

5

MINUTES OF A REGULAR MEETING OF THE MAYOR AND COUNCIL
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,
MONDAY, MAY 12, 1986 7:30 P.M.

Mayor James C. Wallace called the meeting to order. Council Members present were:

Julie Andresen
David Godschalk
Jonathan Howes
David Pasquini
Nancy Preston
R. D. Smith
Bill Thorpe
Arthur Werner

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

Certificate of Appointment

Mayor Wallace introduced Lynn Igoe to the Council and presented her with a Certificate of Appointment to the Historic District Commission.

Public Hearing on Manager's Recommended Budget for FY 1986-87

Manager Taylor said he recommended a budget with no change in the General Fund tax rate but with a 1.5 cent increase in the Transportation Fund tax to help offset expected cuts in federal funding. He summarized the budget's highlights and said the purpose of the hearing was to receive citizen comments and input.

Lawrence Lanset, representing the Transportation Board, endorsed the Transportation section of the Manager's recommended budget. He commended the Manager for requesting a 1.5 cent increase in the Transportation Fund tax as a reserve in case of a short fall in federal funding. He asked the Council to consider increasing the advertising budget in the Transportation Department to allow for increased advertising to encourage ridership.

Kani Hurow, representing the Parks and Recreation Commission, said the Commission had not as yet had a chance to review the budget but would do so at its May 21st regular meeting and would report back to the Council with their comments.

Gina Cunningham, representing the Entranceways Task Force, said that the two primary recommendations from the Task Force, a Master Landscaping Plan and establishment of an Entranceways District, had seemingly been ignored by the Manager in his recommended budget. She commented that some of the members of the Task Force felt their work was not being acknowledged or considered and as such they tendered their resignations from the Task Force. She suggested the Council create an Entranceways Advisory Committee in the hopes that the work of the Task Force could be continued. Ms. Cunningham said the Task Force members would be willing to serve on an Entranceways Committee.

Council Member Howes suggested withholding acceptance of the resignations until further discussions on the budget could be held. The Council agreed.

Dr. Carter, representing the Center for Visual and Performing Arts (The ArtSchool), petitioned the Council to include funds for operations for the Center in the 1986-87 budget. He gave a brief history of the school and commented that they were in the process of moving into a new facility and needed funds for operations and improvements.

Council Member Smith asked the Manager for information on the number of employee appeals last year the result of decisions

6.
pertaining to the Performance-based Pay Plan. Manager Taylor said he would get Mr. Smith that information.

Council Member Howes suggested the Council hold another work session on the budget.

A work session was set for June 2, 1986 at 7:30 p.m. in the Municipal Building meeting room.

Petitions

Sandra Greene, representing the Lake Forest Home Owners Association, petitioned the Council for a new zoning category (lower than R-1) for the Lake Forest area to allow for only one dwelling unit per 25,000 square feet. She said many of the Lake Forest residents were concerned that when the restrictive covenants originally placed on their properties expire in December, 1987, the current R-1 zoning would allow for many lots to be subdivided and additional homesites created. (For copy of text, see Clerk's files.)

Council Member Preston asked if all the sections of Lake Forest had the restrictive covenants and if Ms. Greene expected for the zoning change to affect all the sections. Ms. Greene replied that all the sections did have covenants but that some of the other sections' deeds allowed for a continuation of the restrictive covenants.

Council Member Andresen asked how large was the area which was affected. Ms. Greene replied approximately 150 homes.

Council Member Godschalk asked if there was any way the residents could achieve the same effect as with the restrictive covenants without requesting the Council devise a new zoning category. Ms. Greene said that since the deeds to the property did not include for a continuation of the restrictive covenants, an addition to the property deeds could be added only with 100% agreement from all the property owners. She said she did not think there would be 100% agreement for this change.

COUNCIL MEMBER ANDRESEN MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO REFER TO THE MANAGER AND ATTORNEY.

Mayor Wallace agreed that the Town should be able to do something to help these homeowners.

Council Member Thorpe asked for a list of property owners in support of any change in the zoning of Lake Forest.

Council Member Werner asked that the report from the Manager be presented in conjunction with the new Chapel Hill Land Use Plan.

Council Member Preston asked about the possibility of changing all R-1 zones to one dwelling unit per 25,000 square feet and what kinds of non-conformities this would create.

THE MOTION PASSED UNANIMOUSLY, (9-0).

Gary Giles, speaking for the developer of Performance Chevrolet and as the architect for the proposed project, asked to speak to item #6, Performance Chevrolet modification of Special Use Permit.

Grainger Barrett, speaking as the attorney for the applicant, asked to speak to item #7, Mill Race.

Len Van Ness, speaking as the Executive Vice-President of the Chapel Hill-Carrboro Chamber of Commerce, extended an invitation to the Council to a Transportation Forum Planning Committee meeting on May 19 and urged the Council to consider adopting a resolution concerning the future of roads in North Carolina and Chapel Hill. (For copy of memo, see Clerk's files.)

Mayor Wallace asked for unanimous consent to suspend the rules for the purpose of determining who would sign the Development Agreement and Garage Utilization Agreement for Rosemary Square, since he in good conscience could not and asked that item #12, Bond Underwriters, be moved up to next on the agenda.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO SUSPEND THE RULES TO DETERMINE A PERSON TO SIGN THE ROSEMARY SQUARE DEVELOPMENT AND GARAGE UTILIZATION AGREEMENTS. THE MOTION PASSED UNANIMOUSLY, (9-0).

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO HAVE MAYOR PRO-TEM BILL THORPE EXECUTE THE ROSEMARY SQUARE DEVELOPMENT AND GARAGE UTILIZATION AGREEMENTS. THE MOTION CARRIED, (6-3), WITH COUNCIL MEMBER ANDRESEN AND WERNER AND MAYOR WALLACE VOTING AGAINST.

Bond Underwriters

Mayor Wallace commented that it needed to be understood that the resolution authorizing the Manager to enter into a contract with bond underwriters for the Rosemary Square project would not be effective until after the Development Agreement and Garage Utilization Agreement were signed by the Mayor Pro-tem. The Council agreed.

Council Member Smith asked if there was anything else in connection with the Rosemary Square project which would require the Mayor's signature. Manager Taylor replied that the Mayor had been authorized to sign or execute the agreements of understanding and the Manager had been authorized to execute all of the documents which carry out the understandings. He said the Mayor would also have sign the bond order, air rights deed, application to the Local Government Commission. Manager Taylor said the Council may at the time the Council considers each of these documents authorize the Mayor or the Mayor Pro-tem to sign the documents.

Mayor Wallace said that since the Council was scheduled to review the Bond Underwriters at this meeting and since he had reservations about the project but did not want the failure of a contract to impede the authorization of the underwriters, therefore, he said he had requested the change in the authorization procedure. He said that as far as future contracts which may be ordinarily authorized to sign as opposed to mandated or directed, he said it would be his pleasure to have some other person designated as he did not anticipate that in the next few months his stand on the issue would alter.

Council Member Howes said he appreciated the Mayor's position on this matter. He said the Mayor obviously found himself in a position where his conscience would not allow him to sign the agreements but recognized the will of the Council and was allowing for the project to proceed.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT RESOLUTION 86-5-12/R-8. THE MOTION CARRIED, (8-1) WITH MAYOR WALLACE VOTING AGAINST.

The resolution, as adopted, reads as follows:

A RESOLUTION AUTHORIZING THE MANAGER TO EXECUTE CONTRACTS WITH TWO PARKING REVENUE BOND UNDERWRITERS (86-5-12/R-8)

WHEREAS, the Town of Chapel Hill advertised for proposals for underwriting services for the issuance of parking revenue bonds, and nine firms responded, and

WHEREAS, five firms were interviewed;

BE IT RESOLVED that the Council of the Town of Chapel Hill authorizes and directs the Manager to enter into contracts with

Interstate Securities, Inc., and J. Lee Peeler and Company, Inc. as, respectively, lead and co-managing underwriters for the Rosemary Square parking revenue bonds.

BE IT FURTHER RESOLVED that the final costs shall be negotiated at the time of sale, that payment shall be made from proceeds of the sale, and that costs shall not exceed the maximum total cost quoted in each proposal.

This the 12th day of may, 1986.

Petitions (cont.)

Council Member Smith said he had taken part in a recent program to educate citizens to the problems facing the handicapped in Chapel Hill in trying to get around town. He petitioned the Council to direct the Manager to review the street and sidewalk plans so as to remove all obstacles to the ease of access of handicapped persons. He gave examples of problems such as gravel sidewalks, utility poles in curb cuts, cars parked on the sidewalk, etc.

Council Member Howes asked that the Manager include in his report how the Town's code addressed this issue.

Council Member Thorpe congratulated Council Member Pasquini for his recent receipt of a doctorate degree from the University of North Carolina at Chapel Hill.

Minutes

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT THE MINUTES OF APRIL 21, 1986 AS CIRCULATED. THE MOTION PASSED UNANIMOUSLY, (9-0).

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT THE MINUTES OF APRIL 28, 1986 AS CIRCULATED. THE MOTION PASSED UNANIMOUSLY, (9-0).

JNS Rezoning Request

COUNCIL MEMBER THORPE MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT ORDINANCE 86-5-12/O-1.

Council Member Godschalk spoke against the motion feeling it constituted spot zoning.

Council Member Andresen said that she felt there were changed and changing conditions which supported the request to rezone.

Council Member Smith expressed concern that the Council would grant every rezoning request. He said the Council should wait until after the new land use plan was presented to the Council before changing any zones.

Council Member Preston said that the Planning Board had supported the rezoning request and that she did not feel the Council had in the past nor would rezone properties indiscriminately in the future.

Council Member Thorpe said the Council had approved the Special Use Permits for the adjoining properties thus allowing for offices to be built. He said he hoped those sites would eventually apply for rezoning so that the site would not be considered by anyone as spot zoning.

Council Member Pasquini spoke against the motion also feeling it constituted spot zoning. He suggested the purpose of the site, not how the site could be used, was the driving force in favor of rezoning.

THE MOTION CARRIED, (6-3), WITH COUNCIL MEMBERS GODSCHALK, PASQUINI, AND SMITH VOTING AGAINST.

The resolution, as adopted, reads as follows:

AN ORDINANCE AMENDING THE CHAPEL HILL ZONING ATLAS (86-5-12/O-1)

WHEREAS, the Council of the Town of Chapel Hill has considered the application of the JNS Group for a zoning Atlas Amendment as described below and has found that the amendment is appropriate due to changed or changing conditions in the area.

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

Section I

That the property identified as Chapel Hill Township Tax Map 46, Block B, Lot 1A, located on the west side of Couch Lane approximately 200 feet south of East Franklin Street, plus one-half of the adjoining right-of-way of Couch Lane, be reclassified from Residential-5 to Office/Institutional-1. The legal description of the property is as follows:

Lying and being to the south of North Carolina State Highway No. 75, bounded on the North by a Road, on the East and South by lands of Mrs. Sallie Couch, and on the West by the land of John Thompson; BEGINNING at an iron stake a few feet off the South line of said Road, John Thompson's line and corner; running thence with said Thompson's line South of 39 10' West 100 feet to a stake, a new corner in the line of the lands of Sallie Love Couch; thence with the said Sallie Love Couch's line South 50 50' East 90 feet to another corner in her line; thence continuing with Sallie Love Couch's line South 50 50' East 90 feet to another corner in her line; thence continuing with Sallie Love Couch's line North 39 10 East 139.8 feet to a stake or point in the middle of said road running along the Northern boundary of this property; thence North 74 50' West, cutting across the South line of said Road diagonally 98.4 feet to the beginning, containing .248 acres as surveyed by R.M. Trimble, May 7, 1936. Bearings referred to the true North. Being a part of the land conveyed to Sallie Love Couch by deed of P.R. Perry and wife, dated September 1, 1917, registered in the Office of the Register of Deeds of Orange County, N.C., in Book 73, at Page 301, and being the same land conveyed to Else R. Couch by deed of Sallie Love Couch dated May 20, 1936, registered in Orange County Registry Book 104, at page 248.

Section II

BE IT FURTHER ORDAINED that all ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 12th day of May, 1986.

Performance Chevrolet - Modification of SUP

COUNCIL MEMBER ANDRESEN MOVED, SECONDED BY COUNCIL MEMBER WERNER TO ADOPT RESOLUTION 86-5-12/R-2C.

Council Member Andresen said some of the residents in University Heights had expressed concern about the traffic patterns as a result of the proposed modification to Performance Chevrolet and the intersection of Scarlette Dr./Old Durham Rd. and 15-501. She asked the staff for their opinion. Roger Waldon, Planning Director, said he felt the redesign of the Scarlette Drive/Old Durham/15-501 intersection would improve the traffic patterns in that area.

10
Mayor Wallace expressed concern about the traffic impact on the adjoining neighborhood.

Council Member Smith commented that the improvement of the 15-501 intersection along with other development in the area would in his opinion create a bottleneck at that intersection and force vehicles to use the University Heights neighborhood as a means of circumventing the intersection.

Gary Giles, speaking for the applicant, said the applicant disagreed with the stipulation for road improvements to the service road and road and sidewalk improvements to Old Durham Road. He felt any improvements should be paid for by all the property owners by using an assessment process.

Council Member Preston suggested using a payments-in-lieu of road/sidewalk improvements so that the improvements could be made to the entire road at one time instead of in a piecemeal fashion.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER HOWES TO AMEND THE MOTION TO ALLOW FOR PAYMENTS-IN-LIEU OF ROAD/SIDEWALK CONSTRUCTION.

Council Member Werner questioned the validity of having a payment-in-lieu since it did not appear that any of the current businesses along the Service Road or Old Durham Road would be either changing or modifying their existing site plans. He asked the Town Attorney if an assessment process were available.

Town Attorney Karpinos replied that an assessment process was available but that the street improvement request had to be initiated by the adjoining property owners.

Council Member Godschalk said he thought it was unfair to require the applicant to make improvements to both roads because it would only apply to a section of the road.

Council Member Thorpe said the Council needed to get either the funds for the improvements or the actual improvements accomplished when the request for modification occurred.

Council Member Godschalk asked if any of the other businesses along Old Durham Road had been required to provide road improvements. Mr. Waldon replied that NCNB had had to widen and put in a sidewalk along Old Durham Road.

COUNCIL MEMBERS PRESTON AND HOWES AGREED TO WITHDRAW THEIR MOTION TO AMEND.

THE MOTION TO ADOPT RESOLUTION 86-5-12/R-2C CARRIED, (6-3), WITH COUNCIL MEMBERS GODSCHALK, PRESTON, AND SMITH VOTING AGAINST.

The resolution, as adopted, reads as follows:

A RESOLUTION APPROVING AN APPLICATION FOR MODIFICATION OF UNIFIED BUSINESS DEVELOPMENT SPECIAL USE PERMIT FOR PERFORMANCE CHEVROLET (86-5-12/R-2C)

BE IT RESOLVED by the Council of the Town of Chapel Hill that it hereby finds that the Unified Business Development Special Use Permit proposed by Mr. David Hansing for Performance Chevrolet on property identified as Chapel Hill Tax Map 27, Block C, Lot 3, if developed according to the general layout plan, utilities plan, grading and stormwater management plan, and planting plan dated February 28, 1986, building elevation dated January 30, 1986, and the conditions listed below, would continue to:

1. Be located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;

- 4
2. Comply with all required regulations and standards of the Development Ordinance, including all applicable provisions of Articles 4, 5, and 6, and the applicable specific standards contained in Section 8.7 and 8.8, and with all other applicable regulations;
 3. Be located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property; and
 4. Conform with the general plans for the physical development of the Town as embodied in the Development Ordinance and in the Comprehensive Plan.

These findings are conditioned on the following:

1. That construction begin by May 12, 1987 and be completed by May 12, 1988.
2. That the Chapel Hill-Durham Boulevard service road be improved along the site's frontage to one-half of a standard 27-foot back-to-back roadway with curb and gutter.
3. That the easternmost access point on Old Durham Road be designated as entrance only.
4. That Old Durham Road be improved along the site's frontage to one-half of a standard 41-foot roadway, with curb and gutter and a sidewalk with dedication of one-half of a 70-foot right-of-way.
5. That the dumpster pads be relocated towards the center of the site, where adequate maneuvering space for garbage trucks is available.
6. That trees proposed to be planted along the 15-501 service road be at least 3 inches in caliper at the time of planting.
7. That all outdoor lighting be designed and installed with the objective of directing illumination only within the property boundaries. Such light shall be shown on a detailed lighting plan and shall be approved by the Appearance Commission before issuance of a Zoning Compliance Permit.
8. That all signs be brought into conformity with sign regulations and be approved by the Appearance Commission before issuance of a Certificate of Occupancy.
9. That final plans to be approved by the Town Manager before issuance of a Zoning Compliance Permit (detailed site plan, utility plan, grading and stormwater management plan, right-of-way/easement plats) conform to the approved preliminary plans and demonstrate compliance with the above conditions and the design standards of the Development Ordinance and the Design Manual.
10. That the final utility plan be approved by OWASA, Duke Power, and Southern Bell, before issuance of a Zoning Compliance Permit.
11. That the Special Use Permit continue to apply to the entire 10.74 acre lot of record.
12. That except as modified herein, all other special terms and conditions heretofore made applicable to the Special Use Permit be continued in effect.
13. The continued validity and effectiveness of this approval is expressly conditioned on the continued compliance with the plans and conditions listed above.

12

14. If any of the above conditions is held invalid, this approval shall be void.

BE IT FURTHER RESOLVED that the Council finds that the extent of the existing nonconforming feature of this site, lack of required buffers, would not be increased by this modification.

BE IT FURTHER RESOLVED that the Council hereby approves the application for a Modification of the Harriss-Conners Chevrolet Unified Business Development Special Use Permit in accord with the plans and the conditions listed above.

This the 12th day of May, 1986.

Mill Race

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 86-5-12/R-3C.

Council Member Andresen suggested changing the time period so as not to coincide with the date of the granting of the variance by the Board of Adjustment and therefore possibly setting a precedent.

Council Member Werner asked how many other projects could possibly ask for extension based on the same set of circumstances. Roger Waldon replied about 4-5.

THE MOTION CARRIED, (6-3), WITH COUNCIL MEMBERS PASQUINI, SMITH AND WERNER VOTING AGAINST.

The resolution, as adopted, reads as follows:

RESOLUTION APPROVING AN APPLICATION FOR A MODIFICATION OF THE MILL RACE PLANNED DEVELOPMENT-HOUSING SPECIAL USE PERMIT (4-MONTH EXTENSION) (86-5-12/R-3C)

BE IT RESOLVED by the Council of the Town of Chapel Hill that it finds that the Mill Race Planned Development-Housing located on property identified as Chapel Hill Township Tax Map 81, Block A, Lot 2, if modified to extend the stipulated starting time limit from July 8, 1986 to November 6, 1986, would continue to:

1. Be located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
2. Comply with all required regulations and standards of the Development Ordinance, including all applicable provisions of Articles 4, 5 and 6, and the applicable specific standards contained in Sections 8.7 and 8.8, and with all other applicable regulations;
3. Be located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property; and
4. Conform with the general plans for the physical development of the Town as embodied in the Development Ordinance and in the Comprehensive Plan.

BE IT FURTHER RESOLVED that the Council hereby approves the application for a modification of the Mill Race Planned Development-Housing Special Use Permit, recorded in Record Book 550, Page 226 of the Orange County Registry, to extend the starting time limit from July 8, 1986 to November 6, 1986.

This the 12th day of May, 1986.

Land Use Plan Update

Manager Taylor said he would make a recommendation to the Council on the Joint Land Use Plan at the May 27th Council meeting.

Roger Waldon, Planning Director, gave a presentation on the status of the Land Use Plan. He gave a brief history of the plan and pointed out that some of the key issues were the maintenance of a rural buffer and types of developments around the Interstate-40 interchanges. He said the Chapel Hill Planning Board had recently suggested revisions to the Joint Land Use Plan to make it more in conformity with the proposed new land use plan for Chapel Hill. He stated the Board proposed keeping the Starpoint area as rural residential; area north of I-40 all rural buffer; N.C. 86/I-40 interchange: Southeast of interchange as office use, west of interchange as office and medium residential, and light industrial; Homestead Road area as suburban residential; and the area designated as the future landfill as suburban residential.

Council Member Werner asked about the overlap between the land use plans for Chapel Hill and Joint Planning Area.

Council Member Preston asked how the dividing line for joint planning had been established. Manager Taylor said that the lines had been drawn when the joint planning agreement had been made between the County and Town.

Council Member Pasquini stated that the Council needed a work session to discuss this land use plan and better maps from which to work.

Council Member Andresen asked if the medium density residential planned for the I-40 interchange would allow for the development of the Eubanks Road Townhouses. Mr. Waldon replied yes.

Council Member Howes asked if the Planning Board had considered the future landfill site as a site for permanent open space. Mr. Waldon said the Board had discussed it but had recommended the site be zoned residential.

Council Member Smith questioned the "quality of life" for residents living near the I-40 interchange.

A work session was set up for June 10th in the Municipal Building meeting room at 7:30 p.m. for the Council to discuss the joint land use plan.

Council Member Godschalk complimented the Planning staffs and Boards of the Town and County for their hard work on this joint land use plan. He said they deserved the Council's respect.

Joint Planning Agreement between Orange County and Carrboro - Proposed

Mayor Wallace presented a copy of the proposal between Carrboro and Orange County for a joint planning agreement. He said he felt it should be discussed with a report from the staff as to the differences/similarities between the proposal and the current Town agreement with Orange County. It was agreed the item would be discussed by the Council at the June 10 work session.

Legislative Program

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT RESOLUTION 86-5-12/R-4. THE MOTION PASSED UNANIMOUSLY, (9-0).

14
The resolution, as adopted, reads as follows:

RESOLUTION SUPPORTING THE 1986 LEGISLATIVE PROGRAM OF THE LEAGUE OF MUNICIPALITIES (86-5-12/R-4)

WHEREAS, the N.C. League of Municipalities has adopted a set of municipal legislative goals and policies for the 1986 session of the General Assembly; and

WHEREAS, the Town of Chapel Hill, as a member of that League, supports the League's policies and goals;

NOW, THEREFORE, BE IT RESOLVED that the Council of the Town of Chapel Hill hereby requests that members of its legislative delegation support the legislative program of the N.C. League of Municipalities in the 1986 Session of the General Assembly.

This the 12th day of May, 1986.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT RESOLUTION 86-5-12/R-5. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

RESOLUTION REQUESTING INTRODUCTION OF LEGISLATION IN THE 1986 GENERAL ASSEMBLY (86-5-12/R-5)

WHEREAS, the Town of Chapel Hill has been experiencing a rapid rate of growth; and

WHEREAS, many of the Town's public facilities are approaching their capacity to respond to increasing demands; and

WHEREAS, the Town has identified a need to implement a system of Impact Fees to partially fund the public improvements that will be needed by new development;

NOW, THEREFORE, BE IT RESOLVED that the Council of the Town of Chapel Hill hereby requests that members of its legislative delegation introduce the attached special legislation in the 1986 Session of the General Assembly, to enable the Town to establish a system of Impact Fees.

This the 12th day of May, 1986.

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 86-5-12/R-6. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

RESOLUTION REQUESTING MEETING WITH LEGISLATIVE DELEGATION TO DISCUSS 1986 LEGISLATIVE GOALS (86-5-12/R-6)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby requests a meeting with the legislative delegation representing Chapel Hill in the General Assembly and requests the Mayor to schedule such a meeting to discuss the 1986 legislative goals of the League of Municipalities and Town of Chapel Hill.

This the 12th day of May, 1986.

Wilco Station SUP

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER SMITH TO ADOPT RESOLUTION 86-5-12/R-7. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION REGARDING ISSUANCE OF A SPECIAL USE PERMIT FOR WILCO FOOD MART (86-5-12/R-7)

WHEREAS, on April 9, 1985, the Honorable Judge F. Gordon Battle entered an Order and Judgment directing the Town of Chapel Hill issue "a special use permit as requested by Plaintiff subject only to those uncontested conditions set forth in the special use permit modification granted to Plaintiff on November 25, 1985" and

WHEREAS, the Town Council has directed legal counsel to submit an appeal regarding the above Order and Judgment of the Superior Court; and

WHEREAS, it is the desire of the Council to comply with the Order and Judgment of the Superior Court without limiting the Town's right to prosecute its appeal of the above Order;

NOW, THEREFORE BE IT RESOLVED that the Council of the Town of Chapel Hill hereby directs the Town Manager to issue a special use permit for the modification of the existing Wilco special use permit consistent with the Order and Judgment of the Court, specifically with conditions numbered 2 and 7 listed in Council's resolution of November 25, 1985, deleted;

BE IT FURTHER RESOLVED that Council's action hereby is to issue under protest the permit without these conditions numbered 2 and 7; and that said special use permit shall become null and void if the Council's approval of the application with these conditions is affirmed on appeal;

BE IT FURTHER RESOLVED that Council's action hereby shall become null and void if on appeal it is determined that this matter shall be remanded to the Council under terms requiring reconsideration by Council but not necessarily issuance of the permit without conditions 2 and 7.

This the 12th day of May, 1986.

Human Services Advisory Board's Recommended Performance Agreements

Katherine Savage, representing the Human Services Advisory Board, gave a report on the recommended performance agreements for FY 1986-87. She said the Board recommended agreements totalling \$44,960 and further recommended that the Council release the \$15,000 allocated to the Inter-Faith Council in 1984-85 for a permanent shelter for the homeless to help the IFC cover operational costs. Ms. Savage said the performance agreements dealt with housing, preventive services for at-risk youth, sexual assault and abuse, affordable day care, nutrition, legal assistance, and information and referral.

Council Member Thorpe thanked the Human Services Board for their work but that he did not agree that the \$15,000 granted to the IFC for a permanent shelter should be released to pay for operational costs.

Council Member Smith spoke in support of the release of funds to the IFC. He said he did not think the IFC had realized the extent of use a shelter for the homeless would have. He stated that if the housing of street people was to be a priority of the Town then it should continue to support those who provide that service.

Council Member Andresen spoke in support of releasing the funds to the IFC.

14
Council Member Smith expressed concern that the legal assistance provided by the North State Legal Services was not being advertised in a manner that low income persons would be made aware of the service. Ms. Savage said that North State held legal clinics at the Multipurpose Center once a month and that low income people frequented the Multipurpose Center.

Street Lighting Plan

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER HOWES TO ADOPT RESOLUTION 86-5-12/R-9.

Council Member Pasquini stated that he did not favor the high pressure sodium lights. He asked which kinds of lights would be placed in areas of new development within old neighborhoods. Manager Taylor responded that the sodium vapor lights would be used and that all the old street lights would be eventually be replaced with the new sodium vapor street lights.

Council Member Preston asked how those neighborhoods which had non-standard fixtures paid for the lighting. Bruce Heflin, Public Works Director, said that the neighborhoods had an arrangement with Duke Power.

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

The resolution, as adopted, reads as follows:

A RESOLUTION ADOPTING A STREET LIGHTING MASTER PLAN FOR THE TOWN OF CHAPEL HILL AND DIRECTING THE TOWN MANAGER TO IMPLEMENT ITS COMPONENTS (86-5-12/R-9)

WHEREAS, Chapel Hill recognizes a need to provide adequate lighting along Town streets to ensure the safe movement of motorists, pedestrians and other users of public rights-of-way; and

WHEREAS, present lighting levels are unsatisfactory in terms of amount of light, uniformity of light, and cost efficiency; and

WHEREAS, a master plan for street lighting has been developed establishing goals and objectives, policy guidelines and stages for increasing present lighting services;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council approves a master plan for street lighting, a copy of which is attached to and made a part of this resolution, that establishes policy guidelines and designates phases of implementation to be specified as part of the annual budget process; and

BE IT FURTHER RESOLVED that the Manager is directed to implement the master plan as part of each annual recommended budget, commencing with that for Fiscal 1986-87, until the basic components of the plan have been accomplished.

This the 12th day of May, 1986.

Taxicab and Limousine Ordinance

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER THORPE TO ADOPT ORDINANCE 86-5-12/O-2.

Council Member Pasquini spoke in support of the changes in the ordinance but that the Town needed stricter enforcement of inspections of taxicabs.

Council Member Smith said the appearance and condition of many cabs needed work.

THE MOTION PASSED UNANIMOUSLY, (9-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING CHAPTER 20 - TAXICABS AND LIMOUSINES OF THE CODE OF ORDINANCE (86-5-12/0-2)

BE IT ORDAINED by the Council of the Town of Chapel Hill that Chapter 20 of the Code of Ordinances is hereby amended as follows:

SECTION I

TAXICABS AND LIMOUSINES

ARTICLE I. IN GENERAL

Section 20.1 Findings.

The Town Council finds that:

- a. The Town should franchise taxicab and limousine service in order to promote the public safety and welfare;
- b. The North Carolina General Statutes authorize the Town to regulate taxicab and limousine service;
- c. An adequate, rational transportation system, both public and private, is essential to the health, safety, and welfare of the Town and to its development;
- d. A mix and variety of transportation types, including for-hire transportation, aids the development of an adequate and rational transportation system;
- e. Taxicab and limousine service complements other types of transportation in Chapel Hill and there is a public demand for it;
- f. Taxicab and limousine service should be safe and dependable.
- g. In the absence of public involvement, it can be difficult for consumers of taxicab and limousine service to judge and compare aspects of taxicab and limousine service among taxicab and limousine operations;
- h. It is necessary that taxicab and limousine drivers, who transport members of the public at their direction, but under the driver's control, be safe and reliable.
- i. Pertinent information should be clearly provided to customers being transported by taxicabs and limousines;
- j. The Town will promote its goals of a mix and variety of transportation types and an adequate and rational system of transportation by regulations and by franchising qualified taxicab and limousine operators and licensing qualified taxicab and limousine drivers

Section 20-2. Definitions.

In all matters relating to the administration of this chapter, whenever and wherever the following terms are used, they shall be construed and defined as follows:

Driver's Permit. The term "driver's permit" means the permit issued by the Town after examination, authorizing a person to drive a taxicab or limousine or other for-hire vehicle operating under this chapter.

Exclusive ride service. The term "exclusive ride service" means the operation of a taxicab by transporting one passenger, or a group of passengers, from one trip origin to one destination and not allowing additional passengers to board until the prescribed destination is reached.

For-hire vehicle. The term "for-hire vehicle" shall include every vehicle driven and propelled by gasoline, electric motor, or mechanical devices, other than motor buses operating along regular routes or schedules, which shall be used for the purpose of carrying, transporting, or conveying any person from any one place to another, for which service a charge or fee is made.

Franchise. The term "franchise" means the right or license granted by the town to an individual or group engaged in the business of providing taxicab, limousine, or for-hire service within the Town.

Franchisee, owner, operator. The terms "franchisee," "owner," or "operator" shall mean any individual, firm, corporation, or association of individuals which has applied for and received a franchise from the Town to operate a taxicab or limousine business.

Limousine. The term "limousine" shall mean a "for-hire vehicle" for which charges or fees for use shall be based on the period of hours or days the vehicle is used and shall not be based on the numbers of miles operated or the origin and destination, whether in distance or within reference to zones covered. The term "limousine" excludes vehicles for which business is solicited from the public on the streets of the Town of Chapel Hill and excludes taxicabs.

Manager. The term "Manager" shall mean the administrative head of town government or his designee.

Person. The term "person" means an individual, firm, corporation, or association of individuals.

Shared-ride service. The term "shared-ride service" shall mean the operation of a taxicab by transporting passengers from one or several different origins to one or several different destinations, not necessarily using the most direct route, but using a route that will allow the driver to deviate in order to pick up or discharge passengers other than, and in addition to, the first or original passenger.

Streets. The term "streets" shall mean every street, alley, or driveway, whether improved or unimproved, which has been dedicated to the public and is under charge and control of the Town.

Taxicab. The term "taxicab" shall mean a for-hire vehicle for which public patronage is solicited and for which the charges are based upon the number of miles operated or zone covered. The term "taxicab" excludes limousines.

Town. The term "Town" shall mean the Town of Chapel Hill.

Town Council. The term "Town Council" or "Council" shall mean the governing body of the Town of Chapel Hill which consists of the Mayor and Council Members, which also constitutes the legislative body of the Town.

Vehicle Permit. The term "vehicle permit" shall mean a certificate issued by the Town for each vehicle authorized for operation under a franchise.

Section 20.3. Compliance with chapter required.

A Franchise issued by the Town is required in order to provide a taxicab or limousine trip both originating and ending within the Town.

It shall be the duty of every owner or operator of a taxicab, limousine or for-hire vehicle to comply with the provisions of this chapter.

Section 20-4. Appeals under chapter.

If the Manager shall refuse to grant, or shall revoke, a franchise to operate a taxicab or limousine business, or shall refuse to grant or shall revoke a permit to drive a taxicab, limousine or for-hire vehicles carrying passengers, the applicant or franchisee or permittee, as the case may be, shall have ten (10) days from the date of such action by the Manager to appeal the Manager's decision to the Town Council. Notice of such appeal shall be in writing and served upon the Town Clerk within ten (10) days from and after the date of the action by the Manager. Unless such appeal is perfected within such period and in the manner herein provided for, the said appeal shall be conclusively presumed to have been withdrawn and abandoned, and the action of the Manager shall stand as final.

During the pendency of any appeal from a decision of the Manager by which the Manager refused to issue a franchise or permit, or by which the Manager revoked any franchise or permit to operate or drive a taxicab or limousine, it shall be unlawful for such appellant to operate or cause to be operated, or to drive or cause to be driven, any such taxicab or limousine within the corporate limits.

Sections 20-5 - 20-13. Reserved.

ARTICLE II. FRANCHISES

Section 20-14. Required.

No taxicab or limousine, or for-hire vehicle as defined in this chapter shall be operated upon the streets of the Town except pursuant to a franchise granted by the Manager.

Section 20-15. Written application required.

The applicant for a franchise under this article shall file a written application with the Town for a franchise to operate a taxicab or limousine business.

Section 20-16. Filing application; contents of same.

No franchise shall be issued to any person until and unless such person shall have made and filed with the Town Manager an application, signed and sworn to before a notary public or other officer authorized to administer oaths, on application forms provided by the Town. The sworn application for such franchise or renewal thereof shall contain the following information:

- a. Whether the application is for a new franchise or an amendment to a previously issued franchise.
- b. The name(s) and address(es) of the person or persons applying for the franchise; and, if the applicant is a corporation, a certified copy of the articles of incorporation, a list of the names and addresses of all individuals who hold or are contemplated to hold more than five (5) per cent interest, either beneficially or legally, in the corporation, and the name of the administrative head of the taxicab or limousine operation.
- c. The number of vehicles proposed to be operated.
- d. A description including the make, type, year of manufacture, passenger capacity, and vehicle identification number of any and all vehicles actually owned by the applicant on the date of application and proposed to be operated.
- e. The name under which the business will operate.
- f. The color scheme proposed to be used to identify vehicles under this franchise.

- 20
- g. The experience of the applicant in the transportation of passengers for hire.
 - h. The location of proposed offices, taxi stands, dispatching stations, garages, or other facilities to be used in connection with the taxicab or limousine business.
 - i. A statement that the applicant(s) has (have) read and will comply with the provisions of the Town's Taxi and Limousine Ordinance.

The applicant shall furnish the Manager such other information as the Manager may reasonably require in considering the application.

Section 20-17. Liability insurance required.

It shall be unlawful for any person engaged in the business of transporting passengers for hire over the public streets of the Town to operate any taxicab, limousine, or for-hire vehicles (except those operated under the jurisdiction of the utilities commission of the state), without furnishing and keeping in effect for each taxicab, limousine, or for-hire vehicle, a policy of insurance or surety bonds with sureties whose solvency shall at all times be subject to the approval of the Town Manager, said policy of insurance or surety bonds to be conditioned on such operator responding in damages for any legal liability incurred on account of any injury to persons or damage to property resulting from the operation of such taxicab, limousine, or for-hire vehicle, upon the streets of the Town in the following amounts, viz.:

For injury to one person in case of one accident:	\$25,000.00
For injury to more than one person in one accident	\$50,000.00
For property damage in one accident	\$10,000.00

or such greater amounts as may be required by state or federal law or regulation. Proof of insurance shall be filed with the Town Manager as a condition precedent to the operation of any such motor vehicle under a Town of Chapel Hill franchise.

Section 20-18. Procedure and criteria for approving applications for taxicab franchises.

After giving due consideration to the information set forth on the application and such other competent, relevant, and material information and evidence as may be presented by interested parties, the Manager may authorize the issuance of a franchise to the applicant and may make it subject to reasonable conditions relating to operational standards or conditions. The franchise application shall be denied if the Manager finds that:

- a. The applicant has not complied with all of the provisions of this article;
- b. The applicant, within the last five (5) years, has been convicted of a felony; or of a violation of any federal, state, or local statute, regulation, or ordinance relating to the use, possession, or sale of alcoholic beverages; or of laws against driving while intoxicated by alcohol or other substances or of any law relating to prostitution, or of any law relating to the use, possession, or sale of any drugs or chemicals which are controlled substances; or to any person who has been determined by a physician as a habitual user of alcoholic beverages or drugs or chemicals which are controlled substances other than pursuant to a lawful, valid physician's prescription.
- c. The applicant has more than six (6) points for motor vehicle violations under the system of points established in Section 20-35.

- d. The applicant has made false or misleading statements in his application.

Within 30 days from receipt of a properly prepared and submitted application, the Manager shall complete the review of the application and either issue, deny, or request a 15-day extension for additional review.

Section 20-19. Securing permission for additional vehicles.

Any time that additional vehicles are proposed to be used in connection with any taxicab or limousine business over and above the number listed in the franchise, the franchisee must file an application for an amendment to the franchise with the Town. The application for an amendment to the franchise shall be submitted to the Manager and shall contain information as required in the Section 20-16 and any other information as may reasonably be requested by the Manager.

The Manager shall review the information set forth on the application and shall take action on the application based on the criteria listed in Section 20-18.

Section 20-20. Franchise certificate.

The franchise certificate shall contain the name and address of the owner to whom it is granted; the name of the business; the number and kind of vehicles which are authorized by the franchise; and a statement that the permit is issued subject to full compliance with the provisions of this chapter and all other ordinances and laws governing the operation of taxicabs and limousines in the Town, and is subject to revocation as provided by this chapter. Each franchise certificate shall be signed by the Manager or his designee.

Section 20-21. Expiration of Franchises

Subject to the provisions of this article, a franchise shall be perpetual in nature and shall not expire so long as the owner of said taxicab or limousine service renews a privilege license for his business by October 1st of each year. In the event the owner of said taxicab or limousine franchise fails to keep a privilege license in effect for his business, the franchise shall be automatically rendered null and void.

Section 20-22. Assignment or transfer.

No franchise granted and issued under this article shall be assigned or transferred.

Section 20-23. Revocation upon change of ownership; issuance to new owner.

Change of beneficial or legal ownership of any taxicab or limousine business shall automatically render null and void any franchise previously granted. Any transferee of any such taxicab or limousine business shall not operate taxicabs or limousines until such transferee has applied for, and has been granted, a franchise in the manner provided by in this article. For the purposes of this article, a change of ownership shall be deemed to occur whenever an actual change in control of the taxicab or limousine business takes place, whether by gift, sale, lease, or otherwise. In the case of a partnership or corporate ownership, a change in control is deemed to have taken place when cumulatively twenty-five (25) percent or more of ownership interest is transferred. In the event of the death of a franchisee, the Manager may issue temporary authorization for the operation of the franchise to be continued by the heirs or partners of the franchisee, while a new franchise application is prepared.

Section 20-24. Suspension and Revocation - Causes, hearing.

A taxicab or limousine franchise shall be suspended or revoked by the Manager if the Manager determines that:

- a. The owner has failed to operate the taxicab or limousine service in accordance with the provisions of this Chapter;
- b. The franchisee has failed to license properly with the State, in the correct and true owner's name, any taxicab or limousine covered by the franchise;
- c. After the issuance of franchise, the franchisee is convicted of a felony, or a violation of any federal or state statute or Town ordinance relating to the possession or sale of alcoholic beverages; or a violation of any federal or state statute or regulation or town ordinance relating to prostitution; or any federal or state statute or town ordinance relating to the use, possession, or sale of drugs;
- d. The holder of any franchise has made a false or misleading statement on his or her application.

No franchise shall be suspended or revoked unless and until at least thirty (30) days written notice of the time and place of hearing shall have been given to the holder of such permit and such hearing by and before the Manager is duly held thereon.

The notice shall specify the grounds for the proposed suspension or revocation and shall state that the franchisee shall have the opportunity to appear at the hearing, present evidence and cross-examine witnesses against him or her.

Section 20-25. Same-surrender of permit; retiring vehicles from service.

Franchises which have been suspended, revoked or expired shall be surrendered to the Town Manager together with the corresponding vehicle permits, and the operation of any such taxicabs or limousine covered by the franchise shall cease.

Section 20-26. Issuance of vehicle permits.

For each vehicle covered under a franchise, a vehicle permit shall be issued in such form as the Town Manager may from time to time prescribe, such permit to be stored at all times in each vehicle for which issued, as provided in this article.

Section 20-27. Same-failure to operate service.

Notwithstanding any of the above provisions, a vehicle permit shall become invalid if the franchisee fails to operate that taxicab or limousine in service in accord with the franchise within the corporate limits of Chapel Hill for a period of one-hundred twenty (120) or more days or fails to present such vehicle for inspection by the Police Department for two consecutive inspection periods. Also, the vehicle permit will become invalid if the franchisee fails to include that vehicle in the renewal of his annual business license and pay the required fee for such vehicle.

Section 20-28. Transferring vehicle permits.

A franchisee may transfer a vehicle permit from one vehicle to another by returning the old permit to the Town along with the necessary information for the new vehicle. The Town shall issue a new vehicle permit within two (2) business days.

Section 20-29. Taxi and Limousine Franchises Mutually Exclusive.

Taxi franchises shall be issued separately from limousine franchises. No vehicle shall be listed and operated under a taxi franchise while listed as a vehicle under a limousine franchise.

ARTICLE III. DRIVER'S PERMIT

Section 20-31. Permit required.

No person shall drive any taxicab or limousine franchised by the Town unless that person shall have first applied for and secured a driver's permit from the Town Manager. An identification card shall be issued as evidence of the permit. The card shall be approximately two-and-one-fourth (2 1/4) inches by three-and-one-half (3 1/2) inches in size and shall contain the name of the permit holder, a picture (to be furnished by the Town) of the permit holder, and the date that the permit expires, the date that the permit was issued, the permit number, and the signature of the driver. The permit shall also bear the name and signature of the person appointed by the Town Manager to issue the permit.

Each driver, while on duty, shall insert the drivers permit into a metal card frame or equivalent holder satisfactory to the Town permanently mounted in the taxicab or limousine that is being driven so that the name of the driver will be clearly visible. The frame shall be covered by clear plexiglass or plastic to protect the contents of the frame.

Section 20-32. Permit application.

Each application for a permit or renewal of a permit to drive a taxicab or limousine shall be in writing and signed and sworn to by the applicant, and shall contain the following information:

- a. The full name, date of birth, and address of the applicant;
- b. His or her full personal description, including height, weight, race, color of eyes, complexion, color of hair, body and facial marks, if any;
- c. The applicant's previous experience in driving taxicabs or limousines;
- d. The applicant's complete record of criminal and traffic citations (including violations and infractions), arrests, and convictions;
- e. The number and date of issuance of the applicant's N.C. Driver's License and driver's license issued in other states within the last five (5) years, if any.

Every application for a driver's permit shall be accompanied by a medical examination report completed by a licensed physician certifying that, after examination, such applicant does not have any disability or condition which would materially impair the applicant's ability to drive a taxicab or limousine in a safe manner.

It shall be unlawful for any applicant knowingly to make a false statement or knowingly to give false information on his or her application for a driver's permit. The permit shall be subject to invalidation for false information given by an applicant in applying for a driver's permit. An application fee may be collected by the Town in accord with a uniform, duly authorized policy.

The Town Manager shall issue a driver's permit if the Manager determines that the applicant is qualified to drive under the provisions of this chapter.

Section 20-34. Examination and investigation.

Each applicant for a new or renewed taxicab or license driver's permit may be examined orally, in writing, or both, by the Town Manager as to the applicant's knowledge of the relevant provisions of this chapter, the traffic regulations of the state and the Town, and the geography of the Town as related to providing taxicab or limousine service.

It shall be the duty of the Town Manager to cause a thorough investigation to be made of each applicant for a new or renewed taxicab or limousine driver's permit to determine:

- a. Whether or not the information stated in the original application is true;
- b. Whether or not the applicant meets the standards herein;
- c. Whether, as to the particular applicant, there is any basis for refusing to grant or renew a driver's permit as prescribed herein.

Section 20-35. Point system.

Points shall be assigned as follows for convictions and determinations of responsibility for infractions of persons applying for or holding permits under this article:

<u>Offense/Infraction</u>	<u>Points</u>
Passing a stopped school bus	5
Reckless driving	4
Hit and run, property damage only	4
Following too close	4
Driving on the wrong side of the road	4
Illegal passing	4
Nontraffic misdemeanor involving violence, sexual misconduct, larceny, fraud, or embezzlement	4
Running a stop sign	3
Speeding in excess of fifty-five (55) miles per hour	3
Speeding in excess of fifteen (15) miles per hour over the posted speed limit	3
Failure to yield right-of-way	3
Running red light	3
Driving without a license	3
Failure to stop for siren	3
Driving through a safety zone	3
Failure to report an accident where such a report is required	3
Speeding in a school zone in excess of posted school zone speed limit	3
Driving without a valid Town Taxi Driver's Permit, or after such permit is suspended or revoked	3
All other moving violations and moving infractions; all other nontraffic misdemeanors	2

Section 20-36. Effect of accumulation of points.

An applicant for a taxicab or limousine driver's permit having accumulated more than six (6) points within the preceding two (2) years under the points system set forth in this article shall be ineligible to receive such permit, except as provided in Section 20-37. Entry of a prayer for judgment continued shall be considered a conviction for purposes of this article.

Section 30-37. Removal of points.

Points accumulated by a driver shall be removed as follows:

- a. Points assigned are automatically removed two (2) years after assignment;

- b. All points above the threshold for suspension or revocation are removed when a driver's permit is suspended or revoked.

Section 20-38. Refusal to issue permit; grounds for suspension, revocation.

Upon consideration of the application and the reports attached thereto, the Town Manager shall either approve or reject the application. The Town Manager shall refuse to grant or renew the taxicab or limousine driver's permit for any applicant or driver:

- a. Who does not possess a valid driver's license unconditionally issued (except for condition 1 requiring corrective lenses and condition 9 requiring that handicapped drivers use adaptive equipment) to the applicant by the State of North Carolina;
- b. Who is physically or mentally incapable of operating a taxicab or limousine in a safe manner, provided that applicants who have handicaps unrelated to operating a taxicab in a safe manner shall not be denied the opportunity to drive a taxicab or limousine because of their handicap;
- c. Whose ability to drive a vehicle safely is impaired by use of an intoxicant, alcohol, narcotic, or other habit-forming substance;
- d. Who is unable to read, write, or speak English;
- e. Who knowingly has made a false statement or knowingly has given false information on the application for a taxicab or limousine driver's permit or in providing supplemental information requested by the Town.
- f. Who has been convicted of a felony within a period of five (5) years immediately before the date of application; or
- g. Who has been convicted of or has entered a prayer for judgement continued to any of the following offenses within a period of five (5) years immediately before the date of application:
 - 1. A crime involving the driving of an automobile resulting in death;
 - 2. Driving a motor vehicle while intoxicated; or
 - 3. A violation of any local, state, or federal statute relating to alcoholic beverages, narcotics, lotteries, or prostitution.
- h. Who has accumulated more than six (6) points under Section 20-35 in a two (2) year period.

After the Town's refusal to issue or to renew a driver's permit, and after any subsequent appeal, the applicant or driver shall make no new application within twelve (12) months from the date the original or renewal application was submitted.

Section 20-39. Expiration and renewal.

All driver's permits shall expire at midnight on the last day of the month four years from the month of issuance. Renewal applications should be submitted at least thirty days before the expiration date shown on the permit.

Section 20-40. Term of suspension, revocation.

- a. The Manager shall revoke a driver's permit for any reason for which the Manager shall refuse to issue or renew such permit. If a driver's permit is revoked, his or her right to apply for another permit shall be suspended as follows:

- 26
1. Conviction of or entry of a prayer for judgement continued for violation of state or federal laws relating to possession or sale of alcoholic beverages, laws relating to drugs or chemicals which are controlled substances, or laws relating to prostitution is considered grounds for suspension of taxicab or limousine driver's permit for two (2) years from the date of revocation for the first offense and permanently for the second offense.
 2. Conviction of a felony shall cause suspension of a taxicab or limousine driver's permit for five (5) years from the date of revocation for the first offense and permanently for the second offense.
- b. Upon a judicial determination of responsibility for an infraction or upon conviction for violation of any town ordinance or state law resulting in accumulation of points as shown below pursuant to Section 20-35, a driver's record will be brought up to date. Based on the record and the points system set forth in this article, the Manager shall impose suspension or revocation as follows:
- A total of five (5) points, sixty (60) days' suspension;
- A total of six (6) points, one hundred twenty (120) days' suspension;
- A total of seven (7) or more points, revocation until sufficient points removed under Section 20-37.

For a driver's permit suspended more than once in a three-year period, every suspension after the first will be for a minimum of one hundred twenty (120) days for the second suspension and one (1) year for the third suspension. A driver's permit will be revoked permanently when the driver is eligible for suspension after such permit has been suspended three (3) times.

Section 20-41. Procedure for suspension, revocation.

No driver's permit shall be suspended or revoked unless and until at least thirty (30) days written notice of the time and place of a hearing shall be given to the holder of such permit and such hearing by and before the Town Manager is duly held. The notice shall specify the ground for such suspension or revocation and the driver shall have the opportunity to appear at the hearing and to present evidence.

Section 20-42. Appeal from actions taken by the Town Manager.

- a. If the Town Manager refuses to grant or renew or suspends or revokes a taxicab or limousine driver's permit, the applicant may appeal, in writing, within ten (10) days to the Town Council. The notice of appeal shall be filed with the Town Clerk.
- b. If an applicant or driver fails to appeal within ten (10) days of the Manager's decision, such decision shall be final.

Section 20-43. Surrender or loss of driver's permit.

A driver's permit which has been suspended or revoked shall be immediately thereafter surrendered to the Town Manager.

If the holder of a driver's permit has lost, destroyed, or mutilated his or her permit, the holder shall immediately report such facts to the Town Manager, who shall issue a duplicate driver's permit. A fee in accord with a duly adopted policy may be collected by the Town Manager for each duplicate permit issued.

Section 20-44. Drivers to comply with chapter.

All persons driving shall adhere to and at all times conform to the requirements of this chapter.

Section 20-45. Responsibility of owner for driver's performance under this chapter.

It shall be unlawful for any owner or operator of any taxicab or limousine to knowingly permit or cause to be driven or operated within the Town any such taxicab or limousine by any driver who has not complied with or who violates any of the ordinances of the Town relating to such a driver.

Sections 20-46 - 20-56. Reserved.

ARTICLE IV. TAXICAB OPERATION

Section 20-57. Ownership designation; color scheme.

Subject to approval of the Manager, each franchisee shall adopt a color scheme for painting the franchisee's taxicabs distinct from that of any other operator, and may adopt an identifying design, monogram, or other insignia. All taxicabs of each operation shall be of the same color scheme. Every franchisee operating more than one taxicab in the Town shall assign different numbers to each taxicab. The name and telephone number of the taxicab company shall be painted with permanent paint on each side and on the rear of each taxicab with legible letters and numbers not less than three and one-half (3 1/2) inches in height nor more than five (5) inches in height and spaced at least one inch apart.

Colors of paint to be used for lettering and numbering shall be of sharp contrast with color of surface paint to which this is applied, so as to be legible and visible at a reasonable distance, including at night with street lights. No lettering or numbers shall be affixed in any manner which can be removed or detached to conceal the identification of such taxicab company or taxicab number.

No vehicle subject to this chapter shall be authorized to operate if the color scheme, identifying design, monogram, or insignia to be used thereon shall, in the determination of the Manager, conflict with, imitate, or substantially resemble any color scheme, identifying design, monogram, or insignia used by another taxicab franchise. If the color scheme, identifying design, monogram, or insignia thereof is changed or altered after the franchise is issued so as to, in the opinion of the Manager, conflict with, imitate, or substantially resemble any color scheme, identifying design, monogram, or insignia used by any other operator in such a manner as to be misleading or tend to deceive the public, the vehicle permit covering such taxicab(s) shall be suspended or revoked until the taxicabs are in compliance with this chapter.

No vehicle shall be operated as a taxicab until the same has been painted, numbered, and lettered as required by this section.

Section 20-58. Advertising.

Subject to the rules and regulations of the Manager, it shall be unlawful for any person operating a taxicab to permit advertising matter to be affixed to or installed in or on any taxicab.

Section 20-59. Vehicle equipment.

All taxicabs operated within the Town shall be equipped and maintained in a satisfactory condition so as to comply with the North Carolina Safety Inspection Program, and the provisions of this Code. Among other requirements each vehicle shall:

- 20.
- a. Have a body of the sedan or enclosed type and shall be of not less than four-passenger capacity.
 - b. Have four (4) doors, two (2) leading into the passengers' compartment and two (2) leading into the driver's compartment, so constructed that they may be opened from the inside and the outside.
 - c. Have all windows, vents, and doors in proper working condition.
 - d. Be equipped with a heater sufficient to heat the interior of the taxicab adequately in cold weather.
 - e. Have all windshields and side and rear glass free from discoloration and without hazardous cracks and clear of dirt or obstructions to clear view.
 - f. Have front and rear bumpers in proper repair.
 - g. Be equipped with a two-way radio in order that the taxicab can have direct communication for immediate dispatching.
 - h. Be equipped with a card frame permanently mounted so as to be visible to patrons for display of the driver's permit, and fare schedule as described in Section 20-31.
 - i. Be equipped with a number of seat belts equal to the passenger capacity of the vehicle and have such belts readily available for use by passenger. Each vehicle shall also have available for passengers approved child safety seats for use when required by law.

Section 20-60. Condition of taxicab.

Every vehicle operating under this chapter shall be kept in a clean and sanitary condition. The franchisee shall keep the body of the taxicab, both interior and exterior, safe and clean and its general appearance shall be kept as close as possible to the manufacturer's original appearance with respect to sheet metal and finish of car, normal wear and tear exempted. Any hazardous exterior body damage shall be repaired prior to returning any vehicle to service.

Section 20-61. Maintenance of taxicab.

When any taxicab is wrecked, damaged, or unsafe for taxicab operation, the franchisee shall make such repairs and alterations as may be required and shall not operate, or cause or permit to be operated, any such taxicab until such repairs and alterations have been completed.

Section 20-62. Inspection of vehicles required.

Before the use and operation of any taxicab under this ordinance, said vehicle shall be thoroughly examined and inspected by the Police Department and found to be capable of providing safe and sanitary transportation.

In addition, every taxicab shall be inspected semi-annually by the Police department to determine that the vehicle is capable of providing safe and sanitary transportation. The Police Department may also make unannounced inspections at reasonable times to determine that taxicabs conform with this chapter.

Every taxicab shall be required to display at all times a valid North Carolina Safety Inspection sticker.

If, in inspection, any vehicle should be found to be unsafe or not to conform with this chapter, notice shall be given by the Police Department to the franchisee and such vehicle shall not thereafter be operated as a taxicab until the Town determines

upon reinspection that the vehicle has been placed back into safe condition for operating or into conformity with this chapter. Nothing herein shall be construed to relieve any owner or operator of any vehicle from all or any duties imposed by law nor relieve such owner or operator from liability resulting from the unfitness of such vehicles or the negligent operation thereof.

Failure to present vehicles for an inspection in a timely manner upon reasonable notice by the Town shall result in that vehicle not being approved for further services until the inspection is completed and the vehicle approved.

Section 20-63. Place of business.

- a. Franchisees shall maintain a place of business for the purpose of receiving calls and dispatching taxicabs.
- b. The telephone number of the place of business shall be listed in the local telephone directory in the first available issue and all subsequent issues.
- c. Any place of business within the Town as established by a franchisee must comply with the provisions of the zoning ordinance adopted by the Town Council.

Section 20-64. Driver's manifests.

A daily manifest shall be maintained by the franchisee noting all trips made each day, showing the driver's name, cab number, place of origin and destination of each trip, and the amount of fare.

The forms for such records shall be approved by the Town Manager.

Every operator shall retain and preserve all driver's manifests in a safe place for at least one hundred and eighty (180) days and the same shall be made available upon demand for inspection by the Police Department or the Town Manager. At the request of the Town Manager, information on the driver's manifest shall be tabulated and forwarded to the Manager.

Section 20-65. Demeanor of drivers.

Every driver of a taxicab, while on duty, shall be clean in dress and in person at all times.

Section 20-66. Refusal to carry orderly passengers.

No driver shall refuse or neglect to carry any orderly person(s) upon request, for reason of race, color, ethnic background, sex, age, religion, handicap, or unless unable or forbidden by provision of this chapter to do so. A driver shall not be required to transport any disorderly, violent, or abusive person.

A blind person accompanied by a guide dog or a deaf person accompanied by a hearing ear dog or any other handicapped person accompanied by a specially trained animal shall not be denied service. A franchise shall permit persons using wheelchairs to use standard taxicab vehicles:

- a. Independently (without assistance from the driver); or
- b. With assistance from a companion who is traveling with the person using the wheelchair.

Section 20-67. Restriction on number of passengers.

No driver shall permit more persons to be carried in a taxicab than the seating capacity of such vehicle (as rated by the automobile manufacturer), including the driver.

Section 20-68. Compliance with passenger's request.

Every taxicab driver shall comply with all reasonable and lawful requests of the passenger or passengers as to the speed of travel and the route to be taken. The driver shall, on the request of any passenger, give to such passenger the correct name of such driver and such other information as will identify the driver, vehicle, and owner thereof.

Section 20-69. Lost articles.

The driver of a taxicab shall make every reasonable effort possible to return lost articles that are found in the taxicab to the rightful owner(s) as soon as possible after discovery of such articles. If the owner cannot be located or determined, then the lost article shall be given to the Police Department within ten (10) days.

Section 20-70. Furnishing receipt.

When requested by a passenger, every driver shall give a receipt showing the company's name, driver's name, date, trip origin, and destination, and the amount of fare charged.

Section 20-71. Deception of passengers.

No driver shall deceive or attempt to deceive any passenger who may ride in the taxicab, or who may desire to ride in such taxicab, as to the destination or the rate of fare to be charged, or shall convey any passengers or cause any passenger to be conveyed to a place other than directed by the passenger.

Section 20-72. Failing or refusing to pay for a taxicab.

Every person requesting a taxicab operator or driver to take him to a designated terminus and who refuses to pay the fare or fares set out in this chapter, or the legitimate charge for carrying baggage, shall be presumed to have fraudulently obtained such services with intent to cheat the operator or driver of just charges and shall be guilty of a misdemeanor.

Section 20-73. Contracts for ride-sharing, contracts for exclusive service.

Operators of taxicabs who have received franchises to operate within the Town may contract with public and/or private agencies to provide shared-ride taxi service. Hours of service, rates, terms, and areas to be served shall be determined by contract between the operator(s) and the agencies.

Taxicab operators and drivers shall not enter into a contract with any place of business within the Town for the purpose of or effect of excluding other franchised operators from providing taxicab service to or from such place of business.

Section 20-74. Ride-sharing.

A taxicab carrying a passenger or passengers may answer other calls, or pick up additional passengers, prior to taking the first passenger to his or her destination, provided that the first passenger's trip will not, because of the additional passenger, require more than a fifty (50) percent increase in the time otherwise required if the first passenger's trip were exclusive. A taxicab shall not respond to other calls or pick up additional passengers if the first passenger specifically requests an exclusive ride.

Section 20-75. Compliance with Town, state, and federal laws.

Every taxicab driver and franchisee shall comply with all relevant Town, state, and federal laws and regulations. Failure to do so shall be considered as grounds for suspension or revocation of the driver's permit and/or franchise.

Section 20-76. Answering calls for service.

Every taxicab driver and franchisee under this chapter shall respond only to calls directed to such franchisee's telephone number. In no case shall one franchisee answer calls or respond to dispatchers of another franchisee unless permission is granted by such franchisee to answer such calls or respond to such dispatchers.

Section 20-77. Schedule of Rates

Taxicab franchisees shall file with the Town Manager a schedule of maximum rates at least seven (7) days before being effective.

Section 20-78. Fare schedule and zone map to be displayed.

In every taxicab covered under a franchise issued by the Town, a taxi fare structure table, a taxi zone map and/or a rate schedule, whether the franchise rates are based upon meter, mileage, or zone system changes, shall be displayed at all times in metal card frames or other durable materials so that rates will be clearly visible to the passenger or passengers using the taxicab. Such fare information should also include the following statements: "This service is franchised for operation by the Town of Chapel Hill. Any complaints regarding service or fares which cannot be resolved by the Taxi Company should be brought to the attention of the Chapel Hill Transportation or Police Departments at 968-2700." The print used on the table shall be of such a size and nature as approved by the Town Manager.

Section 29-79. No application to Limousine Service.

The provisions of this Article shall not apply to the operation of limousines pursuant to a franchise for limousine service issued by the Town.

Section II

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

This the 12th day of May, 1986.

Annexation Service Plans

Council Member Preston thanked Mr. Greg Feller, Assistant to the Manager for his work on this agenda item.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER WERNER TO ADOPT RESOLUTION 86-5-12/R-10.1. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION APPROVING A REPORT WITH PLANS FOR EXTENDING MAJOR MUNICIPAL SERVICES TO AN ANNEXATION AREA IN ACCORD WITH G.S. 160A-47 (86-5-12/R-10.1)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council approves the annexation plan for extending and financing services to that certain proposed annexation area 1986-A as described in the Town Council's resolution 86-4-28/R-6.1); which plan was submitted to the Town Council by the Manager on May 12, 1986 and a copy of which plan shall be retained with the records of this meeting;

BE IT FURTHER RESOLVED that the Council directs the Manager to make the report available to the public at least 30 days before the public hearing in accord with State law.

This the 12th day of May, 1986.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT RESOLUTION 86-5-12/R-10.2. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION APPROVING A REPORT WITH PLANS FOR EXTENDING MAJOR MUNICIPAL SERVICES TO AN ANNEXATION AREA IN ACCORD WITH G.S. 160A-47 (86-5-12/R-10.2)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council approves the annexation plan for extending and financing services to that certain proposed annexation area 1986-B as described in the Town Council's resolution 86-4-28/R-6.2); which plan was submitted to the Town Council by the Manager on May 12, 1986 and a copy of which plan shall be retained with the records of this meeting;

BE IT FURTHER RESOLVED that the Council directs the Manager to make the report available to the public at least 30 days before the public hearing in accord with State law.

This the 12th day of May, 1986.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER GODS-CHALK TO ADOPT RESOLUTION 86-5-12/R-10.3. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION APPROVING A REPORT WITH PLANS FOR EXTENDING MAJOR MUNICIPAL SERVICES TO AN ANNEXATION AREA IN ACCORD WITH G.S. 160A-47 (86-5-12/R-10.3)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council approves the annexation plan for extending and financing services to that certain proposed annexation area 1986-C as described in the Town Council's resolution 86-4-28/R-6.3); which plan was submitted to the Town Council by the Manager on May 12, 1986 and a copy of which plan shall be retained with the records of this meeting;

BE IT FURTHER RESOLVED that the Council directs the Manager to make the report available to the public at least 30 days before the public hearing in accord with State law.

This the 12th day of May, 1986.

Proposed Right-of-Way Closing - Overland Drive

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT RESOLUTION 86-5-12/R-11. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION CALLING A PUBLIC HEARING ON THE PROPOSED CLOSING OF A PORTION OF THE RIGHT-OF-WAY OF OVERLAND DRIVE (86-5-12/O-11)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby declares its intent to close a portion of the right-of-way of Overland Drive between Colony Woods Drive and the east boundary of Colony Woods subdivision and between lots 1 and 15 of Triangle Township, Map 481, Durham County, which right-of-way is approximately 60 feet wide and 160 feet long as shown on a map submitted to the Council by the Town Manager on May 12, 1986, a copy of which shall be retained with the records of this meeting; and calls a public hearing at 7:30 p.m. on Monday, June 23, 1986, in the Meeting Room of the Municipal Building, 306 N. Columbia Street, Chapel Hill, on the proposed closing of said right-of-way.

BE IT FURTHER RESOLVED that the Town Manager is hereby directed to arrange publication and mailing of notices of the hearing as required by law.

This the 12th day of May, 1986.

No Parking on Ridge Road

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT ORDINANCE 86-5-12/O-3. THE MOTION PASSED UNANIMOUSLY, (9-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING CHAPTER 21 OF THE CODE OF ORDINANCES (86-5-12/O-3)

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

Section I

That Section 21-27 of the Town Code of Ordinances, "No Parking as to Particular Streets" is amended by inserting the following therein, in appropriate alphabetical order:

<u>Street</u>	<u>Side</u>	<u>From</u>	<u>To</u>
Ridge Road	west	a point 400' south of Country Club Road	a point 810' south of Country Club Road
Ridge Road	west	a point 1,168' south of Country Club Road	a point 1,313' south of Country Club Road

Section II

This ordinance shall be effective beginning on Tuesday, July 1, 1986.

Section III

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

This the 12th day of May, 1986.

Board of Adjustment - Nominations and Appointment

Council Member Preston nominated Charles House, who was currently serving as an alternate on the Board of Adjustment.

For one seat on the Board of Adjustment, the following vote was taken.

Roberta Black: (0)

Louis Dworsky: (0)

Charles House: (5) Godschalk, Howes, Preston, Smith, Thorpe

John Mason: (0)

Helen Urquhart: (4) Andresen, Pasquini, Wallace, Werner

Charles House was appointed.

To fill one alternate's seat (formally held by Charles House) on the Board of Adjustment the following vote was taken.

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO APPOINT JOHN MASON BY ACCLIMATION. THE MOTION PASSED UNANIMOUSLY, (9-0).

John Mason was appointed to the alternate's seat.

Executive Session

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER SMITH TO ADJOURN TO EXECUTIVE SESSION TO DISCUSS LITIGATION. THE MOTION PASSED UNANIMOUSLY, (9-0).

The meeting adjourned to executive session at 10:22 p.m.

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER SMITH TO RETURN TO OPEN SESSION. THE MOTION PASSED UNANIMOUSLY, (9-0).

The meeting came back into regular session at 11:00 p.m.

In executive session the Council authorized payment of \$135.00 to James Casey for damages to his automobile at the Town Police Department November 23, 1985, upon receipt of a signed release. The release was received May 12, 1986.

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

The meeting adjourned at 11:05 p.m.