an ordinance on soil erosion and sedimentation control that would be enforced countywide. Said motion was unanimously carried.

Planning Board--Appointment

Mayor Lee said that Mr. Bill Levine and Lt. Col. Wesley Egan have been

nominated to the vacancy. Alderman Smith moved, seconded by Alderman Welsh, that nominations be closed. Said motion was unanimously carried. The Board voted a closed ballot, and Mr. Bill Levine was appointed to the Planning Board for a term expiring 1979, by a vote of four.

Joint Community Services Task Force

Mayor Lee said that the Town Manager has appointed himself to serve on the Joint Community Services Task

Force on an interim basis. Mayor Lee appointed Alderman Gardner to serve from the Board, and Mr. Ed Yagge, who still needs to be contacted, to serve from Town residents.

Personnel Appeals Committee

Town Attorney Denny said that the Personnel Appeals Committee needs

to be appointed as soon as possible. He said that this committee is made up of twelve Town residents who are not affiliated with Town government. Mayor Lee requested that the Board consider possible nominees for the October 6, 1975 meeting, and that the nominations rule be waived, so that the committee can be appointed at that meeting.

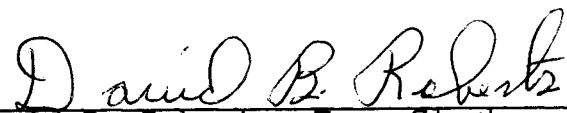
Town Manager's Oath of Office

Mayor Lee swore in Mr. Kurt Jenne as Town Manager for Chapel Hill.

There being no further business to come before the Board of Aldermen, said meeting adjourned at 11:00 p.m.



Mayor, Howard N. Lee



David B. Roberts, Town Clerk