

MINUTES OF A MEETING OF THE MAYOR AND COUNCIL OF THE TOWN OF CHAPEL HILL,  
MUNICIPAL BUILDING, MONDAY, JANUARY 10, 1983, 7:30 P.M.

Mayor Nassif called the meeting to order. Present were:

Marilyn Boulton  
Winston Broadfoot  
Jonathan Howes  
Beverly Kawalec  
David Pasquini  
R. D. Smith  
Joe Straley

Councilmember Wallace was absent. Also present were Town Manager, David R. Taylor; Assistant Town Manager, Sonna Loewenthal; and Deputy Town Attorney, Grainger Barrett.

Petitions

Dr. Deil S. Wright, Professor, Political Science Department, University of North Carolina, expressed appreciation to the Councilmembers and staff on behalf of the Political Science Department and its students for the cooperation which they had extended to the Political Science students during the past year.

Councilmember Broadfoot presented the following petition to the Council:



COUNCILMEMBER BROADFOOT MOVED, SECONDED BY COUNCILMEMBER HOWES, ADOPTION OF THE PETITION. THE MOTION CARRIED UNANIMOUSLY.

Minutes (December 6, 1982 and December 13, 1982)

Mayor Nassif requested that approval of the minutes be delayed.

COUNCILMEMBER STRALEY MOVED, SECONDED BY COUNCILMEMBER STRALEY, TO DELAY APPROVAL OF THE MINUTES OF DECEMBER 6 AND DECEMBER 13, 1982. THE MOTION CARRIED UNANIMOUSLY.

Resolution Supporting a Regional Forum and Retreat on Future Development of the Triangle Area

Councilmember Straley stated that the Triangle Area's Development Committee desired that local government units in the region co-sponsor a forum and a retreat planned for the spring of 1983. Endorsement by local governments would lend prestige to the overall event.

COUNCILMEMBER STRALEY MOVED, SECONDED BY COUNCILMEMBER BOULTON, TO ADOPT THE FOLLOWING RESOLUTION:

A RESOLUTION SUPPORTING A REGIONAL FORUM AND RETREAT ON FUTURE DEVELOPMENT OF THE TRIANGLE AREA (83-R-1)

WHEREAS, this region is the fastest growing in the State of North Carolina, which is itself one of the more rapidly-growing states; and

WHEREAS, rapid growth is expected to continue for at least the next two decades, bringing a mixture of opportunities and problems which need to be addressed now if the quality of life in this region is to be preserved; and

WHEREAS, the Triangle J Council of Governments is drawing up plans for a conference or conferences in the spring of 1983 to explore the development-related issues and assist city and county officials in reaching a consensus on goals and strategies to preserve our quality of life;

NOW, THEREFORE, BE IT RESOLVED that the Council of the Town of Chapel Hill pledges its cooperation and participation in the conferences and agrees to be a co-sponsor.

This the 10th day of January, 1983.

THE MOTION CARRIED UNANIMOUSLY.

Joint Meeting with the Personnel Appeals Committee

Mr. Grainger Barrett, Deputy Town Attorney, informed Council that the Personnel Appeals Committee, formed by the Personnel Ordinance of the Town's Code of Ordinances, heard and made recommendations regarding employee appeals and grievances. The Committee consisted of 5 members appointed for 3-year terms. The Committee received grievances from either the Manager or from a Department Head, if the Manager did not take action on the grievance himself. Recent Council action altered the Committee's normal procedure by allowing discussion of confidential employee information to be held in executive session, as authorized by the Open Meetings Law.

Mr. Barrett informed Councilmember Straley that it was possible to go to the court system, if the employee did not concur with the Committee's recommendation.

Mr. Barrett reviewed Section 14-114 of the Code of Ordinances for Councilmember Broadfoot, outlining the grievance procedures.

Mr. Jake Wicker, Chairman of the Personnel Appeals Committee, introduced the members of the Committee: Ms. Judith Eastman, Ms. Rebecca Clark, and Mr. Russell McCormick. Mr. Nick Holland was not present.

Mr. Wicker stated that there had been few appeals over the past years. This indicated good management as discontent was being resolved at lower levels of management. The Committee had received good cooperation from the Personnel Office, Clerk's Office, and Legal Office. The Committee tried to make fair and equitable decisions. The procedure was kept informal to place people at ease and excessive confrontational activity was kept to a minimum in the hearings in order to promote good working relationships after the hearing. Mr. Wicker stated that, for the record, he wished to commend both staff and employees for their cooperation during appeals.

Ms. Pat Crotts, Personnel Director, informed Councilmember Smith that employees were allowed to bring witnesses to their hearing. Over half of the grievances filed were resolved at the Department Head or supervisory level. Grievances had to be filed within an established time frame and established procedures were followed.

Mr. Wicker approximated for Councilmember Howes that 1/2 of the cities with a population of over 10,000 had Personnel Appeals Committees, though he felt that this figure could be high.

Mr. Barrett explained to Councilmember Straley that if an employee were dismissed from employment due to "RIF" (reduction in force), he/she would be able to file a grievance if he/she felt that the reason for dismissal had been arbitrary or capricious.

Mr. Taylor explained to Councilmember Straley that at least 2 or 3 people had lost their job with the Town of Chapel Hill because of "RIF." This usually occurred during the budget process when programs were reduced or eliminated. Normally, a 30-day notice would be given. A set procedure was followed whenever possible. There were instances when no notice could be given; i.e., last-minute budget cuts, termination "on-the-spot" (depending upon the infraction), etc.

Ms. Crotts explained to Councilmember Pasquini that a person affected by "RIF" remained eligible (for 2 years) for a similar position within the Town, and was given preference for any position that closely met his/her qualifications. If that person were rehired, accumulated sick leave would automatically be reinstated. The Town had no "bumping" provisions.

Mayor Nassif expressed appreciation to Mr. Wicker and the Committee and praised them for their expertise and willingness to serve. He encouraged members to feel free to call on Councilmembers at any time.

#### Ordinance Amending the Chapel Hill Development Ordinance

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER STRALEY, ADOPTION OF ORDINANCE 83-O-1b.

Mayor Nassif addressed the Council regarding his concern that, in the past, the Planning Board had submitted recommendations for Special Use Permit applications to Council which had been based on their ability to make the four findings required by the Development Ordinance. Mayor Nassif stated that this had become a point of contention in a recent court case—that the Planning Board had been able to make the four findings, and the Council could not, and questions had been raised as to why there was a difference. Mayor Nassif asserted that the Council and only the Council had the responsibility of making these findings, not the Planning Board. He submitted that the Planning Board should only advise the Council without any reference to the four findings, and that the Development Ordinance should be worded to that effect.

Councilmember Howes felt that the proposed language of the ordinance (Section 8.3 and Section 8.4.5) clearly put the Planning Board in the posture of recommending and advising the Council, and left the Council in the position of making the ultimate finding.

Mayor Nassif did not concur. Councilmember Howes suggested that the wording could be more carefully drawn up. Mayor Nassif did not feel that it would be difficult for the Planning Board to recommend approval of or denial of a project without listing the four findings as reasons.

COUNCILMEMBER BROADFOOT MOVED TO AMEND ORDINANCE 83-O-1b TO INCLUDE MAYOR NASSIF'S RECOMMENDATION ON FINDINGS OF FACT, AS RELATED TO THE PLANNING BOARD AND COUNCIL IN SECTIONS 8.3 AND 8.4 OF THE DEVELOPMENT ORDINANCE. COUNCILMEMBER SMITH SECONDED THE MOTION.

Councilmember Smith asked Mr. Jennings, Planning Director, to respond from his point of view.

Mr. Jennings stated that he felt it was important and helpful for the Planning Board and staff to provide Council with a discussion that could focus in on the important issues. He felt that if the Planning Board were directed to omit the four findings from their discussion, it would hamper the Board's and the staff's evaluation of the applicant's request as was relevant with respect to the law.

Councilmember Kawalec stated that she preferred the Planning Board to list all of the relevant points that needed to be considered on an issue. The recommendation, then, would become irrelevant. The Planning Board provided all of the background information for Council to make a judgment. She preferred to do away with any recommendations.

Mr. Barrett concurred with Mayor Nassif's point that the only body with the authority to make this decision was the Council. He felt that the language of the ordinance, in his opinion, did not compel the Planning Board to directly make a conclusion about the four findings. He felt that the language was that the Planning Board make a recommendation "based" on the four findings. He was not sure if Mayor Nassif did not want the Planning Board to make any conclusion about the four findings or if he did not want the Board to make any reference to the four findings (i.e., "here is a finding you must make...here are the facts that we deem relevant to your discussion of that issue, and here are some of the points that we make about that.") Mr. Barrett continued: "...but I think that the same kind of problem that has arisen lately would still be present."

Councilmember Broadfoot asked Mr. Barrett if he foresaw any possible difficulties in court if the wording were to remain the same. Mr. Barrett stated that he felt that a judge would be aware that the final decision was the Council's and that judgment was involved. But such wording of the ordinance could give opposing counsel some "ammunition" to use in a lawsuit in certain cases.

Councilmember Howes stated that he felt that the real concern here was the mode of communication between the Manager, the Planning Board, and the Council than some eventuality that might occur in the event that court action were sought. He did not feel that a change in wording would put the Manager and the Planning Board in the position of not knowing how to advise the Council and he did not believe that Council did not want to be advised by the Board and Manager on the same terms that Council made decisions. He preferred to keep the wording that the Council receive advice from the staff and the Planning Board in terms that Council could understand and that fit into the frame of reference in which Council had to make a decision. He felt it would be ill-advised to adopt this particular amendment as proposed and felt it would be appropriate for the Town Manager, the Mayor, and the Chairman of the Planning Board to talk about the manner in which the communication comes from the Planning Board, attempting to work out terms of that communication that would be "a little more comfortable for you to deal with that would stop short of this very serious undermining of their position."

Mayor Nassif felt that the four findings were not the only means of communication from the Planning Board. If the staff and the Planning Board did not agree with this "...then I would agree with Councilmember Howes...we need to find other language."

Mr. Taylor stated that the proposed amendment to 83-O-1b would require the Manager to make recommendations, and the Planning Board and staff to address the issues and list the pros and cons for Council. He felt that the proposed amendment would not vary the work of the Manager, staff, or Planning Board but would change the manner in which their reports were submitted to Council. Mr. Taylor stated that if the amendment were not adopted, the reporting style would still be different, based on what he had heard and unless he was told otherwise. Mr. Taylor proposed that the Council and Mayor allow a 6-month trial period for him and the Planning Board to try a different style of communication before considering an ordinance revision. Mr. Taylor asserted that changes could be made administratively.

COUNCILMEMBER BROADFOOT, MAKER OF THE MOTION, AND COUNCILMEMBER SMITH, SECONDER OF THE MOTION, WITHDREW THE MOTION TO AMEND THE MAIN MOTION.

COUNCILMEMBER SMITH MOVED A SUBSTITUTE MOTION TO DEFER ACTION AT THIS MEETING AND TO REFER THE ITEM BACK TO THE LEGAL STAFF AND THE MANAGER FOR REWORDING IN KEEPING WITH THE DISCUSSION TONIGHT, AND FOR CLARIFICATION OF THOSE SECTIONS (Sec. 8.3 and 8.4.5) AND TO BRING IT BACK TO THE NEXT MEETING.

THE SUBSTITUTE MOTION FAILED FOR LACK OF A SECOND.

COUNCILMEMBER BROADFOOT MOVED, SECONDED BY COUNCILMEMBER PASQUINI, TO AMEND ORDINANCE 83-O-1b BY DELETING REFERENCES TO THE COMPREHENSIVE PLAN IN SECTIONS 1.4.2, 2.2.4, 4.1, 5.1, 7.7.1, 8.3(d), 8.4.2, 8.4.3, 8.8.1, 8.8.2, 8.8.7.1, 8.8.8.1, 8.8.9.1, 8.8.10.1, 16.3.1, 18.30, and 19.1.

Councilmember Smith asked for discussion on why the Planning Board wished to include these references in the Development Ordinance.

Mr. Jennings replied that 8 years ago he had been instructed to prepare a Comprehensive Plan. "Now, that we have a Comprehensive Plan, we are considering doing away with phrases that tie the Comprehensive Plan to the actions of the Town." He felt that too often such plans were shelved and were never referred to. The Comprehensive Plan should be used consistently and continuously in the review of good development proposals; there was really no other way in which the document would be used without references to it in the Development Ordinance. Having an adopted policy referenced in the Development Ordinance gave a message to the public of what the Town's intent for development was and gave reasonable assurance that somebody had thought out a land use plan that was consistent in intent. As an example, Mr. Jennings stated that Section 8.3 of the Development Ordinance allowed Planned Development-Shopping Centers in R-1 districts. "This applies to all non-residential developments and non-residential Planned Developments. Without having a reference to the Comprehensive Plan...all those areas would be allowed to have a Planned Development, Office-Institutional, Industrial, or Shopping Center."

Mr. Jennings stated that the Comprehensive Plan provided a guiding document for use by staff and Council as well. He also stated that deletion of reference to the Comprehensive Plan from Section 2.2.4 would mean that the Planning Board would no longer have the power to prepare a Comprehensive Plan.

Councilmember Broadfoot stated that he would like to see chapters and sections set up in the Comprehensive Plan. He also felt that since the documents were not "of equal dignity....one is law, and one is not law," separation was needed.

Councilmember Broadfoot asked Mr. Barrett to explain the pros and cons of referring to the Comprehensive Plan in the Development Ordinance.

Mr. Barrett stated that the General Statutes of North Carolina required a comprehensive plan. "The basic requirement is that the regulations be uniform and that there not be arbitrary and capricious action on the part of the Board. Problems arise only if the Council disregards that mandate."

Problems could arise because the current Comprehensive Plan contained competing elements. Mr. Barret gave the example that a desire for open space conflicted with the desire to have adequate sites for affordable housing. Problems could also arise from court interpretation regarding whether one Council could reach a different conclusion or interpretation from another Council.

Mr. Barrett continued that it could also be argued whether a Council had acted in disregard to the Comprehensive Plan, since it is vague, or because it is stated in very great generalities. Mr. Barrett felt that that would, be a difficult conclusion for a court to reach, but was not impossible in extreme cases.

Councilmember Broadfoot asked Mr. Barrett if he felt that the current documents were sufficiently clear for court review and interpretation. Mr. Barrett stated that he felt that clarification would be helpful.

Councilmember Howes supported the inclusion of references to the Comprehensive Plan in the Development Ordinance. He stated that the General Assembly was vague as to what it expected of a community in regard to a Comprehensive Plan and that the current document expressed things about this community that was an important

basis for the Town's zoning ordinance. "When things get tough, the Comprehensive Plan is seen as an advisory document and the Development Ordinance is the overriding and preeminent document, even though it is subject to interpretation by court." Councilmember Howes stated that admittedly the Comprehensive Plan was vague, but the Development Ordinance "is quite specific and is not, in my view, compromised in the slightest by the references to the Comprehensive Plan."

Mayor Nassif supported leaving references to the Comprehensive Plan in the Development Ordinance. He stated that the Comprehensive Plan was advisory in nature and not mandatory. He did feel, however, that the current language of the Development Ordinance was compelling in some instances and that it could be softened in these areas. Councilmember Pasquini agreed that some of the language could be softened, but also felt that some of the language was vague ("i.e., 'to achieve other purposes and in accord with the Comprehensive Plan for the town's planning jurisdiction,' was vague."). He stated that he would like to see the language clarified.

VOTE ON THE AMENDMENT FAILED 2 TO 6 WITH COUNCILMEMBERS PASQUINI, AND BROADFOOT SUPPORTING, AND COUNCILMEMBERS KAWALEC, BOULTON, HOWES, STRALEY, SMITH, AND MAYOR NASSIF OPPOSING.

COUNCILMEMBER BROADFOOT MOVED, SECONDED BY COUNCILMEMBER PASQUINI, TO AMEND THE MAIN MOTION (to adopt ordinance 83-O-1b) BY INCLUDING SECTIONS 5.6.1 AND 18.50. (THE PROPOSED ORDINANCE 83-O-1a, WHICH AMENDMENT, IF ADOPTED, WOULD HAVE THE EFFECT OF RESTRICTING CREDITED OPEN SPACE TO A 10% INCREASE IN NET LAND AREA OF A ZONING LOT.)

Councilmember Broadfoot supported a more strict interpretation of the gross land area. He did not feel that a person should be allowed to include unowned property in the total sq.ft. area, as this would permit him the opportunity to build a larger development than might be allowed if only the land area belonging to the property owner were considered.

Mr. Jennings responded to Councilmember Boulton that staff would not be able to recommend any percentage other than 10%, since beneficial open space for existing development went up to 75% of the net land area. All of the calculations made for the Development Ordinance were based on gross land area. Current projects were planned using this calculation. Recently, projects in the developed part of town had been found non-conforming and an ordinance amendment had recently been adopted to change the land use intensity ratings and to make the development conforming. The proposed amendment would make these projects non-conforming, less than 2 or 3 months after making them conforming. If the proposed amendment passed, the projects would have to be altered.

Mr. Jennings stated that he also felt that this was a good way to negotiate with developers on rights-of-way and on open space; if the developer did not lose density on lots because of gross land area concepts, then they were more willing to work with the staff.

Councilmember Smith felt that the land use intensity regulation as it now existed kept people from building on unsuitable land. In addition, the small builder could use this land intensity to more fully develop his land.

VOTE ON THE PROPOSED AMENDMENT FAILED 1 TO 7 WITH COUNCILMEMBER BROADFOOT SUPPORTING, AND COUNCILMEMBERS BOULTON, HOWES, KAWALEC, PASQUINI, SMITH, STRALEY, AND MAYOR NASSIF OPPOSING.

Councilmember Kawalec did not feel that Special Use Permits were the correct way to deal with earth stations. She felt that Special Use Permits should be granted for its use, and not for its aesthetic value. If one earth station substantially injured the value of adjoining property, then all earth stations would.

COUNCILMEMBER KAWALEC MOVED A SUBSTITUTE MOTION TO REFER PART 3 OF SECTION 4.3 TO THE COMMUNITY APPEARANCE COMMISSION, THE PLANNING BOARD, AND THE MANAGER FOR THEIR SUGGESTIONS ON REGULATIONS THAT COULD CONTROL EARTH STATIONS AND THAT COUNCIL DELETE THIS SECTION FROM CONSIDERATION TONIGHT AND REQUEST THAT SUGGESTIONS BE BROUGHT BACK TO COUNCIL. COUNCILMEMBER BROADFOOT SECONDED THE MOTION.

Councilmember Howes opposed the amendment because the provisions applied only to earth stations in residential neighborhoods. A Special Use Permit would be required only for stations which were more than 3' in diameter. Councilmember Broadfoot stated that he preferred that no earth stations be allowed, regardless of size, until technology improved and produced smaller earth stations.

Mr. Taylor felt that the larger earth stations were really being addressed here. Small ones would probably not be offensive. The intent was to allow uses that would probably become more common within the residential area, but to require a Special Use Permit for larger commercial type installations. Council's request had been to prohibit these stations, but management felt that the demand for earth stations would continue to increase.

Councilmember Kawalec felt that this issue paralleled the drive-in window issue. Special Use Permits did not work, so Council established guidelines. This should be done here, when there was time to do it right.

VOTE ON THE MOTION TO AMEND CARRIED 5 TO 3 WITH COUNCILMEMBERS KAWALEC, BROADFOOT, SMITH, BOULTON, AND MAYOR NASSIF SUPPORTING, AND COUNCILMEMBERS PASQUINI, HOWES, AND STRALEY OPPOSING.

VOTE TO ADOPT THE FOLLOWING ORDINANCE, AS AMENDED, CARRIED 7 TO 1 WITH COUNCILMEMBERS BOULTON, BROADFOOT, HOWES, KAWALEC, PASQUINI, STRALEY, AND MAYOR NASSIF SUPPORTING, AND COUNCILMEMBER SMITH OPPOSING:

ORDINANCE B

AN ORDINANCE AMENDING THE CHAPEL HILL DEVELOPMENT ORDINANCE (83-0-1b)

BE IT ORDAINED by the Council of the Town of Chapel Hill that the Chapel Hill Development Ordinance be amended as follows:

Section I

Replace the following sections with the following wording or add the following sections as appropriate:



Uses	Zoning Districts													Planned Developments (See Article 8) - PD use regulations supercede underlying zoning district use regulations)				
	TC-1 and TC-2	CC	NC	OI-3	OI-1 and OI-2	I	R-5	R-6	R-4	R-3	R-1 and R-2	RT	PD-H	PD-SC(N)	PD-SC(C)	PD-OI	PD-MU	PD-I
<b>Use Group C</b>																		
Accessory Use Customerly Incidental to a Permitted Group C Principal or Special Use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Automotive Repair Less Collision Service and Painting	P,A	P,A	P,A	--	--	P,A	--	--	--	--	--	--	--	P,A	P,A	--	P,A	P,A
Automotive Repair	P,A	P,A	--	--	--	P,A	--	--	--	--	--	--	--	--	--	P,A	--	P,A
Automotive, Trailer, and Farm. Implement Sales or Rental	P,A	P,A	--	--	--	--	--	--	--	--	--	--	--	--	--	P,A	--	P,A
Bank	P,A	P,A	P,A	P,A	P,A	--	--	--	--	--	--	--	--	P,A	P,A	P,A	P,A	--
Business, Convenience	P,A	P,A	P,A	A	--	A	--	--	--	--	--	--	--	P,A	P,A	--	P,A	--
Business, General	P,A	P,A	P,A	A	--	--	--	--	--	--	--	--	--	P,A	P,A	--	P,A	--
Business, Wholesale	A	P,A	--	--	--	--	--	--	--	--	--	--	--	--	P,A	--	P,A	--
Extraction of Earth Products	--	--	--	S	--	--	--	--	--	--	S	--	--	--	--	--	--	--
Hanger, Medical Aircraft	--	--	--	--	P	--	--	--	--	--	--	--	--	--	--	--	--	--
Kennel	--	P,A	--	A	--	--	--	--	--	--	--	--	--	--	P,A	--	P,A	--
Landfill	--	--	--	--	--	--	--	--	--	--	S	--	--	--	--	--	--	--
Maintenance and/or Storage Facility	--	A	--	P,A,	--	P,A	--	--	--	--	--	--	--	--	A	--	A	P,A
Manufacturing, Light	A	P,A	--	--	--	P	--	--	--	--	--	--	--	--	A	--	A	P
Parking, Off-Street	P,A	A	A	P,A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

KEY: "—" Not Permitted; "A" Permitted as an Accessory Use; "P" Permitted as a Principal Use; "S" Permitted as a Special Use.

## Zoning Districts

Planned Developments (See Article 8) -  
PD use regulations supercede underlying  
zoning district use regulations)

Use	Zoning Districts												Planned Developments (See Article 8) - PD use regulations supercede underlying zoning district use regulations)							
	TC-1 and TC-2		CC	NC	OI-3	OI-1 and OI-2		I	R-3	R-6	R-4	R-5	R-1 and R-2		RT	PD-H	PD-SC(H)	PD-SC(C)	PD-OI	PD-HU
Port/Ride Terminal	—	P,A	P,A	P,A	P,A	P,A	P,A	S	S	S	S	S	S	S	A	P,A	P,A	P,A	P,A	P,A
Personal Services	P,A	P,A	P,A	A	—	—	—	—	—	—	—	—	—	—	A	P,A	P,A	—	P,A	—
Place of Assembly—Up to 2,000 Seating Capacity	P,A	P,A	A	P,A	A	A	A	A	A	A	A	A	A	A	A	A	P,A	P,A	P,A	A
Place of Assembly—Over 2,000 Seating Capacity	S	S	—	S	—	—	—	—	—	—	—	—	—	—	—	—	P	P	—	—
Public Service Facility	P,A	P,A	P,A	P,A	P,A	P,A	P,A	S	S	S	S	S	S	S	A	P,A	P,A	P,A	P,A	P,A
Publishing and/or Printing	P,A	P,A	—	P,A	P,A	P,A	P,A	—	—	—	—	—	—	—	—	—	P,A	P,A	P,A	P,A
Accessory Radio or Television Transmitting +or Receiving Antenna	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Radio or Television Transmitting and/or Receiving Facility	—	S	—	S	S	S	—	—	—	—	—	—	—	—	—	—	P,A	P,A	P,A	P,A
Recreation Facility, Non-Profit	P	P	P	P,A	P	P	P	P	P	P	P	P	P	P	A	P	P	P	P,A	P
Recreation Facility, Commercial	P,A	P,A	P,A	P,A	—	A	—	—	—	—	—	—	—	—	A	P,A	P,A	P,A	P,A	A
Service Station	S	S	S	A	—	A	—	—	—	—	—	—	—	—	—	P	P	—	P	A
Supply Yard	—	P,A	—	—	—	P,A	—	—	—	—	—	—	—	—	—	—	P,A	—	P,A	P,A
Temporary Portable Build- ing, Construction-Re- lated	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Temporary Portable Build- ing, Other than Con- struction-Related	S	S	S	S	S	S	S	—	—	—	—	—	—	—	—	—	—	—	—	P

KEY: "—" Not Permitted; "A" Permitted as an Accessory Use; "P" Permitted as a Principal Use; "S" Permitted as a Special Use.

Planned Developments (see Article 81 -  
PD use regulations supersede underlying  
zoning district use regulations)

Use(s)	Zoning												Planned Developments (see Article 81 - PD use regulations supersede underlying zoning district use regulations)						
	TC-1 and TC-2	CC	NC	01-3	01-1 and 01-2	I	R-3	R-6	R-4	R-3	R-1 and R-2	RT	PD-H	PD-SC(I)N	PD-SC(I)C	PD-OI	PD-MU	PD-I	
Veterinary Hospital or Clinic	—	P,A	—	A	—	—	—	—	—	—	—	—	—	—	—	P,A	—	P,A	—
Vocational School	P,A	P,A	—	P,A	—	—	—	—	—	—	—	—	—	—	—	P,A	P,A	P,A	—
Water and Wastewater Treatment Plant	—	—	—	—	—	P,A	—	—	—	—	—	—	—	—	—	—	—	—	P,A
Window, Drive-in, as an Accessory Use to a Permitted Principal Use	S	S	S	S	S	—	—	—	—	—	—	—	—	—	A	A	A	A	—

KEY: "—" Not Permitted; "A" Permitted as an Accessory Use; "P" Permitted as a Principal Use; "S" Permitted as a Special Use.

1/82  
JAN 10 1983

## 5.7.2 Minimum Lot Width

Except as otherwise provided in this subsection, the minimum width of a zoning lot shall be as established in Section 5.11 for the zoning district in which such zoning lot is located. The width of a zoning lot shall equal or exceed the required minimum lot width for a depth of at least twenty-five (25) feet from the minimum street setback.

Where a zoning lot fronts on two (2) or more streets, minimum lot width requirements shall be considered met if the lot width at the street setback from any one of such streets meets the minimum lot width requirement. Where a zoning lot fronts on a turning circle of a cul-de-sac or at a point of a street where the radius of the curvature of the right-of-way is less than ninety (90) feet, the minimum lot width shall be reached at a distance derived by the following formula:

$$D = 50 (W)/(35) - 50$$

where W = minimum required lot width

D = maximum distance from street right-of-way to where the lot width equals the minimum required width for that district.

Flag lots shall reach the minimum lot width at a point not to exceed 200 feet from the street right-of-way.

Where a zoning lot is in a R-1 or R-2 zoning district and is part of a subdivision approved as a cluster development (see Section 7.8), the minimum lot width requirement specified in Section 5.11 may be reduced by twenty percent (20%).

## 5.9.9 Zero Lot Line Setback Modifications

The interior and solar setbacks for a structure on a zoning lot may be reduced to zero provided the following requirements are met:

- a. The interior or north lot line designated for a zero setback (the zero lot line) shall not be used for a zero setback on the other property abutting the lot line.
- b. The setback between the lot line opposite the zero lot line and any structure on the lot shall equal or exceed two (2) times the minimum interior setback required in Section 5.9.6.
- c. The exterior wall facing the zero lot line shall be sited no more than six (6) inches from the zero lot line.
- d. The wall sited against the zero lot line shall be at least six (6) feet high and shall not contain windows, doors, air conditioning units, or other openings. Any wall facing the zero lot line but not sited against it shall conform to the minimum interior or solar setback, as appropriate, required in Section 5.9.6 or 5.9.7.

- e. A wall maintenance easement shall be provided on the other property abutting the zero lot line. The width of such easement shall be at least four (4) feet.
- f. The zero setback shall be approved as part of a subdivision approval or the owners of the other property abutting the zero lot line shall consent, by recorded agreement or deed restriction, to the zero setback.

FIGURE 6-1 BUFFER MATRIX

Proposed Use	Dwelling, single or two-family, Class A, Mobile Home	Any Other Principal use in Use Group A except essential services	Any use in Use Group B	Automotive repair, maintenance and/or storage facility, light manufacturing, supply yard	Any use in Use Group C other than the above
Dwelling, single- or two-family, Class A Mobile Home	0	5	10	20	15
Any other principal use in Use Group A except essential services	5	0	10	20	15
Any principal use in Use Group B	10	10	0	15	10
Automotive repair, maintenance and/or storage facility, light manufacturing, supply yard	20	20	15	0	5
Any principal use in Use Group C other than the above	15	15	10	5	0

### 7.7.7 Zero Lot Line Setback Modifications

Interior and solar setbacks for structures on lot within a subdivision may be reduced to zero provided such reductions are shown on the approved final plat and the following requirements are met:

- a. The interior or north lot line designated for a zero setback (the zero lot line) shall not be used for a zero setback on the other property abutting the lot line.
- b. The setback between the lot line opposite the zero lot line and any structure on the lot shall equal or exceed two (2) times the minimum interior setback specified in Section 5.9.6.
- c. The wall constructed against the zero lot line shall be at least six (6) feet high and shall not contain windows, doors, air conditioning units, or other openings. Any wall facing the zero lot line but not constructed against it shall conform to the minimum interior or solar setback, as appropriate, specified in Section 5.9.6 or 5.9.7.
- d. A wall maintenance easement shall be provided on the other property abutting the zero lot line. The width of such easement shall be at least four (4) feet.
- e. If the other property abutting the zero lot line is not part of the subdivision, the owners of such property shall consent, by recorded agreement or deed restriction, to the zero setback.

### 12.5.5 Actions Subsequent to Decision

The Town Manager shall notify the applicant of the Commission's decision in writing, and shall file a copy of it with the Town's Planning Department. If the application is denied, the notice shall include the reasons for such action.

### 13.5.5 Actions Subsequent to Decision

The Town Manager shall notify the applicant of the Commission's decision in writing and shall file a copy of it with the Town's Planning Department. If the application is denied, the notice shall include the reasons for such action.

14.4 Nonconforming Features14.4.1 **Definition**

A nonconforming feature is a physical feature or characteristic of a use, building, structure or other development of land that was lawfully established prior to the effective date of this chapter or a subsequent amendment thereto, but does not conform to the Intensity Regulations of Article 5 or the Design Standards of Article 6 applicable to such use, building, structure, or development of land. Nonconforming features include, but are not limited to, physical features and characteristics of development that exceed allowable maximum standards (floor area, height, sign area and number) and those that lack or fall short of required minimum standards (open space, livability space, recreation space, setback, building spacing, access and circulation arrangement and design, sight line triangle, off-street parking and loading spaces and design, parking lot landscaping design, storm water management design, water supply and sewage disposal arrangement and design, utility design, refuse storage and collection facilities and design, bufferyard width and landscaping design, screening height and design, landscaping maintenance, sign spacing and clearance, outdoor lighting design).

14.4.2 **Regulations**

Nonconforming features may be continued subject to the following limitations:

- a) No action shall be taken which increases the degree or extent of the nonconforming feature. Any enlargement, extension or structural alteration shall conform to all current requirements of this article.
- b) When a building, structure, or other development of land having a nonconforming feature is damaged or demolished to the extent of fifty percent (50%) or more of its assessed taxable value, such building, structure, or development of land may be reconstructed only if the nonconforming feature is eliminated and the building or structure shall thereafter conform to the provisions of this chapter.

16.4.4 **Actions Subsequent to Decision**

The Town Manager shall notify the applicant of the Board's decision in writing and shall file a copy of it with the Town's Planning Department.

If a variance is granted, the Town Manager shall issue a variance permit stating the nature of the variance and any conditions attached thereto. The applicant shall record the permit in the office of the appropriate County Register of Deeds.

## 18.40

**Earth Station (Dish Antenna):** A combination of 1) antenna or dish antenna whose purpose is to receive communication or other signals from orbiting satellites and other extra-terrestrial sources; 2) a low-noise amplifier (LNA) which is situated at the focal point of the receiving component and whose purpose is to magnify and transfer signals; and 3) a coaxial cable whose purpose is to carry the signals into the interior of the building.

- 18.71 Lot Line, Zero: Any interior or north lot line along which a structure is allowed with no setback in accord with the zero lot line development standards of Subsections 5.9.9 and 7.7.7.
- 18.72 Lot Width: The horizontal distance measured along a straight line connecting the points at which a line demarcating the minimum street setback required from a street lot line intersects with interior lot lines and/or other street lot lines (See Figure 5-2).
- 18.102 Recreation Facility, Non-Profit: A non-profit facility providing recreational activities, including private country clubs, golf courses, riding stables, tennis clubs, and athletic fields.

#### Section II

That the property identified as Chapel Hill Township Tax Map 93, Block M, Lot 16 located at the northwest corner of the intersection of West Rosemary Street and Roberson Street be reclassified from Residential-3 to Town Center-2.

#### Section III

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

This the 10th day of January, 1983.

JAN 1 6 1983

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WINSTON BROADFOOT  
2001 S. LAKE SHORE DRIVE  
CHAPEL HILL, N. C. 27514

JANUARY 10, 1983

WHEREAS THE TOWN OF CHAPEL HILL, WITHOUT ADVICE OR CONSENT OF THE TOWN COUNCIL, IS NOW SPENDING TIME AND MONEY TO SUPPORT THE INTERREGNUM AT THE CHAPEL HILL HOUSING AUTHORITY, AT NO COST TO THE HOUSING AUTHORITY;

AND, WHEREAS, IT IS DESIRABLE FOR THE CHAPEL HILL HOUSING AUTHORITY TO REGAIN ITS ADMINISTRATIVE AND FINANCIAL INDEPENDENCE PROMPTLY UPON THE SELECTION OF A NEW DIRECTOR;

AND, WHEREAS, IT IS OF GREAT IMPORTANCE THAT THE HOUSING AUTHORITY BOARD OF COMMISSIONERS BE AT FULL STRENGTH FOR THE SELECTION OF THE NEW DIRECTOR;

THEREFORE, I PETITION THE TOWN COUNCIL TO URGE THE MAYOR TO SPEEDILY FILL THE TWO VACANT SEATS ON THE CHAPEL HILL HOUSING AUTHORITY BOARD OF COMMISSIONERS.

*Winston Broadfoot*



Resolution Adopting Service Standards for E-Z Rider Transit Service

Mr. Bob Godding, Transportation Director, addressed Councilmembers regarding E-Z Rider Service. Concerns had been raised at the spring (1982) budget public hearings regarding plans by the Transportation Department to reduce the number of E-Z Rider drivers from 3 to 2. According to statistics, the Department had maintained the quality of service during implementation of this cutback and were able to meet the demand. Previously adopted measures were used to determine the current quality of service. Some of these past standards were not adequate to accurately measure services and the proposed resolution reflected the current level and quality of E-Z Rider Service. The Department would, on a quarterly basis, look at the operating statistics and report standards to determine if standards were or were not being met. A sample survey of E-Z Rider patrons would also be taken each quarter to help determine the quality of service. Adjustments would be proposed as necessary.

Mr. Taylor responded to Mayor Nassif that the proposed standards were less than those previously in effect. Unless there was a significant increase in demand over the present service level, no budget impact was anticipated. Increases in demand, however, could not be handled under current service levels.

Councilmember Broadfoot proposed that the Town employ a physician to determine the eligibility of E-Z Rider patrons as he felt that certification was often done by persons not medically knowledgeable. He also proposed that other information be considered: who was eligible, what trips were eligible, and what the vans were used for.

Mr. Godding responded to Councilmember Broadfoot that ride-sharing was not as much of a "taxi-type service" as he might envision. Regarding eligibility of patrons, Mr. Godding stated that certification forms were completed by each patron. Medically qualified statements were solicited, but not always checked, as staff relied upon the professional judgment of the examiner in determining mobility impairment. No other guidelines were used. Logs were kept on individual trip requests (but not on groups); trip purpose was not always known.

COUNCILMEMBER BOULTON MOVED, SECONDED BY COUNCILMEMBER STRALEY, ADOPTION OF RESOLUTION 83-R-2.

Councilmember Kawalec wondered if patrons might be willing to pay a specified percentage of the cost of providing this service. Councilmember Straley opposed an additional charge for handicapped patrons as it placed a financial burden on the patron because he/she was handicapped. Councilmember Smith stated that, at the spring public hearings, patrons had expressed their willingness to pay a higher rate in order to keep the service. Mr. Godding stated that currently E-Z Rider patrons paid the standard adult transit fare.

VOTE ON THE FOLLOWING RESOLUTION CARRIED UNANIMOUSLY:

A RESOLUTION ADOPTING SERVICE STANDARDS FOR E-Z RIDER TRANSIT SERVICE (83-R-2)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby adopts the following standards for E-Z Rider transit service to mobility-impaired citizens:

Coverage: E-Z Rider Service will be available to any certified, eligible patron within Chapel Hill. Hours of service will be 7:30 A.M. to 5:30 P.M., weekdays with evening and Sunday service covered by the Shared Ride Taxi Service.

Loading: No more than 100% of the seats (no standees).

Fares: Fare will be the same as the adult fare for the fixed route service. Full fare passes will be required. Discount passes may be used if the difference for the adult fare is paid in cash.

Responsiveness (Frequency): Service will be provided to:

- 99% of all trips requested with at least 24 hours notice.
- 98% of all trips requested with at least 2 hours notice.
- 97% of all trips requested.

Trips will be served if scheduled  $\pm$  30 minutes for appointments or  $\pm$  1 hour for shopping, banking, etc.

Dependability: Vehicles will arrive within 5 minutes of scheduled pick-up 80% of the time. Average of all pick-ups will not exceed 5 minutes late.

Directness of Service: Ridesharing will be maximized in order to minimize the cost of service. Travel time should not exceed 1.25 times the travel time required to make the same trip by fixed route. Average trip travel time will not exceed 15 minutes.

Increasing Service: Service changes will be recommended to the Transportation Board and Town Council if any of the above standards are consistently not being met over any quarterly operations period.

This the 10th day of January, 1983.

Proposed Resolution Concerning the Widening of the U.S. 15-501 Bypass

Ms. Gina Cunningham, Chair of the Planning Board, stated that the Planning Board unanimously supported the proposed resolution concerning widening of the U.S. 15-501 bypass.

Councilmember Kawalec suggested that the timing of this resolution was unfortunate. She felt that the resolution should come back to Council as a part of the Thoroughfare Plan.

Mayor Nassif stated that Council had previously considered this issue and expressed support for this issue to the North Carolina Department of Transportation. Current proposed revisions in the Thoroughfare Plan, to be presented at various public forums in the near future, made this resolution premature at this time. Councilmembers Broadfoot and Howes concurred.

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER BOULTON, TO RECEIVE THE REQUEST AND REQUEST THAT MS. CUNNINGHAM RELAY THIS DISCUSSION TO THE MEMBERS OF THE PLANNING BOARD. THE MOTION CARRIED UNANIMOUSLY.

Resolution Concerning Representation of the Town of Chapel Hill on the Orange County Economic Development Commission

Mr. Taylor reviewed the background of the proposed resolution (to recommend an appointment to the newly-formed Commission) and ordinance (budget amendment to transfer \$1,500 for cost of the Commission (through the remainder of 1982-83), based on 6% share).

The County Commissioners had adopted a resolution on December 14, 1982, which established the Orange County Economic Development Commission. Of its 9 members, one would be recommended by the Chapel Hill Town Council to represent Chapel Hill. Management felt that participation on the Commission by Chapel Hill would "give the Town the opportunity to be informed and to express views on issues as they developed...and to help share some of the decisions," and recommended approval of the proposed resolution and ordinance.

Mr. Taylor informed Councilmember Boulton that each of the four municipalities in Orange County would contribute 6% (Chapel Hill, Carrboro, Mebane, and Hillsborough). The County would contribute 56%. The Chambers of Commerce of Chapel Hill, Carrboro, and Hillsborough would contribute 20%.

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER SMITH, ADOPTION OF RESOLUTION 83-R-4.

Councilmember Straley did not feel that one person representing Chapel Hill was sufficient representation, when considering the population size of Chapel Hill. Mr. Taylor responded that all members would be from Orange County and that Chapel Hill's representatives could be from any area of Orange County. Chapel Hill had been requested to recommended one member.

Councilmember Straley stated that he would oppose the resolution on the basis that the economic development interests of Chapel Hill differed greatly from the rest of the County.

Councilmember Broadfoot also expressed opposition to the resolution, stating that future development would be primarily in Chapel Hill. He felt that encouraging economic development would quickly deteriorate the quality of life through the problems of growth.

Councilmember Smith stated that there had been no economic development "in this end of the County" primarily because of the existence of the university, the hospital, and the Research Triangle Park. He felt that there was a need for co-operation among all of the municipalities of Orange County that would benefit all Orange County citizens and that would help provide higher paying jobs.

Councilmember Boulton opposed the formation of a Commission that would be under public control. She felt it should be a private group. She also felt that Chapel Hill should have more representation.

Mr. Taylor responded to Councilmember Boulton that Orange County was not required to ask Chapel Hill to participate. He stated that this would provide an opportunity to participate at a minimum cost and would show our willingness to cooperate.

Mayor Nassif felt that appointment of a representative would not necessarily be an endorsement of any findings of the Commission on the part of the Town Council. Councilmember Smith stated that the resolution would endorse only the concept of the Economic Development Commission of the County.

Councilmember Broadfoot stated that he had never known economic development to reduce taxes.

Mayor Nassif stated that he would submit a letter with the resolution to Orange County that stated that the intent of the resolution was not to endorse any findings of the Commission, but would endorse the concept of the Economic Development Commission of the County.

VOTE ON THE FOLLOWING RESOLUTION CARRIED 6 TO 2 WITH COUNCILMEMBERS SMITH, STRALEY, HOWES, BOULTON, KAWALEC, AND MAYOR NASSIF SUPPORTING, AND COUNCILMEMBERS BROADFOOT AND PASQUINI OPPOSING:

A RESOLUTION CONCERNING REPRESENTATION OF THE TOWN OF CHAPEL HILL ON THE ORANGE COUNTY ECONOMIC DEVELOPMENT COMMISSION (83-R-4)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council of the Town of Chapel Hill will make a recommendation on February 14, 1983, to the Orange County Commissioners for the appointment of a member of the Orange County Economic Development Commission to represent the Town of Chapel Hill in accord with a resolution of December 14, 1982, establishing said Commission. The Town Clerk is hereby directed to advertise for applications from Chapel Hill citizens interested in being appointed to said Commission.

This the 10th day of January, 1983.

Ordinance to Amend the "Ordinance Concerning Appropriations and the Raising of Revenue for the Fiscal Year Beginning July 1, 1982"

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER HOWES, ADOPTION OF ORDINANCE 83-O-2.

Councilmember Kawalec felt that this was a budget decision and should not be considered at this time. She also stated that she felt that it was necessary to know at what financial level other municipalities were willing to participate. She also felt that Chapel Hill citizens would pay twice for the Commission: once through their County taxes, and again through municipal taxes.

Councilmember Pasquini questioned what Chapel Hill would get in return for the \$1,500.

Councilmember Howes expressed his strong opposition to Councilmember Pasquini's line of thought. He stated that there were many people living in northern Orange County who were not able to participate in the overall economic benefits of Orange County. He felt that the formation of this Commission on the part of the Orange

County Commissioners was an effort to deal with this issue, that Chapel Hill would have the opportunity to participate in decisions regarding economic development, and that this was a balanced approach to economic development.

Councilmember Smith stated that without industry, taxes would have to increase to support and maintain the quality of the public schools existing in Orange County and Chapel Hill.

VOTE ON THE FOLLOWING ORDINANCE CARRIED 5 TO 3 WITH COUNCILMEMBERS SMITH, STRALEY, HOWES, BOULTON, AND MAYOR NASSIF SUPPORTING, AND COUNCILMEMBERS BROADFOOT, PASQUINI, AND KAWALEC OPPOSING:

AN ORDINANCE TO AMEND THE "ORDINANCE CONCERNING APPROPRIATIONS AND THE RAISING OF REVENUE FOR THE FISCAL YEAR BEGINNING JULY 1, 1982" (83-O-2)

BE IT ORDAINED by the Council of the Town of Chapel Hill that the Budget Ordinance entitled an "Ordinance Concerning Appropriations and the Raising of Revenue for the Fiscal Year Beginning July 1, 1982" as duly adopted on June 28, 1982, be and the same is hereby amended as follows:

<u>Appropriation</u>	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
General Fund				
Planning	201,358	1,500		202,858
Non-Departmental	1,010,275		1,500	1,008,775

This the 10th day of January, 1983.

Councilmember Kawalec stated that, for the record, her opposing vote did not indicate any opposition for economic development.

Ordinance Amending the Ordinance Granting a Franchise to Village Cable, Inc. (Second Reading)

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER BOULTON, ADOPTION OF THE FOLLOWING ORDINANCE:

AN ORDINANCE AMENDING THE ORDINANCE GRANTING A FRANCHISE TO VILLAGE CABLE, INC. (82-O-90) (Second Reading)

BE IT ORDAINED by the Council of the Town of Chapel Hill that the Council hereby amends the ordinance granting a cable television franchise to Village Cable, Inc., to allow the cable operator to select and offer programming in accord with the following requirements and conditions. Specifically, the ordinance dated November 19, 1979, granting a cable television franchise to Village Cable, Inc. is amended as follows:

Village's franchise proposal dated September 4, 1979, shall continue to be adopted by reference as part of the franchise granted to Village, except as said proposal is specifically modified or amended by the following requirements:

I. Structure of Service Tiers

Village Cable shall continue the current system of three basic service tiers. Tier One shall have 11 channels, Tier Two shall have 17 channels including those in Tier One, and Tier Three shall have 29 to 32 channels, including those in Tiers One and Two. Village Cable shall use the remaining three to six channels for optional pay services in accord with paragraph VI below.

II. Programming of Tier One

Tier One shall continue to include 7 channels for carriage of signals from 7 broadcast television stations in the central North Carolina area, as described in Village's franchise proposal; and shall have four access channels:

- 1 For governmental and educational programming supplied by the Town of Chapel Hill and Chapel Hill-Carrboro City Schools. In addition, Village Cable may carry programs of the Appalachian Community Service Network on this channel, subject to the Town Manager's approval as to times and schedules for the purpose of assuring that governmental and educational programming is available to subscribers in accord with the desires of the Town and the City School District.
- 1 For use by the University of North Carolina, provided that the University of North Carolina may allow Village Cable to provide programming on this channel subject to the University's approval.
- 1 For business, consumer, and leased use and for the home shopping guide.
- 1 For general public use and access.

Village Cable may place the program guide on either of the access channels for public, consumer, business or leased use when not in use for the access programming.

### III. Future Increases in Number of Access Channels

When programming of an access channel for public, business, consumer or leased use (by local citizens or groups, other than Village Cable) reaches an average of 40 hours per week in any six consecutive months, Village Cable shall notify the Town and the Council shall have the right to require an additional channel or channels, up to a maximum total of four channels for public, business, consumer or leased access, including the two required in Tier One under this amendment and excluding the Town, School District and UNC access channels. The University access channel shall remain separate from the above access channels unless the University of North Carolina agrees otherwise. The Town and Chapel Hill-Carrboro City School District shall retain the right to require separate access channels for their respective use, as described in Village's franchise proposal, upon 90 days' notice by either the Town or School District to Village Cable.

### IV. Programming of Tier Two

Tier Two shall include all channels in Tier One, and one channel in Tier Two shall be used primarily for local origination programming produced by Village Cable for coverage of local news, events and affairs. Programming of other channels in Tier Two shall be provided in Village's discretion.

### V. Programming of Tier Three

Tier Three shall have a total of 29 to 32 channels including Tier One and Two channels. Such total shall include at least one channel for each of the following general categories of programs:

- A national news service.
- A regional or national weather information service.
- A cultural programming service.
- A broadcast television station signal from a major metropolitan area outside of North Carolina (i.e., one of the "superstations").
- Children's programming.
- A channel dedicated to the University of North Carolina for live and/or taped coverage of sports events as described in Village's franchise proposal. However, Village Cable shall be authorized to program this channel in its discretion until the University of North Carolina reaches an agreement with Village with respect to UNC sports events programming.
- A general entertainment and sports channel other than an over-the-air broadcast television station.

The requirements for programs in these categories shall be contingent upon reasonable availability to the cable industry of each respective type of service, as noted in paragraph VIII below.

#### VI. Pay Services

Village Cable shall carry at least three video channels with optional pay services such as movies, sports, and/or entertainment; and may have up to 6 pay channels, other than the UNC sports channel. The selection of the 3 to 6 pay services shall be in Village's discretion.

All pay services including FM audio shall remain available to Tier Two and Three subscribers.

#### VII. Notice to Subscribers Regarding Program Changes

Forms to be signed by subscribers in requesting or contracting for services from Village Cable shall include a clear written statement that Village Cable may make changes in programming from time to time in accord with the franchise. Whenever practical, Village Cable shall submit a written notice to the Town and shall notify subscribers at least 45 days in advance of each program change, through written material distributed to subscribers to the Tier(s) on which changes are made, through a notice displayed periodically on channel(s) visible to subscribers affected by the change, and, in Village's discretion, through publication of a notice in a newspaper or circular generally distributed in the Town of Chapel Hill.

#### VIII. Availability of Program Services

The requirements of this amendment for programming shall be contingent upon reasonable availability of the specified kinds of programming to the cable TV industry.

Village Cable may request waiver of a requirement for a category of programming if the cost of making the programming available is unreasonable or not justified in Village Cable's judgement. The Council's consideration of such requests such shall be on the basis of all relevant factors, including but not limited to program costs to Village Cable and the estimated percentage of subscribers who have indicated interest in the program in any relevant market surveys.

#### IX. Bona Fide Programming Required

Village Cable shall carry bona fide programming in some form, such as alpha-numeric information on a cycled basis, taped or live presentations, and satellite or broadcast television signals, on at least 30 of 35 channels.

This the 10th day of January, 1983.

THE MOTION CARRIED 7 TO 1 WITH COUNCILMEMBERS SMITH, STRALEY, HOWES, BOULTON, BROADFOOT, PASQUINI, AND KAWALEC SUPPORTING, AND MAYOR NASSIF OPPOSING.

#### Ordinance Amending the Ordinance Granting a Franchise to Village Cable, Inc. (Second Reading)

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER STRALEY, ADOPTION OF THE FOLLOWING ORDINANCE:

AN ORDINANCE AMENDING THE ORDINANCE GRANTING A FRANCHISE TO VILLAGE CABLE, INC. (82-O-91) (Second Reading)

BE IT ORDAINED by the Council of the Town of Chapel Hill that the Council hereby amends the ordinance granting a cable TV franchise to Village Cable, Inc., as follows:

The requirement that Village Cable offer a monitoring service for security and fire alarms (as described in Village's franchise proposal dated September 4, 1979) is hereby suspended until September, 1984, at which time Village Cable shall report to the Council on the feasibility of providing such services as described in the

above-noted franchise proposal, and the Council shall consider whether in its discretion to direct the cable operator to provide such services as described in the above-noted franchise proposal, upon 180 days' notice.

This amendment shall not be deemed to limit or restrict the authority of Village Cable, Inc., to offer monitoring services at any time in its discretion.

This the 10th day of January, 1983.

THE MOTION CARRIED UNANIMOUSLY.

#### Consent Agenda

Councilmember Broadfoot requested that Consent Agenda item "a" be removed (re certificate of valuation for duplex at 104/106 McMasters Street).

Councilmember Howes requested that Consent Agenda item "c" (re budget amendmts for training in work plans and standards for Performance-Based Pay System) be removed.

COUNCIL VOTED UNANIMOUSLY TO ADOPT THE FOLLOWING RESOLUTION:

A RESOLUTION APPROVING A RESOLUTION (83-R-5)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby adopts the following resolution submitted by the Manager:

b. Exchange of property on Mitchell Lane (right-of-way for Community Development street project (83-R-7)

This the 10th day of January, 1983.

#### Resolution Adopted by the Consent Agenda

The following resolution was adopted by the Consent Agenda:

A RESOLUTION ESTABLISHING VALUATION AND AUTHORIZING AN EXCHANGE OF PROPERTY (83-R-7)

BE IT RESOLVED by the Council of the Town of Chapel Hill that it has determined, on the basis of an appraisal and a review appraisal, that the fair market values of certain right-of-way fragments referred to below and more fully described in appraisals on file with the Town Clerk, to be exchanged by the Town and Charles Brooks IV, are as follows:

<u>Parcel No.</u>	<u>Area (Sq.Ft.)</u>	<u>Owners</u>	<u>Interest to be Exchanged</u>	<u>Just Compensation</u>
A. 85-C-3	998.77	Charles Brooks IV	fee simple title to land	\$2,450
B. 85-C-4	840.64	Town of Chapel Hill	fee simple title to land	\$1,000
C. 85-C-3	118.02	Charles Brooks IV	fee simple title to land	\$50

BE IT FURTHER RESOLVED by the Council that it hereby authorizes the exchange of Parcel B (85-C-4), owned by the Town, and \$1,500 for Parcels A (85-C-3) and C (85-C-3), owned by Mr. Charles Brooks IV.

This the 10th day of January, 1983.

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Ordinance to Amend the "Ordinance Concerning Appropriations and the Raising of Revenue for the Fiscal Year Beginning July 1, 1983"

Councilmember Howes stated that he had asked to have this item removed for procedural reasons, as a corrected copy had been submitted to Council. Since the correction on the copy was minor, COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER BOULTON, ADOPTION OF THE FOLLOWING ORDINANCE:

AN ORDINANCE TO AMEND THE "ORDINANCE CONCERNING APPROPRIATIONS AND THE RAISING OF REVENUE FOR THE FISCAL YEAR BEGINNING JULY 1, 1982" (83-O-3)

BE IT ORDAINED by the Council of the Town of Chapel Hill that the Budget Ordinance entitled an "Ordinance Concerning Appropriations and the Raising of Revenue for the Fiscal Year Beginning July 1, 1982" as duly adopted on June 28, 1982, be and the same is hereby amended as follows:

ARTICLE I

<u>Appropriations</u>	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
General Fund				
Personnel	99,762	3,154		102,916
Non-Departmental (Contingency)	1,008,775		3,154	1,005,621

This the 10th day of January, 1983.

THE MOTION CARRIED UNANIMOUSLY.

Executive Session

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER BOULTON, TO POSTPONE THE EXECUTIVE SESSION UNTIL AFTER THE PUBLIC HEARING SCHEDULED FOR MONDAY, JANUARY 17, 1983.

THE MOTION CARRIED UNANIMOUSLY.

As there was no further business to come before the Council, the meeting was adjourned at 10:54 P.M.

Joseph L. Nassif, Mayor

David B. Roberts, Clerk