

MINUTES OF A REGULAR MEETING OF THE MAYOR AND COUNCIL
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,
MONDAY, NOVEMBER 9, 1987, 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.

Continuation of Public Hearing on Zoning Cloverleaf Property

Manager Taylor stated that this was a continuation of the October 19 public hearing to consider zoning of a 36-acre tract at the intersection of N.C. 86 and I-40. He said the property was subject to a petition for annexation. Mr. Taylor said that the public hearing had been continued to tonight so that notice of the zoning hearing could be sent to adjoining property owners.

Harry Poole, representing the Northwood Homeowners Association, spoke against the proposed zoning of the property as Mixed-Use/Office/Institutional-1. He said the Northwood homeowners would prefer the area remain residential but realized change would occur and as such would prefer an Office/Institutional-1 zoning designation. He stated that the Northwood homeowners did not want the mixed use zoning because of concern over traffic impact, the effect on the entranceway, the irregular shape of the land, and the criteria for zoning the property. (For copy of statements, see Clerk's files.)

Floyd McKissick, Jr., an attorney representing the property owners, Cloverleaf Associates, spoke in support of the mixed use zoning designation. He said such a zoning designation was in accord with the Town's adopted land use plan. He pointed out that during the public meetings on the Town's proposed land use plan there had been little comment about designating this area as mixed use. Mr. McKissick stated that many of the Northwood residents' concerns could be addressed when the property was proposed to be developed.

Dexter Smith, speaking as one of the Cloverleaf property owners, said that they had delayed developing the property until after the Town had completed its deliberations on the land use designations. He said that the planning process for development of the

site would be deliberate and well thought out. He said they wanted to develop something that would be beneficial and acceptable to all concerned.

Joan Shapiro, representing the Alliance of Neighborhoods, spoke against the proposed mixed use zoning designation and in favor of Office/Institutional-1. She said the Alliance felt the mixed use zoning would be detrimental to the adjoining neighborhood.

Bob Margison, speaking as a resident of Northwood, spoke against the mixed use zoning designation. He said he disagreed that the concerns of the neighbors should be postponed until a development proposal was presented for the site.

John Curnes, speaking as a resident of Northwood, spoke against the mixed use zoning designation. He said he felt the homes on Eubanks Road would be negatively impacted by zoning the property across the street as mixed use.

Lindy Sparrow, speaking as a neighboring property owner to the Cloverleaf property, said he understood the concerns of the Northwood residents but that Orange County was already assessing (for tax purposes) his property as office and commercial. He said that as such he did not object to the proposed mixed use zoning designation.

Council Member Preston asked the Manager to review the stipulations for the proposed mixed use zone. Manager Taylor responded that the lot size had to be a minimum of 20 contiguous acres; development of the site requires a Special Use Permit; the site would carry an underlying zoning designation; at least 60% but no more than 85% of the floor area had to be devoted to office use, with the remaining floor area to be commercial and/or residential.

Council Member Andresen commented that the mixed use zoning designation also carried some density and height bonuses, which would allow building heights of 90 feet.

Council Member Preston asked about the buffer requirements for Interstate-40 and for a mixed use zone. She also asked if the 100' buffer along the corridor also included the exit ramps. Planning Director Roger Waldon replied that the 100' buffer along I-40 was from the road's right-of-way so that it would be 100' into the site. He said the buffer requirement for a mixed use site was a Type C and could be 20' to 40'.

Council Member Preston asked for information on the reasoning for mixed use zoning in this area and the use of the Master Plan process. Mr. Waldon responded that with a mixed use zoning designation the property was applicable to the Master Plan process which involved a master plan for the entire site. He stated that the thought behind mixed use zoning designations at the interstate interchanges was to encourage the Master Plan

process in order to avoid development of the property lot by lot with no cohesiveness. Mr. Waldon said that with the mixed use zone and the use of the Master Plan there were incentives for larger developments that were integrated in design and use.

Council Member Smith said he did not think the Town wanted to have mixed use zoning designations to extend up to .5 of a mile from the Interstate interchange. He questioned the effect of commercial development on the site on Eubanks Road and traffic to and from the landfill.

Council Member Pasquini said that he did not feel mixed use should extend that far on Eubanks Road. He expressed concern that the site was only connected by a small strip of land in the northern portion of the site. He said that if the interior properties were joined with the site he would be more inclined to favor mixed use zoning. Mr. Pasquini also said that he felt mixed use zoning should be on property that fronts a major access road and that Eubanks Road was not a major road.

Council Member Andresen said she was not sure in the long range the difference between mixed use and office/institutional zoning for the site but that she did have some concerns about the density bonuses and buffer requirements in mixed use zones.

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

A MOTION WAS DULY MADE AND SECONDED TO ADJOURN THE HEARING. THE MOTION PASSED UNANIMOUSLY, (9-0).

Certificates of Appointment

Mayor Wallace introduced to the Council new appointees to Council's advisory boards and commissions, and presented the new appointees with certificates of appointment.

Those present and receiving certificates were:

Housing Advisory Board

Adele Thomas
Edwin Caldwell, Jr.
Betsy Bryan

Personnel Appeals Committee

Ken Martin
William Murphy
Richard Daughtery

Also receiving certificates but not present were:

Housing Advisory Board

Nona Carter
Ottiere Farrington
G. Donald Higgs
Barbara B. Powell
Harvey Reid
Charles Weaver

Public Forum on Preparing the 1988-89 Budget

Manager Taylor stated that this was the beginning of the budget process for fiscal year 1988-89. He said that the purpose of this forum was to receive citizen comment on the budget for the next year. Manager Taylor commented that notices of this forum were sent to over 150 community organizations and were also published in the Chapel Hill Newspaper. He said he recommended that the Council refer comments, and suggestions from the forum to the Manager for consideration in developing the 1988-89 budget proposal.

Roland Giduz, speaking as a citizen, requested that the Council consider funding on a permanent basis the hanging flower baskets in the downtown area during the spring and summer. He also spoke in support of an entertainment tax. He asked that the Town consider requesting the General Assembly for the authority to levy an entertainment tax. Mr. Giduz stated that with the increasing number of events being held at the Dean Smith Athletic Center and various locations in the area, an entertainment tax would be a legitimate request.

Laura DiGiano, speaking as a resident of Glen Lennox, requested that the Council consider ways of improving the pedestrian crossing at the intersection of Hamilton Road and N.C. 54. She pointed out that often pedestrians are stranded in the middle of the intersection because they cannot cross the intersection in the length of time allotted for pedestrian crossings.

Lisa Price, speaking as a resident of North Forest Hills, spoke in support of funding for bike paths from North Forest Hills to downtown. She said currently there was about .7 of a mile that did not have either a sidewalk or bike path.

Betty Cloutier, representing the Chapel Hill Preservation Society, requested funding to print a walking tour brochure of Chapel Hill in full color. She said the cost would be about \$6,000 and that she felt this request would fit into the category of visitor information and cultural events funding.

Council Member Smith commented that the revaluation of property last year had resulted in increased taxes for many property owners. He stated that for those individuals with fixed incomes it had had a devastating effect. He asked that the Manager

consider ways to reduce the Town's taxes while still maintaining its current level of services.

Council Member Werner asked the staff to develop options for the Glen Lennox pedestrian crossing problems.

Council Member Thorpe suggested that the leaf collection schedule be amended to begin earlier and last longer. He also said there needed to be more pick-ups during the times the leaves fall the most.

Council Member Pasquini asked that for the January work session that the staff provide information on a break-down of Chapel Hill taxes for the last ten years, including the transit budget, and property taxes. He also asked for information on Orange County's taxes during the same time periods.

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

Petitions

Robert Epting and Robert Page asked to speak to items #6 and 7, Special Use Rezoning and Women's Center Special Use Zoning and Special Use Permit Request.

Josh Gurlitz and Bob Anderson asked to speak to item #12, Selection of Architects and Engineers.

Ron Davis and Robert Kirkpatrick asked to speak to item #15h, Gimghoul Road Parking Restrictions.

Peter and Desiree Denton asked to speak to item #10, Colony Woods Drainage.

Ken Meardon, speaking as a resident of Fox Meadow subdivision, said he would like to apologize to the Council for not attending their last regular meeting to discuss the proposed joint planning agreement. He said that having attended the Town of Carrboro meeting and in talking with other people he had not felt it would not have done any good to come to the Council and expressed the residents' concerns about the inclusion of the subdivision into the Town of Carrboro's Transition Area. Mr. Beardon said that he was sorry he had not attended the Council's meeting.

Council Member Howes suggested moving agenda item #15h up on the agenda to follow item #10. The Council agreed to this suggestion.

Council Member Thorpe said that he would like a status report on what the Town could do to regulate Pitt Bull terriers by the next regular Council meeting. He also said that since the stop signs had been placed on Willow Drive he had received several complaints that the stop signs had created more problems than they

solved. He asked that the staff review the situation with the possibility of removing the stop signs.

Minutes

COUNCIL MEMBER ANDRESEN MOVED, SECONDED BY COUNCIL MEMBER HOWES TO ADOPT THE MINUTES OF OCTOBER 19, 1987 AS CIRCULATED. THE MOTION PASSED UNANIMOUSLY, (9-0).

Council Member Werner stated that his comment on page 10 should read that "...drainage might be something that needed to be looked at as part of the public facilities ordinance".

Council Member Preston stated that there was a misspelling on page 11.

COUNCIL MEMBER ANDRESEN MOVED, SECONDED BY COUNCIL MEMBER HOWES TO ADOPT THE MINUTES OF OCTOBER 26, 1987 AS CORRECTED. THE MOTION PASSED UNANIMOUSLY, (9-0).

Special Use Zoning - Proposed Development Ordinance Text Amendment

Manager Taylor said that what was before the Council was a proposal to amend the Development Ordinance with regard to Special Use Zoning to bring the ordinance into conformity with recent court rulings. He said that what was before the Council was three alternatives: 1) leave the ordinance as it currently stood and it would not be in total conformity with the Chrismon case; 2) change the ordinance to conform with the Chrismon case; or 3) delete Special Use Zoning from the Development Ordinance. Manager Taylor said that the staff recommendation, since the Council had made the decision by previous action that it wanted Special Use Zoning, was that the Council amend the Development Ordinance to bring it into conformity with the Chrismon case.

Council Member Pasquini asked what would be the practical effect of the proposed changes. Manager Taylor said that the current ordinance allowed the Town to require a developer to tell the Town what he planned to do with the property, and the Town could ask the developer to agree to all the stipulations the Town wished to place on the property for a specific use as it went through the Special Use process. He said the current ordinance allowed for all of this information to be known prior to the Council taking action on a Special Use Zoning request. Manager Taylor said that with the Chrismon case, all the information relating to the Special Use Permit could not be required to be known by the Council when deliberating a Special Use Zoning application and in fact, it would be improper for the Council to consider any specific use when making the decision on the rezoning. He said the proposed changes would separate the two actions so that when the Council considered a Special Use Zoning request, it would have before it the understanding that anything that was allowed in the zone could be built in the zone with the

appropriate Special Use Permit and that nothing would be allowed without a SUP.

Mayor Wallace commented that the change in the ordinance meant that the property would be zoned first generally, and then a Special Use would follow, and that the Council could not specify in the zoning a specific use.

Council Member Pasquini said this also meant that nothing could be built in the zone without a Special Use Permit. Attorney Karpinos agreed, saying that there were no uses permitted without a Special Use Permit. Council Member Pasquini asked if there were any uses that were permitted. Attorney Karpinos said that the uses listed as permitted uses in a corresponding general use district would be special uses in the parallel Special Use District.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO ADOPT ORDINANCE 87-11-9/O-1A.

Mr. Epting and Mr. Page agreed to withhold their questions and comments until item #7.

THE MOTION PASSED UNANIMOUSLY, (9-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING ARTICLE 19 OF THE CHAPEL HILL DEVELOPMENT ORDINANCE REGARDING SPECIAL USE ZONING (87-11-9/O-1A)

WHEREAS, the Council of the Town of Chapel Hill finds that there is, in light of a recent decision of the North Carolina Court of Appeals, a manifest error in the Development Ordinance with respect to special use zoning;

NOW, THEREFORE, BE IT ORDAINED as follows:

SECTION I

The entire second paragraph of Section 20.3.7 of the Development Ordinance is hereby repealed.

SECTION II

The third paragraph of Section 20.2 is amended to read as follows:

A Request for rezoning to a special use district may be made only by application from the owner(s) of all the property included in the area proposed to be rezoned. An application for rezoning to a special use district may be accompanied by an application for a Special Use Permit, as provided in Article 18, and may be reviewed concurrently with the Special Use Permit application.

SECTION III

The first paragraph of Section 20.3.8 is amended to read as follows:

If the Council approves an application for rezoning to a special use district, but denies an accompanying application for a special use permit, or if an application for a special use permit is not considered by Council, the rezoning application shall be deemed to be conditionally approved, subject to submittal and Council approval of an application for a Special Use Permit in accord with Article 18.

SECTION IV

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

This the 9th day of November, 1987.

Henderson Street House - Women's Center Application for Special Use District Zoning

Robert Epting, an attorney representing area residents, spoke in support of the Manager's recommendation to refer the applications back to the Planning Board again for reconsideration and new public hearings. He said he thought this would be the correct course of action since the amendment to the ordinance resulted in changes in the procedure. Mr. Epting said that he felt the amendment to the ordinance was only part of what needed to be done in order to defend some action the Council might want to take in court. He stated that the court would look at the case to see if the process was appropriate and if the record of the proceeding was appropriate. Mr. Epting contended that the record of the proceedings so far had been developed under the ordinance as it existed prior to that evening, and as such, he felt the Town had wrapped up together in the record the rezoning and special use aspects of the matter. Mr. Epting stated that until, and unless, the Town unravelled the two aspects and separated them in the hearing process both before the Planning Board and Council, he felt there would be a deficient record.

Council Member Werner asked Town Attorney Karpinos for his opinion on this matter. Attorney Karpinos said that it would be legal to reopen the hearing, refer it back to the Planning Board and to have a recommendation from the Planning Board and hold another public hearing by the Council. He said there would be nothing improper or illegal in taking that step. Mr. Karpinos stated that a decision not to reopen the hearing would leave open a question, which the Manager had recommended the Council avoid by taking the safer step of referring the item back for a second public hearing and additional Planning Board consideration. He

said of the two choices, his judgement was that it was not illegal to go ahead and act this evening. Mr. Karpinos stated that the law was not clear on that. He said that most of the cases that discuss the question of reopening a hearing were cases where there had been a substantive change to the application (i.e. an initial application for commercial zoning and then later changed to office/institutional). Mr. Karpinos said that these cases spoke to the issue alluded to by Mr. Epting where there was a substantive change in the application. Attorney Karpinos stated that in this case the application had not changed, rather it was more a matter of the Council's procedures being changed. He said of the two choices clearly to reopen the hearing and consider it again would be the safest route. He said this route in his judgement would be beyond reproach. Mr. Karpinos said the second alternative, to act that evening, would raise a legal issue. He stated that in his best judgement was it was a close call and probably would be defensible if the Council made the findings that indicated in the rezoning application as to finding it appropriate for all possible uses if a Special Use Permit could be later issued. Mr. Karpinos said the memorandum was the Manager's recommendation and that he concurred that it was the safest route, but that he was not saying it would be illegal to act that evening. Mr. Karpinos stated that he just did not know, but that it would probably be a defensible action. He stated that he had discussed this issue with several Council Members earlier and suggested that, to a large extent, the Council's action that evening, if it chose to take the action of approving the zoning for the property, and if a law suit were brought challenging that action, and the action being in favor of the applicant, the Council might wish to ask the applicant whether or not he was willing to take that risk, because it would be a decision in his favor that would have to be defended.

Robert Page, an attorney representing the applicant, said he agreed with Mr. Karpinos' remarks. He said the Orange County Women's Center felt the risk was minimal in not having another public hearing on this matter. He stated that the applicant had not changed its application. Mr. Page said he did not think the procedural changes would make any difference in the application. He stated that with regard to the Chrismon case he pointed out that it was not law yet, and that it was a Court of Appeals case. He said that from discussions with Mr. Karpinos that this case was up for appeal with the N.C. Supreme Court, and that he had discussed this matter with several municipal attorneys throughout the State, who disagree with portions of the ruling. Mr. Page said that if the Council approved the application that evening the result would be the same as if the text amendments had not occurred. He said that he remembered the situation about the Masonic Lodge and the change from commercial to office/ institutional, and that it was the result of that decision by the Council and subsequent conversations with the Town that had led to this particular Special Use Rezoning application. He stated that the applicant would prefer that the Council act on the application that evening.

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Council Member Preston asked if the Council approved the rezoning and a suit were brought against the action, would the suit be against the Town or the applicant. Attorney Karpinos replied that it would at least be against the Town and represent a challenge to the rezoning and Special Use Permit if the Council approved both requests. He said the applicant could be added as a party defendant.

Council Member Preston said that she believed that the Planning Board, when reviewing just the rezoning request without consideration of any project, might decide that an OI zone in a neighborhood was against the Town's Comprehensive Plan and would be something they might not want to favor.

COUNCIL MEMBER PRESTON MOVED RESOLUTION 87-11-9/R-2 TO REFER THE REQUESTS BACK TO THE PLANNING BOARD AND TO SCHEDULE PUBLIC HEARINGS FOR THE COUNCIL TO CONSIDER THE REQUESTS. THE MOTION FAILED FOR LACK OF A SECOND.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT ORDINANCE 87-11-9/O-2A.

Mayor Wallace commented that the ordinance would require seven affirmative votes because a valid protest petition had been filed in opposition to the rezoning.

Council Member Preston spoke against the motion saying that she believed that adoption of this ordinance represented the beginning of the destruction of one of the more fragile, important neighborhoods, in downtown Chapel Hill. She said that it had been her firm belief since serving on the Council that one of the reasons the downtown was as viable and attractive as it was, was because people lived near downtown. She stated that this action would take a house away from a residential use and convert it to an office use. Ms. Preston stated that the value of the property would appreciate because it would be an office. She wondered what would happen to the house next door when the owner, currently the University of North Carolina, deemed its use (Playmaker's Repertory Company) no longer feasible, and want to sell the property or come in for a Special Use for an office/institutional use. She maintained that this would be a further erosion of a neighborhood. Ms. Preston stated that little by little the neighborhood down Henderson Street would fail. She said the Council had supported and written into the Comprehensive Plan, that the zoning designations of residential areas close to downtown would be scrupulously maintained. Ms. Preston stated that the Council would be going over that boundary that evening and going back against its word. She said she felt it was a sad day in the community.

Council Member Andresen said that she felt comfortable with the changes made in the ordinance and more comfortable that Council Member Preston with the Special Use Zoning. She said she would never be willing to vote for carte blanche commercial use for

this particular area. Ms. Andresen said that she felt this zoning provided protection and that the Women's Center was an appropriate use for the site. She pointed out that there were no single family residences on this block and that the Council should move ahead and vote on the motion.

Council Member Preston said that there had been single family uses on this portion of Henderson Street until Mr. Hill died and that the site in question had been his residence.

Council Member Godschalk said he was in sympathy with Council Member Preston's general concerns and that he thought all members of the Council were. He said he did not believe that this case in any way, broke the dam, and the very bleak scenario of the sad day in Chapel Hill was incorrect and that the Council was in the position to stop that from happening.

Mayor Wallace said that he would vote against the motion on procedural grounds strictly. He said that he felt everything that had been done up to this point had been based upon an ordinance that was no longer in effect but that had been amended that evening. Mayor Wallace said that he considered it an extremely naive attitude to believe that this would not make a tremendous impression upon the courts. He said he wanted, and appealed to have it sent back and done procedurally correct. He stated that Council had opted to proceed as if the ordinance the Council now had made no difference. Mayor Wallace stated that as such instead of waiting approximately six months which it might have taken to get it through the process, the applicant might have to wait eighteen months to two years and then have it remanded back to the Town with instructions to do precisely what the Council was refusing to do that evening.

THE MOTION CARRIED, (7-2), WITH COUNCIL MEMBER PRESTON AND MAYOR WALLACE VOTING AGAINST.

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING THE CHAPEL HILL ZONING ATLAS (87-11-9/O-2)

WHEREAS the Council of the Town of Chapel Hill has considered the application of the Orange County Women's Center, to amend the Zoning Atlas to rezone property described below from Residential-3 to Office/Institutional-1-S (Special Use Zoning), and finds that the amendment achieves the purposes of the Comprehensive Plan;

WHEREAS the Council finds that any potential use under the Office/Institutional-1 Special Use Zoning (OI-1-S) would be suitable for the property proposed for rezoning provided the findings required for a Special Use Permit can be made based on appropriate conditions attached to any Special Use Permit issued;

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

SECTION I

That the property identified as Chapel Hill Township Tax Map 80, Block B, Lots 49 and 50, located on the east side of Henderson Street, between its intersections with North Street and East Rosemary Street plus one-half of the adjoining right-of-way of Henderson Street, be rezoned from Residential-3 to Office/Institutional-1-S (Special Use Zoning). The legal description of the property is as follows:

TRACT 1:

All that certain lot or parcel of land, with improvements thereon, situated, lying and being on the east side of Henderson Street in the Town of Chapel Hill, N.C. BEGINNING at a stake in the East property line of Henderson Street which point is established by measuring North $26^{\circ} 30'$ West 238.5 feet from the Northeast intersection of Henderson and Rosemary Streets running thence along the East property line of Henderson Street North $26^{\circ} 30'$ West 89.25 feet to a stake, B. S. Thompsons Southwest corner, running thence with said Thompsons line North $63^{\circ} 30'$ East 104.25 feet to a stake running thence South $26^{\circ} 30'$ East 89.25 feet to a stake; running thence South $63^{\circ} 30'$ West 104.25 feet to the beginning, and being the same land conveyed to D. D. Carroll, Trustee for Pi Kappa Phi Alumni Building Company by deed of Fannie Gray Archer, dated May 23, 1921, and recorded in the Office of the Register of Deeds of Orange County in Book 80, Page 149; and being the same land conveyed to V. A. Hill and wife, Mabel T. Hill by deed of D. D. Carroll, Trustee for Pi Kappa Phi Alumni Building Company dated March 1, 1930, and recorded in the Office of the Register of Deeds of Orange County in Book 93, Page 416.

TRACT 2:

All that certain lot or parcel of land situated, lying and being on the East side of Henderson Street in the Town of Chapel Hill, N.C. and more particularly described as BEGINNING at a stake in the East property line of the said Street, C. N. Pickel's Northwest corner, which point is established by measuring North $26^{\circ} 30'$ West 167 feet from the Northeastern intersection of Henderson and Rosemary Streets; running thence with said Pickel's and Mrs. White's line North $63^{\circ} 30'$ West 108.3 feet to a stake in the East property line of Henderson Street; running thence along the East property line of the said Street South $26^{\circ} 30'$ East 71.5 feet to the Beginning; and being the same land conveyed to V. A. Hill and wife, Mabel T. Hill by deed of Fannie S. Brockwell (widow), dated January 8, 1947 and recorded in the Office of the Orange County Register of Deeds at Book 155,

Page 217. (Note: This deed corrects an error in the description of one of the bounds and courses contained in the prior deed recorded at Book 155, Page 217: the reference to "a stake in the West property line of Henderson Street" has been changed to "a stake in the East property line of Henderson Street" and "running thence along the West property line" has been changed to "running thence along the East property line.")

SECTION II

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

This the 9th day of November, 1987.

Henderson Street House - Women's Center Application for Special Use Permit

Manager Taylor said he would like to introduce into the record an affidavit from Ida M. Friday for the Orange County Women's Center which indicated that the applicant agreed to all the proposed conditions in Resolution A in the agenda material on this item.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO ADOPT RESOLUTION 87-11-9/R-4A. THE MOTION CARRIED, (7-2), WITH COUNCIL MEMBER PRESTON AND MAYOR WALLACE VOTING AGAINST.

The resolution, as adopted, reads as follows:

RESOLUTION APPROVING AN APPLICATION FOR A SPECIAL USE PERMIT FOR THE ORANGE COUNTY WOMEN'S CENTER (87-11-9/R-4a)

BE IT RESOLVED by the Council of the Town of Chapel Hill that it finds that the Henderson Street House proposed by the Orange County Women's Center, on property identified as Chapel Hill Township Tax Map 80, Block B, Lots 49 and 50, if developed according to the site plan dated March 4, 1987 (revised) and March 6, 1987 (received) and the conditions listed below, would:

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 Article 4, 5, and 6, and the applicable specific standards contained in Sections 8.7 and 8.7.2, 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, or be a public necessity; 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 January 6, 1988 and be completed by January 6, 1989.
2. That the owner will use this property only for operation of a women's center in its service as a nonprofit, charitable, community agency providing social/human services, educational and information programs, and support services to nonresident clients.
3. That a copy of a recombination plat or deed, combining the two parcels involved with this application, be approved by the Town Manager and recorded prior to the issuance of a Zoning Compliance Permit.
4. That the property will retain its single family appearance.
5. That the portion of the existing shared driveway along the northern property line which is on this property be removed prior to the issuance of a Certificate of Occupancy and that the remainder of the driveway on the northern adjoining lot not be used for loading or unloading purposed by the Orange County Women's Center facility. A "C" type buffer shall be provided along this northern property line between the property line and the existing structure.
6. That a detailed landscape plan and landscape maintenance plan be approved by the Historic District Commission prior to issuance of a Zoning Compliance Permit. This landscape plan shall provide a "C" type buffer along the property frontage, a "C" type buffer along the northern property line, and alternative "B" type buffers along the western and southern property lines.
7. That the final plans receive the necessary Certificate of Appropriateness from the Historic District Commission prior to issuance of a Zoning Compliance Permit.
8. In the event of exterior changes to the building (other than regular maintenance) or other exterior site changes, detailed building elevations and/or plans shall be approved and a Certificate of Appropriateness issued by the Historic District Commission prior to issuance of a Building Permit.
9. That final plans include the provision of a hard surface parking lot.
10. That the final plans include a modification removing the drop off area and increasing the buffer island width to

allow the provision of a "C" type buffer along the properties frontage. The final plans should provide a one-way drive aisle without the pull off area for drop offs.

- 11. That the final plans include the provision of a handicap parking space. The final plans should indicate the provision of a handicap ramp along the sidewalk on the southern side of the building providing access to the parking lot.
- 12. That the final plans include the provision of underground utilities.
- 13. That the section of the existing double width driveway entrance along the southern property line (bisected by a hedge) opening into this property be closed.
- 14. That final plans to be approved by the Town Manager before issuance of a Zoning Compliance Permit (site plan, utility plan, grading and stormwater management plan, and easement plat) 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.
- 15. That the final utility/lighting plan be approved by OWASA, Duke Power, Public Service Company of N.C., Southern Bell, Carolina Cable, and the Historic District Commission before issuance of the Zoning Compliance Permit.
- 16. That the continued validity and effectiveness of this approval is expressly conditioned on the continued compliance with the plans and conditions listed above and upon compliance with applicable provisions of the Chapel Hill Development Ordinance and regulations thereunder.
- 17. That if any of the above conditions is held invalid, this approval shall be void.

BE IT FURTHER RESOLVED that the approval of this Special Use Permit is conditioned upon the owner of this property agreeing, in writing to all of the above conditions.

BE IT FURTHER RESOLVED that the Council hereby approves the application for the Henderson Street House - Orange County Women's Center Special Use Permit in accordance with the plans and conditions listed above.

This the 9th day of November, 1987.

Smith-Breeden Associates - Application for Special Use Permit

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER HOWES TO ADOPT RESOLUTION 87-11-9/R-5A. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

RESOLUTION APPROVING AN APPLICATION FOR A SPECIAL USE PERMIT FOR SMITH-BREEDEN OFFICE BUILDING (87-11-9/R-5A)

BE IT RESOLVED by the Planning Board that the Smith-Breeden Office Building (Office Building for Lot 12, Eastowne) proposed by Smith-Breeden Associates, on property identified as Chapel Hill Township Tax Map 26A, Lot 12, if developed according to the site grading and utility plan dated June 3, 1987 (July 27, 1987 revision) and the conditions listed below would:

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 provision of Article 12, 13, and 14, and the applicable specific standards contained in Section 18.7 and 18.7.2, 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, or be a public necessity; 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 November 9, 1988 and be completed by November 9, 1989.
2. That an encroachment agreement be approved by the Town Manager and be recorded for brick pavers within the right-of-way prior to the issuance of a Zoning Compliance Permit, and that agreement include a perpetual maintenance responsibility by the applicant.
3. That final street plans, grading plans, utility plans, stormwater management plans (with hydrologic calculations), be approved by the Town Manager before issuance of Zoning Compliance Permit or application for final plat approval, and that such plans conform to plans approved by this application and demonstrate compliance with all applicable conditions and the design standards of the Development Ordinance and the Design Manual.

4. That sight triangle easements be provided on the final plat.
5. That final utility plans be approved by the Town Manager, OWASA, Duke Power, Southern Bell, Public Service Gas Co., and Carolina Cable before issuance of a Zoning Compliance Permit.
6. That a soil erosion and sedimentation control plan be approved by the Orange County Erosion Control Officer before issuance of a Zoning Compliance Permit.
7. That tree protection fences (to protect significant existing trees and their root systems) be shown on the final grading plan, and that said fences be installed prior to any grading activities taking place.
8. That a detailed landscape plan, including buffer planting, and landscape maintenance schedule be approved by the Appearance Commission prior to the issuance of a Zoning Compliance Permit. A "B" type buffer is required surrounding the site.
9. That detailed building elevations and lighting plan be approved by the Appearance Commission prior to issuance of the Zoning Compliance Permit.
10. That a fire flow report prepared by a registered professional engineer, showing that flows meet the minimum requirements of the Design Manual, be approved prior to issuance of a Zoning Compliance Permit.
11. That a bus shelter with bench be provided on Providence Road, south of the entry driveway.
12. That continued validity and effectiveness of this approval is expressly conditioned on the continued compliance with the plans and conditions listed above.
13. That if any of the above conditions is held invalid, this approval shall be void.

BE IT FURTHER RESOLVED that the Council hereby approves the application for the Smith-Breeden Associates Special Use Permit in accordance with the plans and conditions listed above.

This the 9th day of November, 1987.

Coker Woods Subdivision - Application for Revocation of a Special Use Permit

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER PASQUINI TO ADOPT RESOLUTION 87-11-9/R-6. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION REVOKING THE COKER WOODS PLANNED DEVELOPMENT-HOUSING SPECIAL USE PERMIT (87-11-9/R-6)

BE IT RESOLVED by the Council of the Town of Chapel Hill that it finds that a request has been made for revocation of the existing Coker Woods Special Use Permit, located on property identified as Chapel Hill Township Tax Map 29, Lot 3F, and that the construction authorized by the Permit has been started and the completion time limit has not yet expired; the property owner has made application for approval of a development other than that authorized by the Permit; and the proposed development incorporates adequate consideration of the site's already disturbed land area in its design and previous commitments made under the Special Use Permit process.

BE IT FURTHER RESOLVED that the Council hereby revokes the Coker Woods Planned Development-Housing Special Use Permit, recorded in Record Book 553, Page 527 at the office of the Orange County Register of Deeds, for the violations listed above.

This the 9th day of November, 1987.

Coker Woods Subdivision - Application for Preliminary Plat Approval

Council Member Andresen said that she would like to substitute the following for stipulation #6 in the Manager's recommendation: "that the Duke Power easement be designated on the final plat as follows: that public access be limited to pedestrians and non-motorized vehicles only, except that all landowners of properties adjacent to the Duke Power easement may affirmatively request an easement or deed for up to 242 square feet within the Duke Power easement. The configuration of which shall be approved by the Town Manager." Ms. Andresen said the reason she was making this suggestion was in response to some concerns of the residents backing up to this easement and the fact that the Town would like to have a greenway through this area.

Roger Waldon, Planning Director, said what was before the Council was an application for preliminary plat approval for the site. He said the site was 12.05 acres off of Piney Mountain Road and the proposal was to subdivide the site into 31 residential building lots. Mr. Waldon said that there were several existing easements which encumbered the site: Duke Power, N.C. Public Gas, and sanitary sewer. He also pointed out that the road into the site had been cleared and graded as part of the construction had begun under the townhouse special use permit approved in 1984, and that this application would use the same road circulation. Mr. Waldon said that the Transportation Board recommended approval of the site plan with the stipulation that the road into the site be stubbed out to the southern property line, while the Planning Board recommended approval without the stub out. He

stated that the staff also recommended that a pedestrian/non-motorized vehicle easement be provided along the Duke Power easement. He said the gas easements followed a course which intersected with the school and that the idea was to try to leave open the possibility that at some point in the future there would be the possibility of a pedestrian way or bike way that would go along the utility easements to connect the neighborhoods with the school. Mr. Waldon stated that there had been some disagreement about this recommendation from some residents of Coker Hills West who abut the easement and have concerns about the pedestrian easement. He said the Manager recommended adoption of resolution R-7a to approve the site plan with conditions.

Council Member Godschalk asked what the property to the south to which the Transportation Board recommends the street be stubbed out was zoned. Mr. Waldon said the underlying zone was R-1 but that it was overlaid by the airport hazard district. Council Member Godschalk asked how this property was designated in the Land Use Plan. Mr. Waldon stated that the Land Use Plan continued to designate the property as an airport hazard district.

Council Member Pasquini said he did not favor stubbing out the street to the southern property because of the cut through traffic it could produce once the southern property was developed. He asked what it meant by there being five lots covered by a natural gas easement. Mr. Waldon said that this meant the property owners could not put any portion of their building on the part of the lot covered by the easement. Council Member Pasquini asked if there could be a driveway or landscaping over the easement. Mr. Waldon replied yes.

Council Member Pasquini asked for clarification of the internal sidewalk issue. Mr. Waldon stated that the staff and Planning Board felt that there needed to be a sidewalk from Piney Mountain Road into the site to ease pedestrian movements. Council Member Pasquini asked if the buffers in the proposal were on common property or on private property. Mr. Waldon said that the buffer areas were on common property because of the jogging and fitness trail that circled the subdivision. He stated that the staff recommendation was that this area be dedicated to and maintained by a homeowners association, who in turn would maintain the landscaping and buffers.

Council Member Pasquini said he thought when the Council had approved the Shadowoods apartment complex one of the stipulations had been dedication of the public gas easement as a pedestrian way. Mr. Waldon said he was not sure. Mr. Pasquini said that he did not think if there should be an easement for pedestrians as part of buildable lots.

Council Member Werner said the Manager's recommendation included a stipulation dedicating the sewer easement as a pedestrian easement and that this easement went through four lots, but the gas easement was not being requested to be used as a pedestrian

path. He said he thought the easements appeared similar to him and that he did not understand the reasoning behind the stipulation. Mr. Waldon said that one of the reasons for the sanitary sewer easement being requested to be dedicated was to facilitate pedestrian access to the jogging and fitness trail.

Council Member Godschalk asked if the sidewalk was to be on only one side of the road. Mr. Waldon replied yes.

Bill Webster, Parks and Recreation Specialist, commented that the Parks and Recreation Department had felt the need for an easement of about 15' to 20' across the current Duke Power easement, but had requested that the entire easement be dedicated. He said most of the easement was not usable, being on steep slopes, but that it could be used as a conservation easement. Mr. Webster said the staff had not requested the natural gas easement because it was felt it was not needed in the overall greenways plan. He stated that he was not aware of the request for the sewer easement dedication except for those instances where it crossed the Duke Power easement.

Council Member Pasquini asked if the sewer easement was part of the stipulations. Mr. Webster said it was not required for the greenways plan.

Council Member Pasquini said there seemed to be a lot of confusion on this proposal and that he would prefer to refer it back to the staff for further clarification.

Council Member Andresen asked if the matter of the greenway and the neighbors' concerns had been resolved. Mr. Webster said that he felt there was a friendly understanding of the issue. He stated that one of the major concerns of the adjacent landowners was the question of trespassing. He said that there were cases of individuals going across the easement and cutting through the back yards of the residents of Coker Hills West and not following the proposed pedestrian easement. Mr. Webster said the agreement the staff, developer, residents, and Duke Power had been trying to work out, would be to reduce the easement somewhat to allow fencing to be built around the utility poles. He stated that the specifics still needed to be worked out.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER WERNER TO REFER TO THE MANAGER.

Council Member Andresen said that she had received calls regarding to what degree this development would cause problems with stormwater management downstream. George Small, Town Engineer, said he was not sure which method would be used to handle any potential problems. He said it was correct that the development would generate more run-off but that measures would be taken to handle the problem.

Council Member Preston asked if Duke Power was amenable to fences being built in the easement. Mr. Webster said that the information he had was that Duke Power would allow fences to be built in the easement as long as they were at least ten feet away from the poles. Council Member Preston asked about maintenance of the vegetation. Mr. Webster said that Duke Power maintains the right to go onto the easement and do what was necessary. He said this could mean that the fence might have to be removed. He pointed out that the only thing the Town would have in the easement was the pedestrian trail which would not constitute an obstruction.

Council Member Smith said that when the Manager reviews this item that he look at the previous Special Use Permit approved for the site because he thought there were specific actions the Council had taken with regard to the Duke Power easement. He asked how long was the cul-de-sac and what was the standard in Chapel Hill. Mr. Waldon responded that the cul-de-sac was 900' and that the Design Manual called for cul-de-sacs, in general, to be limited to 600'. He said that in lieu of stubbing out the street with the possible connection to the southern property there was no other alternative for the site.

Council Member Smith said he did not believe there should be any building in a public easement. He stated that the natural gas easement was 50' and that he did not think there was enough buildable space remaining on the lots the easement traverses.

Council Member Godschalk said there was a 68' Duke Power easement and the proposal was to place a greenways trail on the west side, taking up about 8'. Mr. Waldon said the total easement was 68', with 34' being on the applicant's property. Council Member Godschalk said he did not understand the recommendation for having a trail through the sanitary sewer easement on the property. Mr. Waldon said the staff was recommended that the sewer easement be dedicated to provide additional access to the jogging trail but that this was not critical since there was other access to the recreation area by going up to Piney Mountain Road and gaining access to the jogging and fitness trail at that point. Council Member Godschalk said that dedication of the sewer easement appeared to disadvantage lots #4, 5, 26 & 27. Mr. Waldon pointed out that the easement was already in place as a storm drainage and sanitary sewer easement, and that the staff recommendation was just that it be dedicated as a pedestrian easement as well.

Council Member Pasquini said that if the sewer easement were to be dedicated for pedestrian use then the lots should be open space.

Council Member Smith expressed concern about the fitness stations and who would be responsible for any accidents which might occur. Mr. Waldon replied that the jogging trail and fitness stations were part of the common property and would be controlled by a

homeowners association who would have to have liability insurance.

Bruce Ballentine, representing the applicant, said the agreement between the adjacent property owners and the applicant permits the jogging trail and fitness stations within the conservation buffer. He said presently there were a series of utility poles in the center of the easement and that Duke Power allowed that fences could be located within the easement but could not be closer than 10' from the utility poles. He said the applicant had agreed to dedicate or deed to the residents of Coker Hills an area to allow them to fence in a 10' area on the west side of the utility poles to create a continuous fence. Mr. Ballentine said the applicant proposed, instead of using the sewer and gas easements as paths for pedestrians, to construct a path from the end of the cul-de-sac and the southeast corner of Shadowoods, along Pine Tree Corporation's property to the outside of a fence constructed on the south side of Coker Woods through the gas easement to connect with Somerset Drive.

Council Member Godschalk said this appeared to be a logical solution but would the path be on some other property owners property. Mr. Ballentine replied that it would be on Pine Tree Corporation's property of which the applicant was a principal and he has permission to construct the path.

Council Member Pasquini asked if the path would be deeded to the Town. Mr. Ballentine said that he did not think it would be a problem for the applicant to grant the pedestrian easement.

Joan Bettman, representing the residents of Coker Hills West, said that they had concerns about the continuation of trespassing onto their property of individuals who use the power easement to get to Phillips Junior High School. She said presently individuals are cutting through her and other neighbors' backyards, and that the neighborhood was experiencing vandalism and thefts.

Council Member Smith asked why there was not a path from Shadowoods, along Airport Road, to Estes Drive for pedestrians.

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

Colony Woods Drainage

Peter Denton, speaking as a resident, thanked the Manager and his staff for their time and patience in trying to handle the problem and the Council for hearing their concerns. He said that he and his wife would prefer that the Town increase the drainage pipe under the street and not assess them for the work. He stated that they were unable to accept the assessment and felt that it was the Town's duty to maintain the proper drainage channels.

Council Member Smith asked for clarification of whether or not the Dentons had been aware of drainage problems at the time they

purchased the property. Mr. Denton said that they had been aware of some drainage problems but not to the extent that actually existed.

Council Member Preston said the memorandum the Denton's had sent to the Council included an appraisal done for the prior property owners, the Bjornssons', in 1984. She asked if the Denton's had been aware of this appraisal when they purchased the property. Mr. Denton replied no. Mrs. Denton stated that this information had become available to them only about three weeks ago.

Council Member Preston said the Bjornsson's had a suit against the developer of the adjacent property. She asked if this had been resolved. Mrs. Denton responded that the suit had been dismissed with prejudice and that the Bjornsson's had settled the case out of court.

Council Member Preston said that this meant that the Bjornsson's had received some recompense for the damage to their property. She asked if the Denton's had considered seeking damages from the Bjornsson's. Mrs. Denton stated that they had used the same attorney as the Bjornsson's at closing and that she was not sure they could seek damages.

Council Member Preston said that she did think that part of this issue was the Town's responsibility since it dealt with a storm drainage easement under the street and that there were several other property owners who experience some flooding problems. She asked how many other property owners were affected by this problem. Manager Taylor responded that there were no others affected to the extent of the Denton's but that there were 3 or 4 other properties in the area that would benefit from an improvement in the storm drainage. Council Member Preston said that if the Town were to fix the drainage pipe it would benefit more than just the Denton's and any assessment would be divided among all the benefited property owners. Manager Taylor said the staff had not tried to work out all the details of an assessment at this point. He said the Town had never done any storm drainage assessment and would be a new endeavor. He stated that the staff proposed, at this point, that if the Town were to assess it should be done in the same context as utility assessments were done. Manager Taylor said this meant there were various alternatives ranging from dividing the assessment equally per lot or according to benefit each lot. He stated that the property owners involved could decide how to handle the assessment, but if they could not agree to the method, (i.e. the Town did a forced assessment), then the assessment would be based on a benefit basis and would involve appraisals of the property before and after the work. Manager Taylor said that this was not a small issue and the process and cost of getting appraisals would be expensive. He stated that it was not something the staff wanted to get into until there was a comprehensive stormwater management plan and program for the Town in place.

Council Member Preston said she appreciated this concern and thought this was the logical way to go about the issue. She commented however, that the process would take at least a year before a stormwater management policy was in place, and that it was to be hoped that there would be some measurable rain before that time. She said that the problem would not just disappear and something needed to be done.

Council Member Andresen asked how much would it cost to put in a larger drainage pipe and the detention basin. Manager Taylor said the estimates were around \$35,000 to \$40,000. He said the staff did not recommend just increasing the size of the drainage pipe without putting in the detention basin because this would just move the problem to another site downstream. He said part of his concern was whether or not the neighbors on the other side of the street understand that the detention basin would be adjacent to their property and whether or not this would create another problem.

Council Member Werner said that once the Town had a drainage policy, what kind of options would there be for a situation like this. He said it appeared to him that there were probably a finite number of options. George Small, Town Engineer, agreed and said that the options listed in the memorandum would probably not change much. He stated that if there was a workable, town-wide ordinance within the year, there were 30 or 40 other drainage problems which currently exist. Mr. Small said it might not be that this problem would have the highest priority of all those that exist in the town. He stated that one of the reasons for waiting until there was a comprehensive policy was the prioritization which would occur on all the drainage problems.

Manager Taylor said that what the Council and staff would need to do with the drainage policy would be to look at drainage basins and then decide what needed to be done in order to serve that basin. He said that when it became time to assess for improvements, the assessment would be done over the basin. Mr. Small agreed that this would be true for most of the cases, and that there might be some purely local drainage problems which would be assessed upon one or two property owners. Manager Taylor also said the Council could decide not to do any assessments for storm drainage and that it would be part of the public responsibility.

Council Member Werner said the Town would probably not be at the point of doing any actual work before a couple of years, and that implementation would be very complex.

Council Member Godschalk asked if it were possible to temporarily put some kind of levy along the side of the drainage way to keep the water from flooding the site until the Council did make a town-wide drainage policy. Mr. Small replied that he thought it was possible but if a very large storm were to occur it could create a dam to prevent water from getting off the property and could conceivably create a worse situation.

Council Member Godschalk suggested the Town consider expanding the culvert and put in the detention basin and assessing the benefited property owners 50% and the Town pay 50%. He said that the Manager could investigate this option with the Denton's and other property owners and then report back to the Council.

Council Member Smith asked what was the width and depth of the drainage ditch. Mr. Small said he thought it was about 10' wide and 3.5' deep. Council Member Smith asked if enlarging this drainage ditch would help. Mr. Small replied no.

Council Member Howes spoke in support of Council Member Godschalk's suggestion. He said it seemed to him that the Town had to do something.

Manager Taylor asked the Mayor to query the Denton's as to their reaction to a 50% assessment.

Mr. Denton said that they did not feel they could afford to bear this cost.

Council Member Pasquini said he sympathized with the Denton's problem but that the Council still had to develop a policy. He said it appeared to him that a 50% assessment would be fair and equitable and that the Denton's would not be the only property owner who would benefit from the drainage improvement and therefore the Denton's would not have to pay the entire 50%.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO ADOPT RESOLUTION 87-11-9/R-8B WITH THE AMENDMENT THAT THE ASSESSMENT BE CHARGED AT 50% OF THE COST TO THE BENEFITED PROPERTY OWNERS.

Council Member Howes asked how the Town would handle the assessments. Manager Taylor said there would be a process that would be followed with public hearings, notification of all the affected property owners, setting the time period over which the assessment would be paid (a maximum of 10 years). He said that the staff would present the process to the Council at a later date if they adopted the proposed resolution.

Council Member Pasquini asked if it would be a forced assessment. Manager Taylor said it appeared that it would be a forced assessment.

Council Member Howes said that this meant a cost to the affected property owners of only about \$20,000 (50% of the total assessment) that would be divided amongst the benefited property owners and who would have around 10 years in which to pay off the assessment. He said he felt this would be fair.

Mrs. Denton said this still appeared to be about \$1500/year for them since the assessment would probably be proportionate to the

benefit to the property and theirs was the only property that flooded on the inside.

Council Member Werner said he was not sure the Council should pass the proposed resolution that evening. He said there would be others affected and that he felt they should be made aware of the potential assessment to their property before the Council made a decision. He said he was especially concerned about the property owners who would end up with the detention basin next to their property.

COUNCIL MEMBERS PASQUINI AND GODSCHALK WITHDREW THEIR MOTION.

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

Gimghoul Road Parking Restrictions

Robert Kirkpatrick, representing the Gimghoul area homeowners, spoke in support of the proposal for parking restrictions on Gimghoul.

Ron Davis, speaking as a resident of Gimghoul, spoke in support of the proposal.

Council Member Smith said he would prefer that there was no parking on either side of Gimghoul. He said the UNC/Town Committee was looking at ways to discourage excess traffic in the downtown area and encourage the use of park/ride facilities. He said the removal of on-street parking would benefit their cause.

Council Member Godschalk said he saw the benefit of no parking from 8 am to 5 pm but that he did not understand why the Town was getting involved in the issue of moving the parking restrictions from one side of the street to the other.

Council Member Andresen said that she was comfortable with the Manager's recommendation.

COUNCIL MEMBER ANDRESEN MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT ORDINANCE 87-11-9/O-6.

Manager Taylor commented that he had talked with the representatives of St. Thomas More Church and that they had indicated that they have mass on Saturdays as well as Sundays and that no parking on Saturday could be a problem. He suggested that the proposed ordinance be amended to state that there would be no parking 8 am to 5 pm Monday through Friday on the south side of Gimghoul and no parking at all Monday through Friday on the north side of Gimghoul.

Robert Kirkpatrick said that he also had talked with the church leaders and that they had agreed that they could trust the Town not to tow cars on Saturday and Sunday.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER WERNER FOR A SUBSTITUTE MOTION TO REFER THE ITEM BACK TO THE MANAGER.

Council Member Pasquini said he offered this motion because there seemed to be confusion on the issue.

Council Member Howes said he felt the Council should go ahead and vote on the issue. He pointed out that the homeowners association had unanimously approved the proposal.

COUNCIL MEMBERS PASQUINI AND WERNER WITHDREW THEIR MOTION.

COUNCIL MEMBERS ANDRESEN AND PRESTON AMENDED THEIR MOTION TO INCORPORATE THE DAYS AND TIMES INDICATED BY MANAGER TAYLOR.

THE MOTION TO ADOPT ORDINANCE 87-11-9/0-6 WITH AMENDMENT THAT THE DAYS INVOLVED WERE MONDAY THROUGH FRIDAY, CARRIED, (8-1) WITH COUNCIL MEMBER GODSCHALK VOTING AGAINST.

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING CHAPTER 21 OF THE TOWN CODE (87-11-9/0-6)

BE IT ORDAINED by the Town of Chapel Hill that the Town Council amends the Code of Ordinances as follows:

Section I

Add a new subsection 21-27.5 (No parking any time, Monday - Friday)

<u>STREET</u>	<u>SIDE</u>	<u>FROM</u>	<u>TO</u>
Gimghoul Rd.	North	A point 50 feet east of the western intersection with Glandon Dr.	Glandon Drive - eastern intersection.

Section II

Add a new subsection 21-27.6 (No parking 8 am - 5 am, Monday - Friday)

<u>STREET</u>	<u>SIDE</u>	<u>FROM</u>	<u>TO</u>
Gimghoul Rd.	South	A point 50 feet east of the western intersection with Glandon Dr.	Glandon Drive - eastern intersection.

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Section III

Add, in appropriate alphabetical order, to Section 21-27 (No parking at any time)

<u>STREET</u>	<u>SIDE</u>	<u>FROM</u>	<u>TO</u>
Gimghoul Rd.	Both	Country Club Rd.	A point 50 feet east of the western intersection with Glandon Dr.

Section IV

Delete from subsection 21-27.1(b) (No parking 8 am - noon, Monday - Friday)

<u>STREET</u>	<u>SIDE</u>	<u>FROM</u>	<u>TO</u>
Gimghoul Rd.	North	Glandon Drive - west intersection.	Gimghoul Castle

Section V

Delete from subsection 21-27 (No parking at any time)

<u>STREET</u>	<u>SIDE</u>	<u>FROM</u>	<u>TO</u>
Gimghoul Rd.	Both	Country Club Rd.	Glandon Dr.
Gimghoul Rd.	South	Glandon Drive	Gimghoul Castle

Section VI

This ordinance shall be effective November 23, 1987.

This the 9th day of November, 1987.

Council Member Howes suggested recessing this meeting until the next evening.

Mayor Wallace suggested voting on the consent agenda and then recessing the meeting. The Council agreed.

Consent Agenda

Council Member Smith asked that item #g be removed.

Council Member Pasquini asked that item #f be removed.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT RESOLUTION 87-11-9/R-13 MINUS ITEMS #F,G, AND H. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolutions and ordinances, as adopted, read as follows:

A RESOLUTION APPROVING VARIOUS ORDINANCES AND RESOLUTIONS (87-11-9/R-13)

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

- a. Deferring Public Hearing on proposed rezoning of Merritt property (R-14).
- b. Section 15 Report (R-15).
- c. TIP Amendment, Grant Application (R-16, 17).
- d. Bookmobile bids (R-18).
- e. Meadowbrook stops (O-3).
- i. McMasters no parking (O-7).

This the 9th day of November, 1987.

Merritt Property Rezoning - Deferring Public Hearing

The resolution, as adopted, reads as follows:

RESOLUTION REMOVING PROPERTY FROM LIST OF AREAS BEING CONSIDERED AT THE NOVEMBER 18, 1987 PUBLIC HEARING (87-11-9/R-14)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the property identified as Chapel Hill Tax Map # 126-D-7 be removed from the list of properties being considered for rezoning at the November 18, 1987 Public Hearing.

This the 9th day of November, 1987.

Section 15 Report

The resolution, as adopted, reads as follows:

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR THE SECTION 15 REPORT (87-11-9/R-15)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Mayor of the Town of Chapel Hill is hereby authorized to enter

into a contract with the firm of Touche Ross and Company for preparation of the Section 15 Report for the 1986-87 fiscal year as required by the Urban Mass Transportation Administration, in an amount not to exceed \$2,250.

This the 9th day of November, 1987.

Transportation Improvement Program Amendment - Grant Application

The resolutions, as adopted, read as follows:

A RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE DEPARTMENT OF TRANSPORTATION, UNITED STATES OF AMERICA, AND THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR GRANTS UNDER THE URBAN MASS TRANSPORTATION ACT OF 1964, AS AMENDED (87-11-9/R-16)

WHEREAS, the Secretary of Transportation is authorized to make grants for mass transportation projects; and

WHEREAS, the contract for financial assistance will impose certain obligations upon the applicant, including the provision by it of the local share of project costs; and

WHEREAS, it is required by the U.S. Department of Transportation in accord with the provisions of Title VI of the Civil Rights Act of 1964, that in connection with the filing of applications for assistance under the Urban Mass Transportation Act of 1964, as amended, the applicant give an assurance that it will comply with Title VI of the Civil Rights Act of 1964 and the U.S. Department of Transportation requirements thereunder; and

WHEREAS, it is the goal of the applicant that minority business enterprise be utilized to the fullest extent possible in connection with these projects, and that definitive procedures shall be established and administered to ensure that minority businesses shall have the maximum feasible opportunity to compete for contracts when procuring construction contracts, supplies, equipment contracts, or consultant and other services;

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

1. That the Town Manager is authorized to execute and file applications on behalf of the Town of Chapel Hill with the U.S. Department of Transportation and the North Carolina Department of Transportation, to aid in the financing of capital planning assistance projects pursuant to Section 9 of the Urban Mass Transportation Act of 1974, as amended.
2. That the Town Manager is authorized to execute and file with such applications any and all assurances or any other documents required by the U.S. Department of Transportation

effectuating the purposes of Title VI of the Civil Rights Act of 1964.

3. That the Town Manager is authorized to furnish such additional information as the U.S. Department of Transportation may require in connection with the applications for the project.
4. That the Town Manager is authorized to set forth and execute affirmative minority business policies in connection with the project's procurement needs.
5. That the Town Manager is authorized to execute grant agreements on behalf of the Town of Chapel Hill with the U.S. Department of Transportation for aid in the financing of the operating, capital, and planning assistance projects.

This the 9th day of November, 1987.

A RESOLUTION AUTHORIZING THE SUBMISSION OF THE TOWN OF CHAPEL HILL'S AMENDED ANNUAL TRANSIT ELEMENT TO THE DURHAM-CHAPEL HILL-CARRBORO TRANSPORTATION ADVISORY COMMITTEE FOR INCLUSION IN THE FY 87/88 TRANSPORTATION IMPROVEMENT PROGRAM (87-11-9/R-17)

WHEREAS, the Town of Chapel Hill is required to have transit projects included in the Annual Transit Element submitted to the Durham-Chapel Hill-Carrboro Transportation Advisory Committee; and

WHEREAS, the Town of Chapel Hill's amended Annual Transit Element will be included in the regional Transportation Improvement Program;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby requests that the Transportation Advisory Committee approve the attached amended Chapel Hill Annual Transit Element to the Transportation Improvement Program for the Durham-Chapel Hill-Carrboro Urban Area.

This the 9th day of November, 1987.

Bookmobile Bids

The resolution, as adopted, reads as follows:

A RESOLUTION ACCEPTING A BID FOR A BOOKMOBILE FOR THE LIBRARY (87-11-9/R-18)

WHEREAS, the Town of Chapel Hill has solicited formal bids by legal notice in The Chapel Hill Newspaper on September 6, 1987, in accordance with G.S. 143-129 for a Bookmobile; and

WHEREAS, the following bids were received and opened on October 6, 1987:

Maroney Body Works Worcester, Massachusetts	\$45,310.25
Thomas Built Buses High Point, North Carolina	\$48,300.00
Medical Coaches, Inc. Oneota, New York	No Bid

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Town accepts the bid of and awards a contract to Thomas Built Buses of High Point, N.C., in the amount of \$48,300.00 for a Bookmobile.

This the 9th day of November, 1987.

Meadowbrook Stop Signs

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING CHAPTER 21 OF THE CODE OF ORDINANCES (87-11-9/O-3)

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

SECTION I

That Section 21-13(c) of the Town Code of Ordinances, Right-of-Way and Stop Regulations, is amended by inserting the following in appropriate alphabetical order:

Intersection(s)
Burlage Circle/Meadowbrook Lane
Meadowbrook Lane/Hoot Owl Lane

SECTION II

This ordinance shall be effective beginning on November 23, 1987.

SECTION III

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

This the 9th day of November, 1987.

McMasters Street Parking Restrictions

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING CHAPTER 21 OF THE CODE OF ORDINANCES
(87-11-9/O-7)

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 in appropriate alphabetical order:

<u>STREET</u>	<u>SIDE</u>	<u>FROM</u>	<u>TO</u>
McMasters Street	North	40 feet west of the centerline of Church Street	15 feet east of centerline of Church Street

SECTION II

This ordinance shall be effective Monday, November 23, 1987.

SECTION III

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

This the 9th day of November, 1987.

Coolidge Street - No Left Turns

Council Member Pasquini said the request for no left turns on Coolidge Street had come from one person. He asked if it only took one person's request to get a no left turn on a street. Manager Taylor responded that the staff had received the request and then studied the area. He said the staff review indicated that a no left turn had merit and therefore the request was put before the Council for consideration.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT ORDINANCE 87-11-9/O-4. THE MOTION PASSED UNANIMOUSLY, (9-0).

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The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING CHAPTER 21 OF THE CODE OF ORDINANCES (87-11-9/O-4)

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

SECTION I

That Section 21-12 of the Town Code of Ordinances, "Turn regulations" is amended by inserting the following in appropriate order:

It shall be unlawful for the driver of any vehicle on Coolidge Street to make a left turn onto South Columbia Street.

SECTION II

This ordinance shall be effective Monday, November 30, 1987.

SECTION III

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

This the 9th day of November, 1987.

Shadowoods - No Left Turns

Council Member Smith asked for clarification of this proposal. Manager Taylor responded that what this ordinance would do would be to make no left turns from Shadowoods part of the traffic ordinance and thereby allow the Police to enforce the no left turn restriction.

COUNCIL MEMBER SMITH MOVED, SECONDED BY COUNCIL MEMBER HOWES TO ADOPT ORDINANCE 87-11-9/O-5. THE MOTION PASSED UNANIMOUSLY, (9-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING CHAPTER 21 OF THE CODE OF ORDINANCES (87-11-9/O-5)

BE IT ORDAINED by the Council of the Town of Chapel Hi;;;:

SECTION I

That Section 21-12 of the Town Code of Ordinances, "Turn regulations" is amended by inserting the following in appropriate order:

It shall be unlawful for the driver of any vehicle emerging from the driveway of Shadowoods Apartments, located 580 feet north of the centerline of Estes Drive, to make a left turn onto Airport Road (N.C. 86).

SECTION II

This ordinance shall be effective Monday, November 30, 1987.

SECTION III

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

This the 9th day of November, 1987.

Board/Commissions - Orange County Human Relations Commission

Council Member Thorpe commented that he and Council Member Preston had been asked to locate two candidates to represent Chapel Hill on the Orange County Human Relations Commission. He proposed that the Council nominate Joe Straley and Lyman Ford for the two seats.

COUNCIL MEMBER THORPE MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO NOMINATE JOE STRALEY AND LYMAN FORD TO SERVE AS CHAPEL HILL REPRESENTATIVES ON THE ORANGE COUNTY HUMAN RELATIONS COMMISSION. THE MOTION PASSED UNANIMOUSLY, (9-0).

COUNCIL MEMBER HOWES MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO RECESS THE MEETING UNTIL 7:30 P.M., TUESDAY, NOVEMBER 10. THE MOTION PASSED UNANIMOUSLY, (9-0).

The meeting recessed at 11:08 p.m.

