

MINUTES OF A REGULAR MEETING OF THE MAYOR AND COUNCIL
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,
MONDAY, OCTOBER 8, 1984, 7:30 P.M.

Mayor Joseph L. Nassif called the meeting to order. Council Members present were:

Marilyn Myers Boulton
Winston Broadfoot
Jonathan Howes
Beverly Kawalec
David Pasquini
Nancy Preston
R. Dee Smith
Bill Thorpe

Also present were Town Manager David R. Taylor, Assistant Town Managers Sonna Loewenthal and Ronald A. Secrist, and Town Attorney Grainger Barrett.

Petitions

Mr. George Coxhead presented a petition requesting that the Mayor and Council take appropriate action to make certain that indecent pornographic pictures are not shown on the cable franchise in Chapel Hill and the surrounding area. (Please refer to Clerk's files.) Mr. Coxhead requested that Council refer the matter to the Manager and Attorney for review and have them report back to Council in a specified time with suggestions as to what can be done to keep pornography off the air.

Ms. Kim Thomas, a Chapel Hill teenager, asked that the Council take steps to eliminate pornography on the cable franchise in order to ensure a solid moral future for the young adults of Chapel Hill.

COUNCIL MEMBER BROADFOOT MOVED TO REFER THE MATTER TO THE MANAGER AND TOWN ATTORNEY FOR ALL APPROPRIATE AND GERMANE INVESTIGATION AND RECOMMENDATIONS AND THAT THEY THEN SET A PUBLIC HEARING AT WHICH THE MATTER CAN BE DISCUSSED. COUNCIL MEMBER PRESTON SECONDED THE MOTION.

Council Member Boulton stated that if the Manager and Attorney report back to Council with the opinion that Council has no jurisdiction in the matter then there is no need for a public hearing. COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER BOULTON, TO AMEND THE MOTION AND DELETE THE AUTOMATIC REQUIREMENT FOR A PUBLIC HEARING AND INSTEAD HAVE COUNCIL DECIDE WHETHER A PUBLIC HEARING IS NECESSARY AFTER RECEIVING THE ADVICE OF THE MANAGER AND ATTORNEY.

Council Member Broadfoot said he has no objections to the amendment but feels a public hearing is in order whether or not Council has jurisdiction in the matter since there is a great deal of public concern about the issue.

THE MOTION TO AMEND FAILED 4-5 WITH COUNCIL MEMBERS BOULTON, HOWES, KAWALEC AND PASQUINI VOTING FOR THE MOTION AND COUNCIL MEMBERS BROADFOOT, NASSIF, PRESTON, SMITH AND THORPE VOTING AGAINST THE MOTION.

COUNCIL MEMBER SMITH MOVED TO AMEND THE MOTION AND REQUEST THAT THE MANAGER AND ATTORNEY REPORT BACK TO COUNCIL ON NOVEMBER 12, 1984. COUNCIL MEMBER THORPE SECONDED THE MOTION.

THE MOTION TO AMEND THE MAIN MOTION PASSED UNANIMOUSLY, (9 - 0).

Council Member Howes asked how it is going to be determined as to when to hold the public hearing. Manager Taylor noted that the motion, as stated, requires the Manager and Attorney to set the date and time for the public hearing. Manager Taylor said that although he prefers not to set the date and time for the public hearing, he will do so at the request of Council.

Council Member Smith asked when is the earliest possible date after November 12, to call a special public hearing. Manager Taylor replied November 13, 1984.

COUNCIL MEMBER HOWES MOVED TO AMEND THE MAIN MOTION AND DELETE "THAT THEY THEN SET A PUBLIC HEARING" AND SUBSTITUTE "IT IS THE INTENTION OF THE COUNCIL THAT IT WILL SET A PUBLIC HEARING DATE UPON RECEIPT OF THE REPORT." COUNCIL MEMBER PASQUINI SECONDED THE MOTION.

THE MOTION TO AMEND THE MAIN MOTION PASSED UNANIMOUSLY, (9 - 0).

THE MAIN MOTION WITH THE TWO APPROVED AMENDMENTS PASSED UNANIMOUSLY, (9 - 0).

Ms. Carol Gehlback, representing the Durham-Chapel Hill Friendship Force, presented Mayor Nassif with gifts from the Mayor of Pisa, Italy.

Mr. Carl Gebuhr, President of the Inter-Faith Council, presented a petition to Council regarding the community shelter. (Please refer to Clerk's files.)

Ms. Margaret Holton, representing the League of Women Voters, requested that she be allowed to speak to agenda item #8, regarding water conservation.

Ms. Gina Cunningham asked that she be permitted to speak to agenda item #11b.

Mr. Scott Wallace of 147 Kingston Drive presented a petition requesting that Council consider to rezone property identified as Chapel Hill Township Tax Map 24, part of Lot 28C from R-5 to R-3. (Please refer to Clerk's files.)

Mr. Wallace stated that prior to adoption of the new ordinance, the site was zoned R-4. He said the present R-5 designation does not provide any transition from low to high density use. Mr. Wallace noted that the property is located only a few feet away from an R-1 zone. He also stated that although residents did testify at the March 16, 1981 public hearing, they were not given the opportunity to be informed as to the designation of the property as R-5 which was made a year later in March 1982. Mr. Wallace also stated that conditions in the area have changed since the original designation was made and there is no transition from low to high density uses in the area.

Mayor Nassif asked if this is the site of the proposed Woodlyn Apartments project. Mr. Wallace replied affirmatively.

Mayor Nassif said he believes the previously undeveloped area came in as one request, including the office condominiums, and was planned and approved as a whole. Mr. Wallace said the residential lots and adjacent office condominiums came in as one request. However, the property on the other side of the street (to which the petition refers) was not in the original request and was subject to change.

COUNCIL MEMBER KAWALEC MOVED, SECONDED BY COUNCIL MEMBER PRESTON, TO RECEIVE THE PETITION AND REFER IT TO THE MANAGER TO BE BROUGHT BACK WITH RECOMMENDATIONS IN A TIMELY MANNER AND PRIOR TO JANUARY.

In response to a question from Council Member Broadfoot, Council Member Kawalec said the intent of her motion was for the Planning staff and Planning Board to review the request.

Attorney Barrett explained that the request is not a formal rezoning application. He said that Council can request a rezoning or a formal rezoning application can be presented by citizen request to the Manager.

Manager Taylor stated that if a formal rezoning petition is submitted by a citizen prior to his requested report back to Council, the request will follow the process as prescribed in the ordinance; otherwise, Manager Taylor said he will present his recommendations as requested.

Mr. Wallace noted that he was unaware of the formal application process for a rezoning.

Council Member Pasquini expressed concern with the timing of the request in relation to the Woodlyn Apartments project. Council Member Pasquini asked if Council will receive the Manager's recommendations prior to the

public hearing on Woodlyn Apartments. Council Member Kawalec said that was the intent of her motion. Council Member Boulton asked if a rezoning can be considered for property on which there is a project pending. Attorney Barrett explained it is permitted. He said it comes down to scheduling and which issue comes to a vote first.

COUNCIL MEMBER SMITH MOVED A SUBSTITUTE MOTION TO ASK THE MANAGER TO CONSULT WITH THE PETITIONER AND THAT THE PETITIONER, IF HE SO DESIRES, SUBMIT A FORMAL APPLICATION FOR REZONING TO THE MANAGER. THE SUBSTITUTE MOTION DIED FOR LACK OF A SECOND.

Mr. Barrett said he wanted to make sure that Council was aware that the Manager could report back, prior to January, that no valid application for rezoning has been filed with the Town.

THE MOTION PASSED UNANIMOUSLY, (9 - 0).

Council Member Thorpe requested that the Manager prepare a resolution, to be presented at the next Council meeting, in support of the nomination of Jonathan Howes as Vice President of the N.C. League of Municipalities.

COUNCIL MEMBER SMITH MOVED TO ACCEPT MR. THORPE'S PETITION. COUNCIL MEMBER BOULTON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY, (9 - 0).

Minutes of September 17

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER PRESTON, TO APPROVE THE MINUTES OF SEPTEMBER 17, 1984 AS CIRCULATED.

THE MOTION PASSED UNANIMOUSLY, (9 - 0).

Bed and Breakfast Inns - Development Ordinance Text Amendment

Council Member Boulton said that at the public hearing it was stated that under the proposed 500-foot spacing standard, no more than 2 Bed and Breakfast Inns would be located in the Historic District. She noted that the memorandum dated October 8, 1984 states that no more than 4 inns would be located in the District under the proposed 500-foot spacing requirement. Assistant Manager Loewenthal said that if the maximum number of 2 inns was mentioned at the public hearing, it was an error. Assistant Manager Loewenthal explained that under the proposed 500-foot spacing requirement there could be 3-4 inns located within the District, the number being dependent upon which inn goes in first. Assistant Manager Loewenthal said she believes that if the proposed inn at 704 E. Franklin Street is approved first, then the maximum number of inns in the District would be three. She noted that the rationale for the spacing standard is to allow very few inns within the District.

COUNCIL MEMBER BROADFOOT MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION #199.

Council Member Preston spoke in favor of the motion. She commended the applicants for the specific request for an inn at 704 E. Franklin Street. However, she said the inns would be extremely detrimental to an area that is already fragile. She stated that the premise that there is a lack of buyers for the houses within the District is not factual. She also said that if the number of bedrooms for rental exceeds the number used for family members, the nature of the already allowed home occupation shifts to commercial use.

Council Member Howes said the issue is a difficult one and one that requires a judgement call. He stated that one could decide that the inns would not be detrimental to the neighborhood especially with the safeguards that are incorporated into the proposed ordinance. Council Member Howes said he is concerned that the property at 704 E. Franklin Street might be developed into a use that is less compatible with the neighborhood than the proposed inn. He concluded that the inns are a satisfactory adaptive reuse of the property and urged Council to vote against the motion to deny.

Mayor Nassif said should the motion pass, he regrets not having had more time to work with the ordinance. He also stated that he does not feel the

issue of need for the inns was addressed and feels it could be more thoroughly explored. Mayor Nassif said he would vote against the motion because he does not know whether or not a need exists.

THE MOTION PASSED 6-3 WITH COUNCIL MEMBERS BROADFOOT, KAWALEC, PASQUINI, PRESTON, SMITH, AND THORPE VOTING FOR THE MOTION AND COUNCIL MEMBERS BOULTON, HOWES AND NASSIF VOTING AGAINST THE MOTION.

The resolution, as adopted, follows:

A RESOLUTION DENYING A REQUEST TO AMEND THE DEVELOPMENT ORDINANCE TO PERMIT BED AND BREAKFAST INNS IN RESIDENTIAL DISTRICTS AS SPECIAL USES (84-R-199)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby denies a request to amend the Development Ordinance to permit Bed and Breakfast Inns in residential districts as special uses.

This the 8th day of October, 1984.

Cooper Square - Planned Development Office/Institutional Special Use Permit

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER KAWALEC, TO ADOPT RESOLUTION #201A.

THE MOTION CARRIED 8-1 WITH COUNCIL MEMBER THORPE OPPOSING THE MOTION.

The resolution, as adopted follows:

A RESOLUTION DENYING A SPECIAL USE APPLICATION FOR THE PROPOSED COOPER SQUARE OFFICE DEVELOPMENT (84-R-201a)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby denies the request for an Office/Institutional Planned Development Special Use Permit for Cooper Square, as presented for a Public Hearing On September 17, 1984 and as described on site plan dated July 20, 1984, and other related plans dated June 18, 1984, because the plans as submitted do not meet the requirement for minimum size of such a Planned Development and do not provide necessary safeguards, in relation to the surrounding area, appropriate for the minimum Planned Development size to be reduced pursuant to Section 8.8.3 of the Development Ordinance.

This the 8th day of October, 1984.

Danziger Rezoning - Request for Zoning Atlas Amendment

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER KAWALEC, TO ADOPT RESOLUTION #202.

Council Member Smith spoke in favor of the intended use of the property as a produce market. Council Member Boulton noted that Council cannot conditionally rezone property.

Council Member Preston asked if the applicant could apply for a special use permit for a planned development commercial for the intended use should Council decide not to grant the rezoning request. Attorney Barrett said from his understanding of the intended use, the applicant could request that type of special use permit.

THE MOTION FAILED BY A VOTE OF 4-5 WITH COUNCIL MEMBERS BROADFOOT, HOWES, KAWALEC, AND NASSIF VOTING FOR THE MOTION AND COUNCIL MEMBERS BOULTON, PASQUINI, PRESTON, SMITH AND THORPE VOTING AGAINST THE MOTION.

COUNCIL MEMBER THORPE MOVED, SECONDED BY COUNCIL MEMBER SMITH, TO ADOPT ORDINANCE #69.

Council Member Howes said that Council has been reluctant, in the past, to grant rezoning requests because it has wanted to retain control through the special use permit process.

Council Member Kawalec said it is inappropriate to consider a rezoning request for an entranceway until the Task Force on Entranceways has presented its final report. She said it would be more prudent to consider the entranceways as a whole.

Council Member Boulton asked Council Member Howes if he feels the rezoning would be an encroachment even though the adjacent property is zoned Neighborhood/Commercial. Council Member Howes said that Council put the dividing line between Neighborhood/Commercial and Residential zonings for a purpose; that purpose being that the property could be used as residential or through the special use process could be used as a transition between residential and commercial. He said he does not oppose the intended use of the site but does oppose various other uses that would be allowed/permitted under Neighborhood/Commercial zoning.

Council Member Broadfoot stated that the resolution does not include the Manager's reasons for recommending approving of the request. Attorney Barrett said the reason for the staff recommendation of approval, that of changed conditions, is adequately stated in the Manager's memorandum to Council for the Public Hearing.

Mayor Nassif asked what constitutes changed conditions since there have been no rezonings in the area since the ordinance was adopted. He also asked if adjacent properties and properties across the street from this site could request a rezoning based on approval of this request. Manager Taylor said this would be a change and other requests could be justified because of this change. Manager Taylor said he would not presuppose what the next request for change might be or what his recommendation for the request would be.

Assistant Manager Loewenthal said staff feels the changed conditions are based on the significant amount of residential development in the area and the increase in the intensity of commercial activity. Mayor Nassif noted that the developments have occurred in accordance with the zones. Assistant Manager Loewenthal said the decisions of zoning must be made with the question of timing in mind and that with the development of an area, even within the designated zoning, is appropriate for Council to reconsider the zoning.

COUNCIL MEMBER SMITH WITHDREW HIS SECOND OF THE MOTION. THE MOTION DIED FOR LACK OF A SECOND.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER HOWES, TO RECONSIDER THE MOTION TO ADOPT RESOLUTION #202.

THE MOTION FOR RECONSIDERATION PASSED BY A VOTE OF 8 - 1 WITH COUNCIL MEMBER THORPE OPPOSING THE MOTION.

THE MOTION TO ADOPT RESOLUTION #202 PASSED BY A VOTE OF 7 - 2 WITH COUNCIL MEMBERS PASQUINI AND THORPE VOTING AGAINST THE MOTION.

The resolution, as adopted, follows:

A RESOLUTION DENYING A REZONING REQUEST (84-R-202)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby denies the request of B. B. Danziger to rezone the property identified as Chapel Hill Township Tax Map 82, Block B, part of Lot 9, located on the southeast corner of the intersection of Airport Road and Bolin Heights Road, plus one-half of the adjoining rights-of-way of Airport Road and Bolin Heights Road. The legal description of the property is as follows:

BEGINNING at a point at the southeast corner of the intersection of Airport Road and Bolin Heights Road; proceeding thence South $67^{\circ}59'17''$ West, along the eastern right-of-way line of Airport Road, 162.63' to a point in said right-of-way line; thence South $67^{\circ}59'17''$ East 195.925' to a point in the centerline of a private access easement; thence North $12^{\circ}00'00''$ East, along the centerline of said easement, 164.065' to a point in the southern right-of-way line of Bolin Heights Road; thence North $67^{\circ}51'17''$ West, along said right-of-way line, 152.245' to the point of BEGINNING, containing approximately 0.64 acre of land.

This the 8th day of October, 1984.

Binkley Baptist Church - Off-Site Parking

COUNCIL MEMBER BOULTON MOVED, SECONDED BY COUNCIL MEMBER PRESTON, TO ADOPT RESOLUTION #203.

THE MOTION PASSED 8 - 0 WITH MAYOR NASSIF ABSTAINING DUE TO A CONFLICT OF INTEREST. He is the architect for the addition to the church.

The resolution, as adopted, follows:

A RESOLUTION REGARDING OFF-SITE PARKING FOR BINKLEY BAPTIST CHURCH (84-R-203)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby finds that there are reasonable assurances that off-site parking at University Mall will be available to Binkley Baptist Church to meet the parking requirements in Sec. 6.6.7 of the Development Ordinance and that there is sufficient livability space at the Binkley Baptist Church site to meet such requirements at the church site if necessary in the future.

This the 8th day of October, 1984.

Joint Planning Agreement

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER BOULTON, TO ADOPT RESOLUTION #204.

THE MOTION PASSED UNANIMOUSLY, (9 - 0).

The resolution, as adopted, follows:

A RESOLUTION ADOPTING A JOINT PLANNING AGREEMENT (84-R-204)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby approves the Joint Planning Agreement as adopted by the Orange County Commissioners on August 6, 1984, and administrative procedures included as two addenda to the August 6 Agreement, such addenda having been submitted by the Town Manager and dated October 8, 1984; and the Council authorizes the Town Manager to sign said Joint Planning Agreement on behalf of the Town.

This the 8th day of October, 1984.

Water Conservation

Ms. Margaret Holton, representing the League of Women Voters, presented a position statement from the League concerning water conservation. (Please refer to the Clerk's files.)

Manager Taylor noted that there is not a representative from OWASA present although he understood someone was to be at the meeting to explain the proposed changes in the water conservation ordinance. Council Member Howes said he would like to hear the comments from OWASA officials prior to making a decision on the matter. He said he is unsure if it is necessary to raise the conservation levels.

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER SMITH, TO DEFER CONSIDERATION OF THE ITEM TO THE NEXT AGENDA AND TO HAVE A REPRESENTATIVE FROM OWASA PRESENT AT THE NEXT MEETING.

Council Member Broadfoot said he hopes the representative from OWASA will be prepared to discuss what he considers a credibility gap since the Council has been told not to worry about development and possible water shortages and is now being asked to adopt a more stringent water conservation ordinance.

THE MOTION PASSED UNANIMOUSLY, (9 - 0).

Floodplain Regulations

Attorney Barrett reviewed his memorandum concerning floodplain regulations (Please refer to the Clerk's Files.)

Council Member Pasquini asked if the term "watercourse" refers to the floodplain, flood fringe, or floodway. Attorney Barrett explained that he chose the term "watercourse" in order to make clear that he sees several of the town's land use policies important in consideration of this matter and so that Council could get a broader perspective on the public goals affected by the areas near bodies of running water. Council Member Pasquini asked about the data collection program. Attorney Barrett replied that consistent measurement done over a period of time is needed so it can be determined how the regulations are affecting the problems and if they are improving the flooding problem.

(Council Member Boulton left the meeting at this time.)

Council Member Broadfoot asked what time schedule Council would need to work within, should it decide to seriously consider a floodplain ordinance. Attorney Barrett replied that Council should inform itself by means of a survey as to the effect the ordinance would have on properties. He explained that it is up to Council to decide whether to have the survey done prior to adopting an ordinance or after adopting an ordinance. Attorney Barrett said Council could, for instance, adopt an ordinance that has a 120 day expiration date.

Council Member Broadfoot expressed concern about the obligation the Council already has to projects pending in the affected areas. Council Member Broadfoot asked what the LUI number in the floodplain overlay would do that Attorney Barrett's plan would not do. Attorney Barrett explained that an overlay is one way of proceeding. Attorney Barrett also explained that under state law it appears that some uses within the floodplain are permitted uses by right. He said that although there are some permitted uses, he feels the Town may impose reasonable restrictions on the percentage of coverage of things such as impervious surfaces, LUI ratios, etc.

Council Member Broadfoot said the flood regulations now in the Code of Ordinances should be included in the development ordinance. Attorney Barrett said there is a chapter reserved in the ordinance for a flood hazard overlay district.

Manager Taylor told Council the staff is now seeking guidance from Council as how to proceed with the proposed flood ordinance. He said staff could prepare the ordinance and present it to Council at its first meeting in December. However, Manager Taylor said the survey of affected areas would not be completed by that time. Manager Taylor recommended that Council proceed with adopting an ordinance and then have the survey done as soon as possible thereafter. He suggested that the ordinance have a sunset provision included therein.

Mayor Nassif noted that a compromise was reached and passed by the Board of Altermen in the early 1970's allowing one unit per six acres within the floodplain. He said that compromise was never implemented into the ordinance or the code. Mayor Nassif encouraged Council to vote not to have any development within the floodplain. Mayor Nassif said he does not oppose what is already in the floodplain and does not oppose allowing owners to rebuild structures, if those structures presently in the floodplain should be destroyed.

Council Member Pasquini asked why the Manager chose 1 unit per 5 acres and 1 unit per 2 acres. Manager Taylor explained that 1 unit per 5 acres was an arbitrary number and that 1 unit per 2 acres was the ratio adopted by the County for the Orange County Watershed area.

Council Member Pasquini asked if the Manager's memo refers to not building in the floodplain, the flood fringe, or the floodway. Manager Taylor responded that it refers to all three areas.

Attorney Barrett explained that the policies in his memorandum all apply in the three areas. It is also an easy benchmark to establish the town's area of concerns for other purposes. Therefore, in respect to flooding, it's the entire floodplain; with respect to the other policies involved, it is an easy-to-administer line because it is already on the town's maps.

Council Member Pasquini asked if one would be allowed to build in the floodway since it is included in the floodplain. Manager Taylor replied that units would not be allowed to be built in the floodway; however,

using one of the other options, units would be allowed in the floodplain which includes the flood fringe.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER BROADFOOT, TO ASK THE MANAGER TO PREPARE AND RETURN TO COUNCIL AN ORDINANCE THAT IS THE MOST RESTRICTIVE POSSIBLE IN REGARDS TO PROTECTING WATER QUALITY, MINIMIZING FLOOD DAMAGE AND INJURY, STORMWATER MANAGEMENT, RESERVING OPEN SPACE AND RECREATION AREAS, ABATING NOISE, PRESERVING THE TOWN'S APPEARANCE AND CHARACTER, AND PRESERVING WILDLIFE HABITAT.

Council Member Howes said he was concerned that the motion ignored the issues of what to do with properties that are already developed. Council Member Preston said the intent of her motion was to be consistent with the memorandum including the concerns that addressed properties already developed.

Council Member Thorpe stated that the survey identifying potential affected properties should be completed prior to adopting an ordinance.

THE MOTION CARRIED 7-1 WITH COUNCIL MEMBER THORPE OPPOSING THE MOTION.

Consent Agenda

Council Member Thorpe requested that item (b) be removed from the Consent Agenda. Council Member Smith requested that item (e) be removed from the Consent Agenda.

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER PRESTON, TO ADOPT RESOLUTION #206 EXCEPT FOR ITEMS (b) AND (e).

THE MOTION PASSED UNANIMOUSLY, (8 - 0).

The Consent Agenda Resolution, and the resolutions and ordinances adopted thereby, were adopted as follows:

A RESOLUTION ADOPTING VARIOUS RESOLUTIONS (84-R-206)

- a. A resolution regarding the accessibility of Town services and facilities to handicapped persons. (84-R-207)
- c. A resolution accepting Sandy Creek Trail into the Town street system for maintenance and upkeep as a gravel roadway. (84-R-209)
- d. A resolution designating North Carolina National Bank as a depository for Town funds. (84-R-210)
- f. A resolution calling a Public Hearing on January 22 on revised special use application for Woodlyn Commons. (84-R-212)

This the 8th day of October, 1984.

A RESOLUTION REGARDING THE ACCESSIBILITY OF TOWN SERVICES AND FACILITIES TO HANDICAPPED PERSONS (84-R-207)

WHEREAS, the Council of the Town of Chapel Hill has previously adopted in the Goals and Objectives of the Comprehensive Plan to Manage Growth in Chapel Hill and Its Environs policies promoting maximum accessibility and participation of citizens in Town government, and

WHEREAS, the Council in the Goals and Objectives directs in the provision of Town facilities and programs, recognition of the special needs of the handicapped; and

WHEREAS, Chapter 14 (Sections 14-28 and -29) of the Chapel Hill Code of Ordinances states that the Town shall select employees on the basis of applicant's qualifications for the job and award them, with respect to compensation and opportunity for training and advancement, including upgrading and promotion, without regard to non-job related handicaps and that no employee or applicant for employment shall suffer discrimination because of non-job related handicap; and

WHEREAS, the resolution accompanying the Town's Affirmative Action Plan, adopted by the Town Council on September 10, 1984, reaffirmed the Town's

continuing policy of non-discrimination on the basis of race, sex, religion, age, national origin, non-job related disability and other non-job related factors; and

WHEREAS, the Town, pursuant to the requirements of U.S. Revenue Sharing Regulations, in compliance with Section 504 of the Rehabilitation Act of 1973 as amended, has prepared a Self-Evaluation and Transition Plan for Accessibility of Town Services and Facilities, which plan immediate changes in Town services and establishes a timetable to enhance the use of Town buildings and facilities by handicapped persons; and

WHEREAS, the Self Evaluation and Transition Plan incorporates a Grievance Procedure for use by handicapped citizens who feel the Town may have discriminated against them on the basis of their disability;

NOW THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill, that the Council approves, and directs the Manager to maintain and implement a continuing program to make reasonable accommodations and assure accessibility of Town services and facilities to handicapped persons; and

BE IT FURTHER RESOLVED that the Self Evaluation and Transition Plan for Accessibility of the Services and Facilities of the Town of Chapel Hill to Handicapped Persons completed in October, 1984 shall be maintained for public review for a period of three years.

This the 8th day of October, 1984.

A RESOLUTION ACCEPTING SANDY CREEK TRAIL INTO THE TOWN STREETS SYSTEM FOR MAINTENANCE AND UPKEEP AS A GRAVEL ROADWAY (84-R-209)

WHEREAS, approximately 600 feet of Sandy Creek Trail extending west from Greenwood Road provides the only means of vehicular access to Emily Braswell Perry Park; and

WHEREAS, the Town owns, maintains, and is improving Emily Braswell Perry Park, and said maintenance and improvements result in certain vehicular use of Sandy Creek Trail for access to Emily Braswell Perry Park;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council accepts Sandy Creek Trail into the Town street system for maintenance and upkeep as a gravel roadway.

BE IT FURTHER RESOLVED that the above-described 600-foot long portion of Sandy Creek Trail may be used by the general public in accord with applicable laws; and that resolution 82-R-9 of January 11, 1982, is hereby deemed to be amended accordingly, but retaining the Town's intent that there be no cross-connection for motor vehicle access to the Weaver Road right-of-way to the east.

This the 8th day of October, 1984.

A RESOLUTION DESIGNATING NORTH CAROLINA NATIONAL BANK AS A DE-
 POSITORY OF TOWN FUNDS (84-R- 210)

Opening and Maintaining A Deposit Account
 and/or Certificates of Deposit

Town of Chapel Hill

Name of Corporation

I, the undersigned hereby certify to North Carolina National Bank, Chapel Hill, North Carolina, that I am the Clerk Secretary of Town of Chapel Hill a corporation duly organized and existing under the laws of the State of North Carolina; that the following is a true copy of resolutions duly adopted by the Board of Directors of said Corporation at a meeting duly held on the 8th day of October, 1984, at which a quorum was present; and acted throughout; and that such resolutions are in full force and effect and have not been amended or rescinded.

1. RESOLVED, that North Carolina National Bank, Chapel Hill, N. C., is hereby designated as a depository of the Corporation and that a deposit account and/or certificates of deposit be opened and maintained in the name of this Corporation with said Bank in accordance with the applicable rules and regulations for such an account; that any two of the following officers or employees of this Corporation:

Town Manager

Finance Director

Assistant Town Manager

is/are hereby authorized, on behalf of this corporation, and in its name to sign checks, drafts, notes, bills of exchange, acceptances, certificates of deposit or other orders for the payment of money; to endorse checks, notes, bills, certificates of deposit, or other instruments, owned or held by this Corporation for deposit with said Bank or for collection or discount by said Bank; to accept drafts, acceptances, and other instruments payable at said Bank; to place orders with said Bank for the purchase and sale of foreign currencies on behalf of this corporation; to waive presentment, demand, protest, and notice of protest, or dishonor of any check, note, bill, draft, or other instrument made, drawn, or endorsed by this Corporation; and,

2. FURTHER RESOLVED, that North Carolina National Bank be and it hereby is authorized to honor, receive, certify, or pay all instruments signed in accordance with foregoing resolution even though drawn or endorsed to the order of any officer or employee signing the same or tendered by him for cashing, or in payment of the individual obligation of such officer or employee, or for deposit to his personal account, and said Bank shall not be required or be under any obligation to inquire as to the circumstances of the issuance or use of any instrument signed in accordance with the foregoing resolution, or the application or disposition of such instrument or the proceeds thereof; and,

3. FURTHER RESOLVED, that North Carolina National Bank be, and it is hereby requested, authorized, and directed to honor checks, drafts, or other orders for the payment of money drawn in this Corporation's name, including those payable to the individual order of any person or persons whose name or names appear thereon as signer or signers thereof, when bearing or purporting to bear the facsimile signature(s) of the specified number of the foregoing officers or employees of this Corporation and North Carolina National Bank shall be entitled to honor and to charge this Corporation for such checks, drafts or other orders, regardless of by whom or by what means the actual or purported facsimile signature or signatures thereon may have been affixed thereto, if such signature or signatures resemble the facsimile specimen duly certified to or filed with North Carolina National Bank by the Secretary or Assistant Secretary or other officer of this Corporation; and,

4. FURTHER RESOLVED, that the Secretary or Assistant Secretary of this Corporation shall certify to said Bank the names of the persons who are at present authorized to act on behalf of this Corporation under the foregoing resolutions and shall from time to time hereafter, as changes in the personnel of said officers and employees are made, immediately certify such changes to said Bank, and said Bank shall be fully protected in relying on such certifications of the Secretary or Assistant Secretary and shall be indemnified and saved harmless from any claims, demands, expenses, loss, or damage resulting from, or growing out of, honoring the signature of any officer or employee so certified, or refusing to honor any signature not so certified; and,

(over)

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5. FURTHER RESOLVED, that the foregoing resolutions shall remain in full force and effect until written notice of their amendment or rescission shall have been received by said Bank, and that receipt of such notice shall not affect any action taken by said Bank prior thereto; and,

6. FURTHER RESOLVED, that all transactions by any of the officers or employees of this Corporation on its behalf, and in its name, with North Carolina National Bank prior to the delivery to said Bank of a certified copy of the foregoing resolutions are, in all respects, hereby ratified, confirmed, approved and adopted; and,

7. FURTHER RESOLVED, that the Secretary or Assistant Secretary be, and he hereby is, authorized and directed to certify these resolutions to North Carolina National Bank and that the provisions thereof are in conformity with the Charter and By-Laws of this Corporation.

I further certify that the following are the names of the present officers of this Corporation:

| NAME | TITLE |
|-----------------|---------------------------|
| David R. Taylor | Town Manager |
| James M. Baker | Finance Director |
| James M. Baker | Interim Town Clerk |
| Robin G. Rankin | Interim Deputy Town Clerk |

This the 8th day of October, 1984.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of this Corporation, this

_____ day of _____, 19_____.

(CORPORATE)
(SEAL)

Secretary
Interim Deputy Town Clerk

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A RESOLUTION CALLING A JANUARY PUBLIC HEARING FOR WOODLYN COMMONS
(84-R-212)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby finds that the proposed revisions to the Woodlyn Commons application for a Planned Development-Housing Special Use Permit substantially differ from the proposed plans reviewed at the June 18, 1984 public hearing on the application and therefore requires an additional public hearing for consideration of these substantial revisions.

BE IT FURTHER RESOLVED that the Council hereby schedules the Woodlyn Commons application to be heard at its January 22, 1985 public hearing, which is the earliest practical date for consideration of the revised application.

This the 8th day of October, 1984.

NCNB Drive-In Bank (Rosemary Street) - Abandonment of Special Use Permit

Council Member Thorpe noted that most of the work covered in the resolution has already been done. He said he would like applicants to obtain permission to do the requested work prior to starting the work.

COUNCIL MEMBER THORPE MOVED, SECONDED BY COUNCIL MEMBER SMITH, TO ADOPT RESOLUTION #208.

THE MOTION PASSED UNANIMOUSLY, (8 - 0).

The resolution, as adopted, follows:

A RESOLUTION ACCEPTING ABANDONMENT OF THE NCNB DRIVE-IN BUSINESS SPECIAL USE PERMIT FOR THE BANK TELLER STATION ON EAST ROSEMARY STREET (84-R-208)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby accepts the abandonment of the Drive-In Business Special Use Permit for the bank teller station in the NCNB parking deck on the north site of East Rosemary Street (Chapel Hill Township Tax Map 80, Block G, Lot 19) on condition that Franklin Street Plaza, Ltd.'s affidavit of abandonment dated September 12, 1984 minus item #4 be recorded in the Orange County Registry within 30 days of the date.

This the 8th day of October, 1984.

Sanitary Sewer Easement Through Town-Owned Property Adjacent to the Southbridge Development

Council Member Smith asked if the easement will affect the Town's use of the property should the town decide to use the land in the future. Manager Taylor said it is anticipated that the title will be transferred to OWASA at the time OWASA accepts the line for maintenance. OWASA will then have the right to maintain the line across the property. In that way, the easement could conceivably interfere with the Town's use of the property.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER PRESTON, TO APPROVE RESOLUTION #211.

THE MOTION CARRIED UNANIMOUSLY, (8 - 0).

The resolution, as adopted, follows:

A RESOLUTION AUTHORIZING THE GRANT AND EXECUTION OF A CONSTRUCTION AND MAINTENANCE EASEMENT FOR SANITARY SEWER SERVING THE SOUTHBRIDGE SUBDIVISION, PHASE ONE, AND PASSING THROUGH TOWN-OWNED PROPERTY (84-R-211)

BE IT RESOLVED by the Council of the Town of Chapel Hill that it hereby approves, and authorizes the Town Manager to execute, the attached easement granting an easement and right-of-access (in the location shown on a plat entitled Sanitary Sewer Easement, prepared by Ayers and Edgerton, surveyors, dated October 10, 1983) for construction and maintenance of a sanitary sewer across Town-owned lands to the Southbridge Subdivision, a copy of said easement to be maintained in the

permanent records of the Town; provided, that the easement shall require the grantee to hold the Town harmless from claims for injuries or for damages to property arising from or in connection with the grantee's use, maintenance and enjoyment of such easement until the easement is accepted by the Orange Water and Sewer Authority, or other public body, for maintenance.

This the 8th day of October, 1984.

Boards and Commissions - Notification of Expiration of Terms

Council will be notified that terms for 3 seats on the Historic District Commission will expire on December 31.

Boards and Commissions - Nominations

Ms. Gina Cunningham asked if the person who is selected for the interim position on the Planning Board could apply for a vacancy that will occur during the interim appointment. Mayor Nassif replied that the person could apply for a seat on the Board while serving in an interim capacity.

Council Member Smith nominated JoAnne Peerman for a seat on the Planning Board (interim appointment).

Executive Session

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER SMITH, TO ADJOURN TO EXECUTIVE SESSION TO DISCUSS ACQUIRING INTEREST IN REAL PROPERTY AND THEN TO RECESS TO 5 P.M. TUESDAY, OCTOBER 9 FOR THE PURPOSE OF GOING INTO EXECUTIVE SESSION TO DISCUSS PERSONNEL MATTERS AND THEN COME BACK INTO PUBLIC SESSION.

THE MOTION CARRIED UNANIMOUSLY, (8 - 0).

The Council reconvened in public session at 6:45 pm on October 9. Mayor Joseph Nassif was absent.

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER SMITH TO SET THE SALARY OF THE TOWN MANAGER AT \$60,000 ANNUALLY EFFECTIVE OCTOBER 1, 1984.

Council Member Thorpe said he felt the Manager was doing a good job, however he felt a pattern of 10% increases should not be set, given all other employees of the Town will not receive that amount. Mr. Thorpe felt the Manager's salary be set at \$57,000 annually.

THE MOTION PASSED BY A VOTE OF 7 TO 1 WITH COUNCIL MEMBER THORPE OPPOSING THE MOTION.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO SET THE SALARY OF THE TOWN ATTORNEY AT \$40,000 ANNUALLY EFFECTIVE OCTOBER 1, 1984.

Council Member Thorpe said he was not a member of the Council when the present Town Attorney was hired and he feels Mr. Barrett is underpaid.

COUNCIL MEMBER THORPE OFFERED A SUBSTITUTE MOTION, SECONDED BY COUNCIL MEMBER BOULTON TO SET THE SALARY OF THE TOWN ATTORNEY AT \$41,500 ANNUALLY EFFECTIVE OCTOBER 1, 1984.

The substitute motion failed to pass by a vote of 4 to 4 with Council Member's Boulton, Broadfoot, Preston and Thorpe voting in favor and Council Member's Howes, Kawalec, Pasquini and Smith opposed.

THE MAIN MOTION PASSED UNANIMOUSLY (8-0).

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADJOURN THE MEETING AT 7:00 PM.

Mayor, Joseph L. Nassif

Robin G. Rankin, Deputy Town Clerk