

MINUTES OF A REGULAR MEETING OF THE MAYOR AND COUNCIL
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,
MONDAY, SEPTEMBER 22, 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 was Town Manager David R. Taylor, Assistant Town Managers Sonna Loewenthal and Ron Secrist, and Town Attorney Ralph Karpinos.

Petitions

Joan Shapiro, speaking as President of the Alliance of Neighborhoods, petitioned the Council to prepare a set of procedures for dealing with water conservation emergencies prior to the next water shortage, and that the procedures should include a provision that no occupancy permits be issued during such emergencies. (For copy of petition, see Clerk's files.)

Council Member Andresen asked that the Council refer the petition to the Manager. The Council agreed.

Steve Bullock, representing the Downtown Chapel Hill Association, petitioned the Council to set up a working committee to study alternatives to the "taking over of downtown" as occurred on August 31, 1986, and to recommend a declared Town policy on future disturbances of this nature. He said the committee should be composed of representatives from the Town staff, police force, University administration, student government, and the Downtown Association. (For copy of text, see Clerk's files.)

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

Council Member Andresen reminded the Council that they were to meet with the Orange Water and Sewer Authority Board of Directors at a dinner meeting the next evening. She commented that on Thursday night OWASA was to vote on an interim policy concerning development into the watershed and that the Council should take the opportunity at the dinner meeting to ask OWASA to delay this vote until after the Council and the Carrboro Aldermen and Orange County Board of Commissioners hold their upcoming joint meeting.

Minutes

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER WERNER TO ADOPT THE MINUTES OF SEPTEMBER 8, 1986 AS CIRCULATED. THE MOTION PASSED UNANIMOUSLY, (9-0).

Calling a Public Hearing on Establishing Mixed-Use Zoning

COUNCIL MEMBER THORPE MOVED, SECONDED BY COUNCIL MEMBER PASQUINI TO ADOPT RESOLUTION 86-9-22/R-1. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

RESOLUTION CALLING A PUBLIC HEARING ON A DEVELOPMENT ORDINANCE TEXT AMENDMENT TO CREATE A NEW ZONING DISTRICT (86-9-22/R-1)

BE IT RESOLVED by the Council of the Town of Chapel Hill that a Public Hearing be scheduled to consider an amendment to the Development Ordinance, which would create a new "Mixed-Use Zoning District."

BE IT FURTHER RESOLVED that this matter be referred to the Planning Board for its advice and recommendation;

BE IT FURTHER RESOLVED that this hearing be scheduled for October 22, 1986, at 7:30 p.m., in the Chapel Hill Municipal Building Meeting Room.

This the 22nd day of September, 1986.

Chapel Hill Bible Church Special Use Permit - Request for Abandonment

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 86-9-22/R-2.

Council Member Andresen said she understood the Bible Church requested abandonment of the Special Use Permit (SUP) in order to plan for some other improvements. She asked when these plans were finalized, whether the plans would be presented to the Council to review. Manager Taylor said the staff did not know what the Bible Church was planning, however at this point, they have met all the conditions necessary for abandonment of the SUP. He said the staff had been advised the the applicant planned to make some improvements on the property and when they desire to make those improvements, they would be submitting those plans to the Town and be considered as required by the development ordinance. Mr. Taylor said any proposed improvements would be submitted to the Council for consideration.

Council Member Thorpe asked what was the basis for requesting SUP abandonment if the applicant planned to make improvements that would require approval of the Council. Mr. T. K. Land, representing the Bible Church, said the Church was proposing in the future to add some more classroom facilities. He said the way he understood the ordinance to read, in order to make the additions it would be necessary to abandon the current SUP for the parking facilities and then submit plans for the building addition in a separate action.

Manager Taylor said that he was not sure the applicant was aware that when the Church gets ready to add to the building, it will have to come back to the Council for approval of those plans. Mr. Loving replied that they were aware of that fact.

Mayor Wallace asked for clarification between an amendment to the SUP and abandonment of the SUP with a subsequent new application. Manager Taylor said an amendment to the SUP would require a public hearing whereas the abandonment and new application would not.

THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION APPROVING A REQUEST FOR ABANDONMENT OF THE CHAPEL HILL BIBLE CHURCH SPECIAL USE PERMIT (86-9-22/R-2)

BE IT RESOLVED by the Council of the Town of Chapel Hill that having considered the request by Chapel Hill Bible Church for abandonment of the Special Use Permit for a residential parking lot holding 6 or more automobiles in accord with the provision of Subsection 8.6.4 of the Development Ordinance, it finds that:

- 1) The development or use authorized by the Permit or Modification no longer requires a Special Use Permit, and all conditions of the Special Use Permit have been satisfied; and
- 2) The permit holder has submitted a signed affidavit clearly stating the holder's intent to abandon the Permit or Modification.

BE IT FURTHER RESOLVED that the Council hereby approves the request for abandonment of the Chapel Hill Bible Church Special Use Permit, recorded in Record Book 297, Page 591 at the office of the Orange County Register of Deeds.

This the 22nd day of September, 1986.

Vehicle License Fees For Trailers

Council Member Smith said this item was in response to citizens complaints over the new method of administering the Chapel Hill vehicle license fees. He said Orange County had billed those individuals who own trailers the same fee as for self propelled vehicles. Mr. Smith stated he did not think the Council intended for these trailers to be considered vehicles. He said the Council needed to amend the ordinance to specify that trailers were not considered vehicles and therefore the owners of such should not be required to pay a Town license fee. Council Member Smith commented that Orange County did not seem to be able to separate trailers from motorized vehicles in their billing system, and as such the Town would have to reimburse those individuals who have paid the license fee for trailers.

Council Member Andresen asked how the Town would be able to know who was billed for a trailer if Orange County could not separate them from the billing system. Mr. Smith said the individual tax bills would indicate if a trailer were included.

Council Member Pasquini asked what was the purpose of the Town vehicle license fee. Manager Taylor responded that the fee was a source of revenue that was used to help maintain the Town roads.

Council Member Pasquini asked the Manager for his opinion and recommendation. Mr. Taylor replied that when the issue had first been brought to the Town's notice, it had been felt that the fee for the trailers should be kept since it would be extremely time consuming to separate these bills from the rest and because the trailers do at one time or another use the Town's roads. He said the amount of revenue collected from billing trailers was not known, but that he did not think it would be a large amount.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT ORDINANCE 86-9-22/0-1. THE MOTION PASSED UNANIMOUSLY, (9-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING CHAPTER 21 OF THE TOWN CODE OF ORDINANCES (86-9-22/0-1)

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

That the Council hereby amends Section 21-1 of the Town's Code of Ordinances by adding the following sentence:

"for purposes of this section, the term "motor vehicle" shall not include trailers which are not self-propelled."

This the 22nd day of September, 1986.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 86-9-22/R-3.

Council Member Howes expressed concern about refunding the money since there was no data on just how much money was involved. He agreed that he did not think the Council had intended to assess trailers for the Town vehicle license fee, but pointed out that the issue had not been discussed when the ordinance was first adopted.

Council Member Pasquini commented that since the bills had already been sent out, and that it would require a lot of time to separate those which were billed for trailers from the rest, that it might be best to just let the ordinance take affect next year.

Council Member Smith said the ordinance stated that the fee was for motor vehicles and not trailers. He said there could be a legal question as to whether the Town had any right to tax trailers as part of the Town's vehicle license fee.

Council Member Godschalk agreed with Mr. Smith in that the Town should repay the funds to those individuals billed for trailers saying it seemed inequitable not to do so.

Council Member Thorpe stated that even with this small glitch, the system of using Orange County to bill for motor vehicle license fees was working better than the system under which the Town had previously operated.

THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION REGARDING REFUNDS OF PAYMENTS FOR ANNUAL MOTOR VEHICLE LICENSE FEES OF \$5 TO OWNERS OF TRAILERS (86-9-22/R-3)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby authorizes the Town Manager to make refunds to owners of non-motorized trailers who receive bills for Town of Chapel Hill annual motor vehicle license fees, and who provide a receipt or other evidence satisfactory to the Manager or Manager's designee of having paid such a Town license fee for a non-motorized trailer.

Satisfactory evidence, for the purpose of making refunds pursuant to this resolution, shall mean both (1) a receipt showing that the owner of the trailer has paid all property taxes, dog license taxes and vehicle license fees owed to the County and the Town of Chapel Hill; and (2) a photocopy of the official, final abstract of said owner's real and personal property for a given tax year, which abstract shows that the owner listed one or more trailers with the County.

This resolution shall apply to trailers listed beginning in 1986.

This the 22nd day of September, 1986.

Coventry Homeowners' Petition - Status Report

Manager Taylor said the staff was not ready to make a recommendation on this issue and that he expected to be able to have a report for the Council with alternatives for Council's consideration at the October 27th meeting. He said in the interim the Town's Fire Marshal was to meet with the officials of the Homeowners Association to assist them in solving the immediate problems by keeping the parking area clear enough to allow access by emergency vehicles.

Old Chapel Hill Cemetery Task Force

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER GODS-CHALK TO ADOPT RESOLUTION 86-9-22/R-4.

Council Member Andresen questioned the need for the term task force feeling it could be over used for Council appointed committees.

Council Member Thorpe said he preferred the phrase Task Force since it would imply action would be taken.

Council Member Andresen suggested that a date for a report to the Council be agreed upon.

Council Member Smith expressed concern about using the funds allocated for cemetery improvements to hire a landscape architect and define the scope of his/her work. He said he felt the Task Force could decide what needed to be done and that the funds could be better used in actual maintenance and repair work.

Council Members Andresen and Preston agreed with Mr. Smith saying a well appointed group could provide the necessary planning work.

Council Member Werner commented that if there was still a question of ownership of the cemetery, should the Council be considering spending funds for improvements until definitive ownership was decided? Attorney Karpinos responded that his office was working with the University on the ownership issue and that the Town had requested ownership be placed in its name.

Council Member Smith suggested removing items #1 and 2 in the resolution which dealt with the landscape architect and indicate a time limit for the report to be brought to the Council.

Council Member Howes said he felt the items dealing with a landscape architect could be left in the resolution, saying that the request was for the Task Force to give the Council a recommendation. He said the Task Force could decide a landscape architect was not needed, but by leaving it in, it gave them the option. He pointed out that fencing would be required and that a landscape architect might be the best person to advise on placement, etc.

Council Member Thorpe commented that in the past, area professionals had often volunteered their services for projects like this.

Council Member Godschalk said he felt it would be better to eliminate the items dealing with a landscape architect if the Council expected the Task Force to provide the Town with a plan.

Council Member Werner pointed out that elimination of items #1 and #2 still would not preclude the Task Force recommending some consulting assistance, but does not require or assume it as the resolution as now written does.

The general consensus of the Council was to eliminate items #1 and 2, and to state that the report was to be given to the Council by June 30, 1987.

THE MOTION, AS AMENDED, PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

RESOLUTION ESTABLISHING THE OLD CHAPEL HILL CEMETERY TASK FORCE
(86-9-22/R-4)

WHEREAS, the Old Chapel Hill Cemetery is a site of historical and aesthetic importance to the Town; and

WHEREAS, citizens of the Town have expressed concerns about the appearance of the cemetery; and

WHEREAS, the Council of the Town of Chapel Hill has previously committed to exploring various improvements at the cemetery; and

WHEREAS, there is the need to better define the appropriate role for the Town in improving the appearance of the cemetery, and for a plan to guide such improvements and to identify the costs of the installation and maintenance of same;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that an advisory task force shall be created, and

BE IT FURTHER RESOLVED that the charge of the Task Force include making recommendations on the:

1. Development of an overall improvement plan, both in general and specific terms; and
2. Establishment of work activities and set priorities for adoption by the Council; and

BE IT FURTHER RESOLVED that the Task Force is to report to the Council on or before June 30, 1987 with their recommendations.

This the 22nd day of September, 1986.

Soil Erosion and Sedimentation Control

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER THORPE TO ADOPT ORDINANCE 86-9-22/O-2.

Council Member Andresen asked Council Member Werner for his comments on the proposal.

Council Member Werner said that he questioned some of the stipulations and enforcement measures saying that from his observation they were not currently being enforced. He referred to sections 7-b, 7-c, and 8-c. He also asked about the entities which were exempt from the regulations due to eminent domain. Manager Taylor said that OWASA would be exempt from these regulations but that it had to abide by State regulations. Mr. Werner asked who enforced the State regulations. Manager Taylor said enforcement was through the State and local authorities.

Council Member Smith said questions about the ordinance was why he had requested a meeting with the Orange County Soil Erosion and Sedimentation Control Officer. He said he did not feel the current regulations were being met.

Manager Taylor said the intent of the proposal was to put into effect an ordinance which would cover the part of Chapel Hill in Durham County. He said the staff was working on scheduling a meeting with the Sedimentation and Control Officer and the Council and Staff before the end of the year to discuss storm water management and erosion control.

THE MOTION PASSED UNANIMOUSLY, (9-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE ADOPTING SOIL EROSION AND SEDIMENTATION REGULATIONS (86-9-22/O-2)

WHEREAS, the Town Council of Chapel Hill, North Carolina recognizes a great need to control soil erosion and sedimentation and those activities which result in erosion and sedimentation within Chapel Hill and within areas affecting the Town; and

WHEREAS, the North Carolina General Assembly, through Chapter 392 of the Session Laws of North Carolina, 1973, and other laws, has delegated to local governments the power to control such erosion and sedimentation; and

WHEREAS, Town Council desires to exercise such power;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Chapel Hill:

Section 1 - Title

This ordinance may be cited as the Chapel Hill Soil Erosion and Sedimentation Control Ordinance.

Section 2 - Purposes

This Ordinance is adopted for the purposes of:

- (1) Regulating the clearing, grading, excavation, filling and manipulation of the earth and the moving and storing of waters in order to: control and prevent accelerated soil erosion and sedimentation, prevent the pollution of water, prevent damage to public and private property, maintain the balance of nature, prevent the obstruction of natural and artificial drainageways, inhibit flooding and reduce the undermining of roads and other transportation facilities.
- (2) Establishing procedures through which these purposes can be fulfilled.

Notwithstanding the provisions of Section V herein, the Town Council hereby declares its intent that all of the departments and agencies of the Town of Chapel Hill, its contractors and subcontractors shall comply with the regulations set forth in this Ordinance.

Section 3 - Definitions

As used in this Ordinance, unless the context clearly indicates otherwise, the following definitions apply:

Accelerated Erosion - means any increase over the rate of natural erosion as a result of land-disturbing activities.

Acre - means 43,560 square feet.

Act - means the North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it.

Adequate Erosion Control Measure, Structure, or Device - means one which controls the soils material within the land area under responsible control of the person conducting the land-disturbing activity.

Agricultural land - is land used primarily for the production of plants and animals and intended for private consumption or sale, including but not limited to forage and sod crops, grain and feed crops, tobacco, cotton and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including the breeding and grazing of any or all such animals; bees and apiary products; and fur animals.

Borrow - means fill material which is required for on-site construction and is obtained from other locations.

Buffer Area - means the strip of land adjacent to a lake or natural watercourse. The boundaries and purposes of which are as set forth in Section 8(a).

Channel - a natural or artificial watercourse with a definite bed and banks to confine and conduct the flow of water.

Channel Alterations - a change of the water-carrying capacity or flow characteristics of a natural or artificial channel by clearing, excavation, bank stabilization or other means.

Channel Stabilization - erosion prevention and stabilization of velocity distribution in a channel using jetties, drops, revetments, vegetation, and other measures.

Commission - means the North Carolina Sedimentation Control Commission.

Denuded Area - any area deprived of its protective vegetative cover and left in that exposed condition.

Department - means the North Carolina Department of Natural Resources and Community Development.

Development - any man-made change to improved or unimproved real estate, including but not limited to construction of buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

District - means the Orange or Durham County (as applicable) Soil and Water Conservation District created pursuant to Chapter 139, North Carolina General Statutes.

Diversion - a channel or a ridge or combination thereof which is constructed across sloping land either on the contour or at a predetermined grade. Its purpose is to intercept and divert surface runoff before it gains sufficient volume and velocity to cause erosion and convey the surface runoff to a protected area.

Energy Dissipator - means a structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.

Erosion - means the wearing away of land surface by the action of wind, water, gravity, or any combination thereof.

Erosion Control Officer - means the person designated under Section 16 of this Ordinance.

Ground Cover - means any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

Groundwater Recharge - the infiltration of water into the earth. It may increase the total amount of water stored underground or only replenish supplies depleted through pumping or natural discharge.

Impervious Structure - is any structure which prevents free seepage of rainwater into the ground, including but not limited to buildings, paved roads, paved parking lots, airport runways, etc.

Intermittent Stream - a stream or portion of a stream that flows only in direct response to precipitation. It receives little or no water from springs and no long-continued supply from melting snow or other sources. It is dry for a large part of the year.

Lake or Natural Watercourse - means any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond, natural or impounded, in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment or any body of water which is or would be denoted by a solid blue line or solid blue shapes on United States Geological Survey topographic maps.

Land-disturbing Activity - means any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

Local Government - means any county, incorporated village, town or city, or any combination of counties, incorporated villages, towns, and cities, acting through a joint program pursuant to the provisions of this Article.

Natural Erosion - means the wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man.

Peak Discharge - the maximum instantaneous flow from a given storm condition at a specific location.

Person - means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.

Person Conducting Land-disturbing Activity - means any person who may be held responsible for a violation unless expressly provided otherwise by this Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act.

Person Responsible for the Violation - as used in this Ordinance means:

- (a) the developer or other person who has or holds himself/herself out as having financial or operational control over the land-disturbing activity; and/or
- (b) the landowner or person in possession or control of the land when he/she has directly or indirectly allowed the land-disturbing activity or has benefited from it or he/she has failed to comply with any provision of this Ordinance, the Act, or any other adopted pursuant to this Ordinance or the Act as imposes a duty upon him/her.

Phase of Grading - means one of two types of grading, rough or fine.

Plan - means erosion and sediment control plan.

Sediment - means solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

Sedimentation - means the process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.

Siltation - means sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land-disturbing activity; and which has been deposited, or is in suspension in water.

Storm Drainage Facilities - the system of inlets, conduits, channels, ditches, and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

Storm Water Runoff - means the direct runoff of water resulting from precipitation in any form.

Stream - a body of water flowing in a natural surface channel. Flow may be continuous or only during wet periods.

Swale - an elongated depression in the land surface that is at least seasonally wet, is usually heavily vegetated, and is normally without flowing water. Swales conduct stormwater into primary drainage channels and provide some groundwater recharge.

Ten Year Storm - means the surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average once in 10 years, and of a duration which will produce the maximum peak rate of runoff for the watershed of interest under average antecedent wetness conditions.

Tract - means all contiguous land and bodies of water in one ownership, or contiguous land and bodies of water in diverse ownership being developed as a unit, although not necessarily all at one time.

Uncovered - means the removal of ground cover from, on, or above the soil surface.

Undertaken - means the initiating of any activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract of land.

Velocity - means the average velocity of flow through the cross-section of the main channel at the peak flow of the storm of interest. The cross-section of the main channel shall be that area defined by the geometry of the channel plus the area of the flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not being included for the purpose of computing velocity of flow.

Waste - means surplus materials resulting from on-site construction and disposed of at other locations.

Wetland - areas that are inundated or saturated at a frequency and for a duration sufficient to support a prevalence of vegetative or aquatic life requiring saturated or seasonally saturated soil conditions for growth and reproduction.

Working days - means days exclusive of Saturday and Sunday during which weather conditions or soil conditions permit land-disturbing activity to be undertaken.

Section 4 - Scope and Effect

It shall be unlawful, within the jurisdiction of this Ordinance, to engage in land-disturbing activity, except as provided herein, without first obtaining a permit as required by this Ordinance and without complying with the conditions of the issuance of said permit.

Conflicts and duplications among portions of this Ordinance shall be resolved in favor of the more stringent regulation.

Whenever conflicts exist between federal, State or local laws, ordinances, or rules, the more restrictive provision shall apply.

Section 5 - Exclusions

This Ordinance shall apply to land-disturbing activities undertaken by any person in the Town of Chapel Hill, with the following exclusions:

- a. Those undertaken on agricultural land for the production of plants and animals useful to man, including but not limited to: forage and sod crops, grains and feed crops, tobacco, cotton, and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, including the breeding and grazing of any or all such animals; bees and apiary products; fur animals.
- b. Those undertaken on forestland for the production and harvesting of timber and timber products.
- c. Activities undertaken by persons as defined in G.S. 113A-52(8) who are otherwise regulated by the provisions of G.S. 74-76 through G.S. 74-68, the Mining Act of 1971.
- d. Those land-disturbing activities over which the State by statute has exclusive regulatory jurisdiction, which are activities:
 - (1) conducted by the State,
 - (2) conducted by the United States,
 - (3) conducted by persons having the power of eminent domain,
 - (4) conducted by local governments,
 - (5) licensed by the State or the United States,
 - (6) funded in whole or in part by the State or the United States.

Section 6 - General Requirements

- a. Protection of Property - person(s) conducting land-disturbing activities shall take all reasonable measures to protect all public and private property from damage by such activities. This requirement shall apply to any areas to be disturbed, regardless of the size of the area to be uncovered.
- b. Erosion Control Plan Requirements - prior to the commencement of any land-disturbing activity that will result in the uncovering of more than 20,000 square feet of land, the person(s) conducting the land disturbing activity must prepare and submit an Erosion Control Plan for the proposed site. The Plan must be approved and a Grading Permit obtained prior to the start of the disturbance. The Erosion Control Officer may, at his discretion, grant a Plan Waiver if the amount of disturbance is between 20,000 square feet and 40,000 square feet, the site conditions warrant it and the disturbance is not directly adjacent to a sensitive area.

Section 7 - Basic Control Objectives

The basic control objectives which are to be considered in developing and implementing an erosion and sedimentation control plan are to:

- a. Identify Critical Areas - on-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention, and appropriate mitigative measures are to be taken to protect those areas.
- b. Limit Exposed Areas - all land-disturbing activities are to be planned and conducted to minimize the size of the area to be exposed at any one time.
- c. Limit Time of Exposure - all land-disturbing activities are to be planned and conducted to limit exposure to the shortest feasible time.
- d. Control Surface Water - surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.
- e. Control Sedimentation - all land-disturbing activities are to be planned and conducted so as to prevent off-site sedimentation damage.
- f. Manage Storm Water Runoff - when the increase in the peak rates and velocity of storm water runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, plans are to include measures to control the velocity and the rate of release at the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

Section 8 - Mandatory Standards for Land-disturbing Activity

No land-disturbing activity subject to the control of this Ordinance shall be undertaken except in accordance with the following mandatory standards:

- a. Buffer Zone - no land-disturbing activity shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearer the land-disturbing activity, provided that this subsection (a) shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.
- b. Graded Slopes and Fills - the angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures. In any event, slopes left exposed will, within 30 working days of completion of any phase of grading, be planted or otherwise provided with ground cover, devices, or structures sufficient to restrain erosion.

- c. Ground Cover - whenever land-disturbing activity is undertaken on a tract comprising more than 20,000 square feet, if more than 20,000 contiguous square feet are uncovered, the person conducting the land-disturbing activity shall install such sedimentation and erosion control devices and practices as are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development within 30 working days or 120 calendar days following completion, whichever period is shorter.
- d. Design and Performance of Control Measures - erosion and sedimentation control measures, structures, and devices shall be so planned, designed, and constructed as to provide protection from accelerated erosion and sedimentation from the calculated maximum peak rates of runoff from the ten-year frequency storm. Runoff rates shall be calculated using the procedures in the USDA Soil Conservation Service's "National Engineering Field Manual for Conservation Practices," or other calculation procedures acceptable to the Erosion Control Officer.
- e. Prior Plan Approval - No person shall initiate any land-disturbing activity if more than 20,000 square feet are to be uncovered unless, thirty or more days prior to initiating the activity, an erosion and sedimentation control plan for such activity is filed with, approved by, and a Grading Permit obtained from the Erosion Control Officer.

Section 9 - Permanent Downstream Protection of Stream Banks and Channels

Provision shall be made for permanent protection of off-site stream banks and channels from the erosive effects of increased velocity and volume of stormwater runoff resulting from land-disturbing activities.

- a. Control of Velocity - stream banks and channels downstream from any land-disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from a land-disturbing activity. The land-disturbing activity shall be planned and conducted such that the velocity of stormwater runoff in the receiving watercourse at the point of discharge resulting from a 10-year storm after development shall not exceed the greater of:
- (i) the velocity as determined from the table of permissible velocity for stormwater in 3), or
 - (ii) the velocity in the receiving watercourse determined for the 10-year storm prior to development.

If conditions (i) and (ii) of this paragraph cannot be met, the channel below the discharge point shall be designed and constructed to withstand the expected velocity.

1) Acceptable Management Measures- measures applied alone or in combination to satisfy the intent of this subchapter are acceptable if there are no objectionable secondary consequences. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives are to:

- (i) avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;
- (ii) avoid increases in stormwater discharge velocities by using vegetated or roughened swales and waterways in lieu of closed drains and high velocity paved sections;
- (iii) provide energy dissipators at outlets of storm drainage facilities to reduce flow velocities at the point of discharge; these may range from simple rip-rapped sections to complex structures;
- (iv) protect watercourses subject to accelerated erosion by improving cross-sections and/or providing erosion-resistant lining.

2) Exceptions - this rule shall not apply in areas where it can be demonstrated that stormwater discharge velocities will not create an erosion problem in the receiving watercourse.

3) The following is a table of permissible velocity for stormwater discharges:

<u>Material</u>	<u>Maximum Permissible Velocities f.p.s.</u>	<u>M.P.S.</u>
Fine Sand (noncolloidal)	2.5	.8
Sandy Loam (noncolloidal)	2.5	.8
Silt Loam (noncolloidal)	3.0	.9
Ordinary Firm Loam	3.5	1.1
Fine Gravel	5.0	1.5
Stiff Clay (very colloidal)	5.0	1.5
Graded, Loam to Cobbles (noncolloidal)	5.0	1.5
Graded, Silt to Cobbles (colloidal)	5.5	1.7
Alluvial Silts (noncolloidal)	3.5	1.1
Alluvial Silts (colloidal)	5.0	1.5
Coarse Gravel (noncolloidal)	6.0	1.8
Cobbles and Shingles	5.5	1.7
Shale and Hard Pans	6.0	1.8

Source: Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.

Section 10 - Borrow and Waste Areas

When the person conducting the land-disturbing activity is also the person conducting the borrow and waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of the Mining Act of 1971, and waste areas for surplus materials other than landfills regulated by the Department of Human Resources, Division of Health Services, shall be considered as part of the land-disturbing activity where the borrow material is being used or from which the waste material originated. When the person conducting the land-disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land-disturbing activity.

Section 11 - Access and Haul Roads

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.

Section 12 - Operations in Lakes or Other Natural Watercourses

Land-disturbing activity in connection with construction in, on, over or under a lake or natural watercourse shall be planned and conducted in such a manner as to minimize the extent and duration of disturbance of the stream channel. The relocation of a stream, where relocation is an essential part of the proposed activity, shall be planned and executed so as to minimize changes in the stream flow characteristics except when justification for significant alteration to flow characteristics is provided. Every effort shall be made to maintain buffer zones consisting of existing vegetation between the land-disturbing activity and the watercourse.

Section 13 - Responsibility for Installation and Maintenance

During the development of a site, the person engaged in or conducting the land-disturbing activity shall be responsible for installing and maintaining all temporary and permanent erosion and sedimentation control measures and facilities as required by the approved or revised Erosion Control Plan, any provision of the Ordinance, the Act, or any order adopted pursuant to this Ordinance or the Act. The responsibility for installing and maintaining permanent erosion and sedimentation control measures and facilities after completion of the site development shall lie with the land owner or person in possession or control of the land except facilities and measures installed within road or street rights-of-way or easements accepted for maintenance by a government agency.

Section 13.1 - Off-Site Facilities

The Erosion Control Officer may allow stormwater runoff that is discharged in volumes or at rates in excess of those otherwise allowed by this Ordinance to be discharged into drainage facilities off the site of development if the off-site facilities and the channels leading to them are designed, constructed, and maintained in accordance with the standards of this Ordinance. Adequate provision must be made for the sharing of the construction and maintenance expenses of the facilities. A request to use off-site drainage facilities and all information related to the proposed off-site facilities should be made part of the developer's erosion and sedimentation control plan.

Section 14 - Additional Measures

Whenever the Erosion Control Officer determines that significant sedimentation is occurring as a result of land-disturbing activity, despite application and maintenance of protection practices, the person conducting the land-disturbing activity or the person responsible for maintenance will be required to take additional protective action.

Section 15 - Existing Uncovered Areas

- a. All uncovered areas existing on the effective date of this Ordinance which (i) resulted from land-disturbing activities not excluded under Section 5, and (ii) if such areas are outside the University Lake Watershed and exceed 20,000 contiguous square feet, and (iii) are subject to continued accelerated erosion, and (iv) are causing off-site damage from sedimentation, shall be provided with a ground cover or other protective measures, structures, or devices sufficient to restrain accelerated erosion and control off-site sedimentation.
- b. The Erosion Control Officer will serve upon the landowner written notice of violation by registered or certified mail, return receipt requested, or other means. The notice will set forth the measures needed to comply and will state the time within which such measures must be completed. In determining the measures required and the time allowed for compliance, the authority serving notice shall take into consideration the economic feasibility, technology, and quantity of work required, and shall set reasonable and attainable time limits for compliance.
- c. The Erosion Control Officer reserves the right to require preparation and approval of an erosion control plan in any instance wherein extensive control measures are required.
- d. This rule shall not require ground cover on cleared land forming the future basin of a planned reservoir unless the disturbance and length of time of the exposure prior to the filling of the reservoir will result in erosion and sedimentation of the downstream channel.

Section 16 - Erosion Control Officer

The Orange County Erosion Control Officer will be responsible for carrying out the provisions of this Ordinance, unless the Town appoints, employs or contracts with another qualified person(s) to perform such responsibilities.

Section 17 - Permits

- a. No person shall undertake any land-disturbing activity which would require the uncovering of 20,000 square feet or more of land without first obtaining the required approvals and permits from the Erosion Control Officer. Permit application forms must be signed by the landowner or his authorized agent. The agent signing must have a signed letter of authorization from the owner.

No permit is required for the following activities:

1. For the purpose of fighting fires.
 2. For the stock-piling of raw or processed sand, stone, or gravel in material processing plants and storage yards, provided that sediment control measures have been utilized to protect against off-site damage.
 3. For disturbances that do not exceed 20,000 square feet in surface area. In determining the area, contiguous lands under one or diverse ownership being developed as a unit will be aggregated.
- b. Erosion Control Plan Approvals and Plan Waivers - An Erosion Control Plan must be submitted to the Erosion Control Officer when the proposed land disturbance is greater than 20,000 square feet. However, at the discretion of the Erosion Control Officer a Plan Waiver may be granted when the disturbance is between 20,000 and 40,000 square feet, site conditions warrant it, and the disturbance is not directly adjacent to a sensitive area. The application for a Plan Waiver must contain sufficient information about the proposed site for the Erosion Control Officer to determine if granting a Waiver is justified.
- c. Before starting a land-disturbing activity greater than 20,000 square feet, the owner or his agent shall obtain a Grading Permit from the Erosion Control Officer. Erosion Control Plans or Plan Waivers must be approved before a Grading Permit will be issued. Grading permits may be obtained when the Plan or Waiver is approved or prior to the start of the land disturbance.

- d. Expiration of Permits - Erosion Control Plan Approvals and Plan Waivers expire if the land-disturbing activity is not begun within 6 months of the approval date. All Erosion Control Plans approved prior to the adoption of this amendment will expire 6 months after the adoption if the land-disturbing activity had not begun by that date. Grading Permits expire if the land-disturbing activity does not begin within 6 months of the date of issuance.

The land-disturbing activity is considered to have started when the necessary erosion control practices have been properly installed and the site clearing or grading has begun.

- e. Orange County may establish such fees as considered necessary to defray costs of administering this ordinance on behalf of the Town.
- f. Whenever a person conducting a land-disturbing activity is not complying with the provisions of this Ordinance, the Grading Permit, the Approved Erosion Control Plan or any amendments to the Plan, the Erosion Control Officer may revoke the Grading Permit for the site. Notice of Revocation shall be sent by registered or certified mail to the person conducting the land-disturbing activity. In the event delivery cannot be accomplished by registered or certified mail, it may be accomplished in any manner provided in Rule 4(j) of the North Carolina Rules of Civil Procedure. upon receipt of the Revocation Notice, the person responsible must immediately order all land-disturbing activities to cease except those which are specifically directed towards bringing the site into compliance. Once the site has been inspected and remedial work approved by the Erosion Control Division, the responsible party may reapply for a Grading Permit and pay the appropriate fee. Resumption of land-disturbing activities other than those necessary to bring the site back into compliance before the reissuance of the Grading Permit will constitute a violation of the Ordinance. The person conducting the land-disturbing activity may appeal the revocation of a Grading Permit following procedures set out in Section 21(f) of this Ordinance.

Section 18 - Erosion and Sedimentation Control Plans

- a. An Erosion Control Plan shall be prepared for all land-disturbing activities subject to this Ordinance whenever the proposed activity is to be undertaken on a tract comprising more than 20,000 square feet, if more than 20,000 square feet are to be uncovered. The Plan shall be filed with the Erosion Control Officer and the Orange or Durham County (as applicable) Soil and Water Conservation District, 30 days prior to the commencement of the proposed activity.

If the land-disturbing activity involves 20,000-40,000 square feet and meets the requirements under Section 17(b), the Applicant may apply for a Plan Waiver, which does not require a formal Erosion Control Plan.

- b. The Orange or Durham County Soil and Water Conservation District, within 20 days of receipt of any plan, or within such additional time as may be prescribed by the Chapel Hill Town Council, or such other body or officer designated by the Council, shall review such plan and submit its comments and recommendations to the Erosion Control officer. Failure of the District to submit its comments and recommendations to the Erosion Control Officer within the prescribed time will not delay final action on the plan.
- c. The Erosion Control Officer will review each plan submitted and within 30 days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved.

Failure to approve or disapprove a complete erosion and sedimentation control plan within 30 days of receipt of the complete plan shall be deemed approval. Denial of a plan must specifically state in writing the reasons for denial. The County must approve or deny a revised plan within 15 days of receipt, or it is deemed to be approved. If, following commencement of a land-disturbing activity pursuant to an approved plan, the County determines that the plan is inadequate to meet the requirements of this Ordinance, the County may require such revisions as are necessary to comply with this Ordinance.

In order to be considered complete, a plan submitted for approval must contain the proposed erosion control plan, the completed application, the statement of financial responsibility and ownership, and the plan review fee. The 30-day review period begins when all of the components of the complete plan are received.

- d. The plan required by this section shall contain such architectural and engineering drawings, maps, assumptions, calculations, and narrative statements as are needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this ordinance. The plan shall comply with all applicable State and local regulations for erosion and sediment control. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation may be obtained from the Soil Conservation Service's "Guide for Erosion Control on Construction Sites," or from the Erosion Control Officer on request.

- e. Application for amendment of an erosion control plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as said amendment is approved by the Erosion Control Officer, the land-disturbing activities shall not proceed except in accordance with the erosion control plan as originally approved.

If the Erosion Control Officer, either upon review of the Erosion Control Plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, revisions to the plan will be required. Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the Erosion Control Officer.

- f. Erosion Control Plans shall be accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or his/her attorney in fact. The statement shall include the mailing and street addresses of the principal place of business of the person financially responsible and of the owner of the land or their registered agents.
- g. A copy of the approved Erosion Control Plan and any amendments and required revisions shall be kept on the job site at all times.

Section 19 - Appeals

- a. The disapproval or modification of any proposed erosion control plan by the Erosion Control Officer shall entitle the person submitting the plan to an appeal of the decision to the Chapel Hill Town Engineer. If the Town Engineer upholds the decision, the person shall be entitled to a public hearing if such person submits written demand for a hearing within 15 days after receipt of written notice of disapproval or modification.
- b.
 - (1) Hearings held pursuant to this section shall be conducted by the Chapel Hill Planning Board within 30 days after receipt of written demand for such hearing made by the person submitting the plan.
 - (2) The Planning Board shall made recommendations to the Town Council within 30 days after the date of the hearing on such erosion control plan.
 - (3) The Town Council will render its final decision on any erosion control plan upon which a hearing is requested within 30 days of receipt of the recommendations from the agency conducting the hearing.

- c. In the event that the Town Council upholds the disapproval or modification of a proposed erosion control plan following the public hearing, the person submitting the erosion control plan shall be entitled to appeal the local governments action to the North Carolina Sedimentation Control Commission as provided in Section 113A-61(c) of the General Statutes and Title 15 NCAC 4B .0018(b).

Section 21 - Inspections and Investigations

- a. The Erosion Control Officer will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine whether the activities are being conducted in accordance with the plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment resulting from land-disturbing activities.
- b. If, through inspection, it is determined that a person engaged in land-disturbing activity has failed to comply with the approved plan, a notice of violation shall be served upon that person by registered or certified mail, return receipt requested, or other means. The notice shall set forth the measures necessary to achieve compliance with the plan, specify a reasonable time period within which such measures must be completed, and warn that failure to correct the violation within the time period will result in the assessment of a civil penalty or other enforcement action. If the person engaged in land-disturbing activity fails to comply within the time specified, enforcement action shall be initiated.

In the event service cannot be accomplished by registered or certified mail, it may be accomplished in any manner provided in rule (4)j of the North Carolina Rules of Civil Procedure.

- c. The Erosion Control Officer shall have the power to conduct such investigations as he may reasonably deem necessary to carry out his duties as prescribed in this Ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land-disturbing activities. No person shall refuse entry or access to any authorized representative or agent of the Town who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.
- d. The Erosion Control Officer shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activities.

- e. The Erosion Control Officer shall have the power to revoke grading permits issued by the Erosion Control Division as provided for under Section 17(c) of this Ordinance.
- f. Whenever any person is violating this Ordinance or any rule or order adopted or issued pursuant to this Ordinance, or any term, condition, or provisions of any approved erosion control plan, the Erosion Control Officer may, either before or after the institution of any other action or proceeding authorized by this Ordinance, issue a stop work order for the site on which the violation has occurred. Upon issuance of such an order and the posting of same on the site of the violation, all work on the site of the violation shall cease, except those activities necessary to bring the site into compliance with this Ordinance. Notice of the stop work order shall be in writing, directed to the person conducting the land-disturbing activity and shall state the reasons for the issuance of the order, and the conditions under which work may be resumed. Notice shall be given by registered or certified mail.

In the event service cannot be accomplished by registered or certified mail, it may be accomplished in any manner provided in rule 4(j) of the North Carolina Rules of Civil Procedure.

The person conducting the land-disturbing activity may appeal a stop work order to the Town Council within a period of five days after the order is issued. Notice of appeal shall be given in writing to the Town Council, with a copy to the Erosion Control Officer. The Town Council shall conduct a hearing at their next scheduled meeting at which the appellant and the Erosion Control Officer or inspector shall be permitted to submit relevant evidence, and shall rule on the appeal as expeditiously as possible. Pending the ruling by the Council on an appeal, no further work shall take place in violation of a stop work order.

Section 22 - Penalties

a. Civil Penalties

- (1) Any person who violates any of the provisions of this Ordinance or rules or orders adopted or issued pursuant to this Ordinance, or who initiates or continues a land-disturbing activity for which an erosion control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, shall be subject to a civil penalty of not more than \$100. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation by registered or certified mail, return receipt requested, or other means. The notice shall describe the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in the assessment of a civil penalty or other enforcement action. Each day of a continuing violation shall constitute a separate violation under Section 22(a)(1).

(2) The Town Council shall determine the amount of the civil penalty to be assessed under Section 22(a) and shall make written demand for payment upon the person responsible for the violation, and shall set forth in detail a description of the violation for which the penalty has been invoked. In determining the amount of the penalty, the Town Council shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage. If payment is not received or equitable settlement reached within 30 days after demand for payment is made, the matter shall be referred to the town or county attorney for institution of a civil action in the name of the town or county in the appropriate division of the General Courts of Justice for recovery of the penalty. Any sums recovered shall be used to carry out the purposes and requirements of this Ordinance.

b. Criminal Penalties

Any person who knowingly or willingly violates any provision of this Ordinance or rule or order adopted or issued pursuant to this Ordinance, or who knowingly or willfully initiates or continues a land-disturbing activity for which an erosion control plan is required except in accordance with the terms, conditions, and provisions of an approved plan shall be guilty of a misdemeanor punishable by imprisonment not to exceed 90 days or by a fine not to exceed \$5,000, or by both, at the discretion of the Court.

Section 23 - Injunctive Relief

- a. Whenever the governing body of the Town or County has reasonable cause to believe that any person is violating or threatening to violate this Ordinance or any rule or order adopted or issued pursuant to this Ordinance, or any term, condition, or provision of an approved erosion control plan, it may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action in the name of the Town or County for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Superior Court of Orange County or Durham County, as applicable.
- b. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this Ordinance.

Section 24 - Severability

If any one or more sections or portions thereof of this Ordinance are held to be invalid or unenforceable, all other sections and portions thereof shall nevertheless continue in full force and effect.

Section 25 - Effective Date

This Ordinance will become effective upon adoption by the Town Council of Chapel Hill and the approval of the North Carolina Sedimentation Control Commission.

This the 22nd day of September, 1986.

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER THORPE TO ADOPT RESOLUTION 86-9-22/R-5. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION AUTHORIZING AN AGREEMENT WITH ORANGE COUNTY FOR ENFORCEMENT OF THE SOIL EROSION AND SEDIMENTATION ORDINANCE IN CHAPEL HILL INCLUDING PORTIONS OF CHAPEL HILL OUTSIDE OF ORANGE COUNTY (86-9-22/R-5)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the County hereby approves, and authorizes the Town Manager to enter into on behalf of the Town, an agreement with Orange County by which Orange County staff will enforce Soil Erosion and Sedimentation regulations in all of the Town of Chapel Hill including areas of the Town outside of Orange County.

Such an agreement may include, but is not limited to, substantially the following:

1. Orange County staff would enforce the Chapel Hill Soil Erosion and Sedimentation ordinance on the same basis in all areas of the Town.
2. The Town or County may terminate the agreement upon 120 days advance written notice.
3. Soil Erosion and Sedimentation permit applications and approval certifications would be processed by Orange County staff as in past years. Orange County may collect and retain application fees to offset costs of administration and enforcement on behalf of the Town.
4. The County Manager and Town Manager or their designees may from time to time establish administrative procedures as needed in regard to administration and interpretation of the Soil Erosion and Sedimentation Control Ordinance.

This the 22nd day of September, 1986.

Rosemary Square - Extension of Deadline for Closing

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER HOWES TO ADOPT RESOLUTION 86-9-22/R-6. THE MOTION CARRIED, (8-1), WITH MAYOR WALLACE VOTING AGAINST.

Mayor Wallace stated that he voted against the motion because it was not date certain. He said he was uncomfortable with an open ended date as proposed.

The resolution, as adopted, reads as follows:

RESOLUTION REGARDING CHANGE IN THE CLOSING DATE FOR ROSEMARY SQUARE (86-9-22/R-6)

WHEREAS, on August 27, 1986, a lawsuit, Cheape, et. al. v. Town of Chapel Hill et. al (86 CVS 826, Orange County), was filed asking the Court to declare the Rosemary Square project unlawful and void; and

WHEREAS, in a letter dated September 15, 1986 the Fraser Development Company has proposed extending deadline to close on the Rosemary Square project, as defined in Section 4.4 of the "Second Amended and Restated Development Agreement by and between the Town of Chapel Hill, North Carolina and Fraser Development Company of North Carolina relating to Rosemary Square", from December 31, 1986, to June 30, 1987, or six months after final determination by the courts of the pending lawsuit, whichever is later;

NOW, THEREFORE, BE IT RESOLVED that the Council hereby approves extending the deadline for closing to June 30, 1987, or six months after a final determination has been made by the courts of the pending lawsuit, whichever is later.

BE IT FURTHER RESOLVED that the Council authorizes the Mayor Pro tem to execute, on behalf of the Town, amendments to the Second Amended and Restated Development Agreement to implement the change in closing date.

BE IT FURTHER RESOLVED that the Council authorizes the Manager to apply to the Planning Board and Historic District Commission for any extensions of time for construction needed as a result of the lawsuit and change in closing date.

This the 22nd day of September, 1986.

Annexation of Owens-Kruschke Property - Barbee Chapel Road

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT ORDINANCE 86-9-22/O-3. THE MOTION PASSED UNANIMOUSLY, (9-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF CHAPEL HILL, NORTH CAROLINA (86-9-22/O-3)

WHEREAS, the Council has been petitioned under G.S. 160A-31, as amended, to annex the area described herein; and

WHEREAS, the Town Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at the Chapel Hill Municipal Building, 306 North Columbia Street, Chapel Hill, N.C., 27514, at 7:30 p.m on the 15th day of September, 1986, after due notice by publication on the 5th and 14th days of September, 1986; and

WHEREAS, the Council does hereby find as a fact that said petition meets the requirements of G.S. 160A-31, as amended;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill, North Carolina:

SECTION I

By virtue of the authority granted by G.S. 160A-31, as amended, the following described property is hereby annexed and made part of the Town of Chapel Hill as of midnight September 30, 1986.

The areas to be annexed are described as follows:

The property is 1.5 acres on the west side of Barbee Chapel Road, 150' south of N.C. 54, beginning at an iron stake in the western line of Barbee Chapel Road, the southeast corner of Dubose; running thence with the western margin of the Barbee Chapel Road, South 17 degrees 48', west 112.17 feet, to an iron stake; running thence North 88 degrees 30' west 868 feet, crossing to the eastern line of Orange County, to an iron stake in the eastern property line of the University of North Carolina property known as the Mason Farm; running thence with the line of the Mason Farm north 0 degrees 09' east 107.70 feet, to an iron stake, the southwest corner of Dubose; running thence south 88 degrees 30' east 902 feet recrossing again into Durham County to an iron stake, the point and place of beginning, according to survey of Robert J. Ayers, R.L.S., dated July 6, 1971, entitled property of Leonard Berlow and wife, Emma.

SECTION II

Upon and after midnight, September 30, 1986, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Chapel Hill and shall be entitled to the same privileges and benefits as other parts of the Town of Chapel Hill. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

SECTION III

The Manager of the Town of Chapel Hill shall cause to be recorded in the offices of the Registers of Deed of Orange County and Durham County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section I hereof, together with a duly certified copy of this ordinance.

SECTION IV

Notice of adoption of this ordinance shall be published once, following the effective date of annexation, in a newspaper having general circulation in the Town of Chapel Hill.

This the 22nd day of September, 1986.

Calling Public Hearing on Zoning Newly Annexed Area - Owens-Kruschke Property

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER WERNER TO ADOPT RESOLUTION 86-9-22/R-7. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION CALLING A PUBLIC HEARING ON ZONING NEWLY-ANNEXED AREAS (86-9-22/R-7)

BE IT RESOLVED by the Town of Chapel Hill that a Public Hearing be scheduled to consider zoning classifications for an area to be annexed by the Town, the area being described as the Durham County portion of the following:

The property is 1.5 acres on the west side of Barbee Chapel Road, 150' south of N.C. 54, beginning at an iron stake in the western line of Barbee Chapel Road, the southeast corner of Dubose; running thence with the western margin of the Barbee Chapel Road, South 17 degrees 48', west 112.17 feet, to an iron stake; running thence North 88 degrees 30' west 868 feet, crossing to the eastern line of Orange County, to an iron stake in the eastern property line of the University of North Carolina property known as the Mason Farm; running thence with the line of the Mason Farm north 0 degrees 09' east 107.70 feet, to an iron stake, the southwest corner of Dubose; running thence south 88 degrees 30' east 902 feet recrossing again into Durham County to an iron stake, the point and place of beginning, according to survey of Robert J. Ayers, R.L.S., dated July 6, 1971, entitled property of Leonard Berlow and wife, Emma.

BE IT FURTHER RESOLVED that this Hearing be scheduled for October 22, 1986, at 7:30 p.m., at the Chapel Hill Municipal Building Meeting Room.

This the 22nd day of September, 1986.

Calling Public Hearing on Zoning Property in Altemueller Annexation Request

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER SMITH TO ADOPT RESOLUTION 86-9-22/R-8.

Council Member Andresen asked if the petitioners planned to put in water and sewer, and if the facilities were available for them to do so. Manager Taylor replied that the petitioners had a subdivision request for the site if annexed, and that it included the extension of water and sewer lines and service. He said there currently was a water trunk line to the site but that sewer extension would require a pump station to reach the outfall.

Council Member Andresen asked if it would cost OWASA more when it extends the outfall to deal with a pump station put in at this time. Manager Taylor said the optimal thing to occur would be for coordination of the sewer outfall extension and development of the subdivision.

Council Member Thorpe stated that the Town did not deal directly with water and sewer other than ensuring any new subdivisions within the Town provided water and sewer.

THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

RESOLUTION CALLING A PUBLIC HEARING ON ZONING NEWLY-ANNEXED AREAS (86-9-22/R-8)

BE IT RESOLVED by the Council of the Town of Chapel Hill that a Public Hearing be scheduled to consider zoning classifications for an area to be annexed by the Town, the area being described as follows:

All that certain tract of land, containing 74.69 acres as surveyed by Robert J. Ayers and shown on a plat as Tract 1, recorded in Plat Book 44, Page 60 and recorded in the Orange County Register of Deeds Office.

BEGINNING at the Southeast corner of Tract #1, a control corner, and running N 31-49-17 E 141.88', thence N 02-02-43 W 140.09', thence N 37-18-14 W 132.0', thence N 07-45-55 E 111.02', thence N 00-00-00 W 185.00', thence N 11-18-36 W 101.98', thence N 32-00-19 W 94.34', thence N 36-52-12 W 100.00', thence N 66-39-57 W 277.71', thence N 75-22-45 W 181.38', thence N 05-54-30 E 129.46', the southwest corner of the Town of Chapel Hill land as described in Deed Book 256, Page 1420, thence along the western edge of the Town of Chapel Hill Tract N 05-54-30 E 315.00', thence along the southern property of the Northwood Subdivision N 84-05-30 W 1,836.54', thence S 05-01-45 W 1,457.57', thence N 84-04-50 W 1,836.54', thence S 05-01-45 W 1,457.57' thence N 84-04-50 W 2,477.71' to the point of BEGINNING.

BE IT FURTHER RESOLVED that this hearing be scheduled for October 22, 1986 at 7:30 p.m., at the Chapel Hill Municipal Building Meeting Room.

This the 22nd day of September, 1986.

Consent Agenda

Council Member Howes asked that item #14c be removed from the consent agenda.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER WERNER TO ADOPT RESOLUTION 86-9-22/R-9 MINUS ITEM C. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolutions, as adopted, read as follows:

A RESOLUTION APPROVING VARIOUS RESOLUTIONS (86-9-22/R-9)

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

- a. Closing various streets for Spangler Inauguration (R-10).
- b. Closing Tinkerbelle Road for Block Party (R-11).

This the 22nd day of September, 1986.

A RESOLUTION AUTHORIZING THE TEMPORARY CLOSING OF A PORTION OF CAMERON AVENUE, RALEIGH STREET, AND A PORTION OF THE BIKE LANE ON COUNTRY CLUB ROAD (86-9-22/R-10)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby authorizes the temporary closing of Cameron Avenue between South Columbia Street and Raleigh Street, Raleigh Street between Cameron Avenue and South Road, and the bike lane on Country Club Road between Boundary Street and Gimghoul Road for the inauguration of Mr. C.D. Spangler as UNC System President on Friday, October 17, 1986, between 9:00 a.m. and 3:00 p.m. subject to the following conditions:

1. The University of North Carolina will be responsible for barricading the above mentioned streets and bike lane, and;
2. The University will have personnel available during the period of the closing at the entry points on Cameron Avenue and Raleigh Street to allow access to emergency vehicles.

This the 22nd day of September, 1986.

A RESOLUTION AUTHORIZING THE CLOSING OF PART OF TINKERBELL ROAD
(86-9-22/R-11)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby authorizes the temporary closing of Tinkerbell Road from Fountain Ridge to Ferrell Road on Sunday, September 28 from 3:30 to 7:00 pm for a block party subject to the following conditions:

1. There shall be vehicles parked to serve as barricades at the end of the closed area with persons available to allow entry by emergency vehicles if necessary. If practical, vehicles used as barricades shall have manual transmissions (rather than automatic) to allow easier access to the closed area in the event of an emergency.
2. The closed street area shall be cleaned of litter by 7:00 p.m.
3. No alcohol shall be consumed in the public street right-of-way.
4. A permit for outdoor amplified sound shall be obtained from the Police Department if necessary under the Town's noise ordinance.
5. Participants in the event shall comply with reasonable directives of the Police and Fire Departments.

This the 22nd day of September, 1986.

Pavement Striping - Agreement with NCDOT

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER THORPE TO ADOPT RESOLUTION 86-9-22/R-12.

Council Member Howes said he had asked why the State was delaying in striping certain recently paved roads, but that he was not sure why the State was now requiring this type of procedure for work they used to do routinely. He suggested the Mayor contact the Governor and explain the kind of delays and procedures now being required of municipalities. Mr. Howes felt this was also an appropriate topic for discussion by the Local Government Advisory Council.

THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION AUTHORIZING THE STATE DEPARTMENT OF TRANSPORTATION TO STRIPE PAVEMENT (86-9-22/R-12)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council authorizes the Mayor to enter into the attached agreement with the purpose of painting markings on certain Town streets.

This the 22nd day of September, 1986.

Boards and CommissionsHuman Services Advisory Board

For one seat on the Human Services Advisory Board the following vote was taken.

Vincent Kopp (8) Andresen, Howes, Pasquini, Preston,
Smith, Thorpe, Werner, Wallace

Russell Schulke (1) Godschalk

Vincent Kopp was appointed.

Executive Session

Manager Taylor said there was no business to be discussed in executive session that evening.

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

The meeting adjourned at 8:20 p.m.