

MINUTES OF A REGULAR MEETING OF THE MAYOR AND COUNCIL
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,
MONDAY, JANUARY 11, 1988, 7:30 P.M.

Mayor Jonathan B. Howes called the meeting to order. He said this was the first regular meeting of the Council for 1988. He said the agenda planned for tonight was extremely long and that the Council would be continuing this meeting to January 13. Council Members present were:

- Julie Andresen
- David Godschalk
- Joe Herzenberg
- David Pasquini
- Nancy Preston
- James Wallace
- Arthur Werner
- Roosevelt Wilkerson, Jr.

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

Resolution Honoring Richard Whitted

Mayor Howes read a resolution honoring the life and memory of Richard E. Whitted.

COUNCIL MEMBER HERZENBERG MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 88-1-11/R-1. THE MOTION PASSED UNANIMOUSLY.

Mayor Howes introduced Mr. Clyde Whitted, Richard Whitted's father, and presented him with a copy of the resolution. Mr. Whitted thanked the Council for their actions and introduced other members and friends of the Whitted family that were in attendance.

The resolution, as adopted, reads as follows:

A RESOLUTION HONORING THE LIFE AND MEMORY OF RICHARD WHITTED (88-1-11/R-1)

WHEREAS, Mr. Richard E. Whitted was first elected to the Orange County Board of Commissioners in 1972, becoming the first Black member of the Board; and

WHEREAS, Richard E. Whitted served as Chairman of the Board of Commissioners for five one-year terms before retiring from the Board in 1984; and

WHEREAS, Mr. Whitted served on the Governor's Crime Commission, the Governor's Task Force on Domestic Violence in the Orange-Person-Chatham Mental Health Authority and the Orange-Durham Coalition for Battered Women; and

WHEREAS, Mr. Whitted was named Outstanding County Commissioner in 1983 by the North Carolina Association of County Commissioners; and

WHEREAS, Mr. Whitted served as Chairman and as a member of the Board of Delegates of the Triangle J Council of Governments, and chaired the Council of Government's Housing Committee; and

WHEREAS, the Richard E. Whitted Foundation has been established to provide scholarships to graduating high school seniors in both Orange County public school systems; and

WHEREAS, Mr. Whitted's warmth and his caring for people in his work and in his many friendships made him a special person and endeared him to the citizens of Orange County; and

WHEREAS, Mr. Whitted's untimely passing at the age of 43 has deprived Orange County of one of its most able public servants;

NOW THEREFORE BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council mourns the loss of

Mr. Richard E. Whitted

and honors his memory by officially recognizing the many contributions he made as one of Orange County's most devoted and respected public servants.

BE IT FURTHER RESOLVED that this resolution shall be included in the official minutes of the Council.

This the 11th day of January, 1988.

Petitions

Floyd McKissick, Jr. and Harry Poole asked to speak to agenda item #8, Cloverleaf Zoning.

Steve Patty, Richard Soloway, Watts Hill, Jr., and Paul Brandeis asked to speak to agenda item #5, 15-501 Bypass.

Watts Hill, Jr. asked to speak to agenda item #6, Rosemary Square deadline extension.

Joe Nassif asked to speak to agenda item #7, Rezoning.

Verla Insko, representing the Orange County Mental Health Association, petitioned the Council for a one-time monetary contribution of \$500 to help defray the costs of presenting a workshop on "The Humane Workplace". She said the purpose of the workshop was to promote positive, productive workplace settings. Ms. Insko stated that the petition had been presented to the Human Services Advisory Board for consideration. (For a copy of the petition, see the Clerk's files.)

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER WALLACE TO RECEIVE THE PETITION AND REFER IT TO THE MANAGER. THE MOTION PASSED UNANIMOUSLY, (9-0).

Dr. Dan Matthews, representing the Board of Trustees for the Janus Treehouse, petitioned the Council to request the organization be moved up on the schedule of special use permit public hearings. He said the organization who had been looking for a location to move their operations, had located a house in Dogwood Acres and had initiated closing proceedings when it discovered that it would need a special use permit. He said the earliest the current schedule allowed was in May and that this delay could mean the organization would lose the house and earnest money already spent in order to purchase the house.

Council Member Preston asked the Manager what was the normal procedure for special use permit requests. Manager Taylor replied that normally, as special use permit requests were made they were placed on a schedule for hearings before the Planning Board and subsequently the Council. He said generally it was a first applied, first scheduled situation.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO RECEIVE THE PETITION AND REFER IT TO THE MANAGER FOR A REPORT BY JANUARY 25. THE MOTION PASSED UNANIMOUSLY, (9-0).

Council Member Godschalk commented that by splitting the agenda planned for that evening, it was creating a lot of confusion and he hoped that this would not continue to occur.

Council Member Preston said she wanted to personally thank the Public Works employees for their outstanding job during the recent snow storm.

Mayor Howes agreed with Council Member Preston and said that he had received several complements from citizens on the Town's efforts.

Minutes

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT THE MINUTES OF NOVEMBER 10, 1987 COUNCIL WORK SESSION AS CIRCULATED. THE MOTION PASSED UNANIMOUSLY, (9-0).

Council Member Preston commented that there were spelling errors on page 3 and 4 of the December 7 minutes.

COUNCIL MEMBER PASQUINI MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG TO ADOPT THE MINUTES OF DECEMBER 7, 1987 AS CORRECTED. THE MOTION PASSED UNANIMOUSLY, (9-0).

15-501 Bypass Environmental Assessment and Design

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Manager Taylor stated that the Town had worked hard to get 15-501 Bypass on the NCDOT's Transportation Improvement Program and that funding for the project had been aided through a bond referendum passed by citizens of the Town. He said NCDOT had agreed to move the project up on their schedule and had begun the environmental assessment impact report. Manager Taylor commented that there had been several public meetings on the proposed improvements and that the major concerns which had been indicated were the median width and landscaping, access for bicycles and pedestrians, intersection improvements at Manning Drive and South Columbia and the noise levels. He asked Frank Vick of NCDOT and Larry Meisner of Kimley Horn to give a presentation on the status of the environmental assessment.

Frank Vick, representing NCDOT, commented that the Council had received copies of the environmental assessment report and that the memorandum in the Council's packet summarized the findings. He said NCDOT would like to submit the assessment to the State Board of Transportation and Federal Highway Administration for approval, but would first like support for the assessment report from the governing bodies of Chapel Hill and Carrboro. He stated that if the report received a finding of no significant environmental impact then the staff would proceed with engineering designs for the Bypass improvements.

Larry Meisner, representing Kimley-Horn, consultants contracted by NCDOT to prepare the conceptual design alternatives and environmental assessment, gave a synopsis of what had occurred in preparing the environmental assessment. He pointed out that there had been four meetings to solicit public input and comments from February, 1987 to November, 1987. He said the staff had taken the comments and incorporated many of them into the proposal. Mr. Meisner said the proposal looked at the road design for the next 20 years, with four lanes and intersection improvements. He pointed out that the current road west of S. Columbia Street was centered within a 100' right-of-way and that east of S. Columbia Street the road was offset within a 200' right-of-way. Mr. Meisner said the staff and citizens had reviewed proposals ranging from doing nothing to five lanes with no median. He stated that the current proposal called for four lanes with a 24' landscaped median and 4' paved shoulders for bicycle usage. He said the median was planned to have curb and gutter in order to delineate the median from the travel lanes, to avoid usage for U-turns and parking, and the outside travel lanes would generally not have curb and gutter.

Council Member Godschalk asked in which direction was the road offset east of S. Columbia Street. Mr. Meisner replied the road was offset to the east and south.

Council Member Werner asked if the project was proposed to meet the traffic volumes for the next twenty years. Mr. Meisner said that most of the bypass, with the improvements would meet the estimated traffic volumes except in those areas of high traffic use like Manning Drive and NC 54 intersections.

Council Member Werner said that the proposal was for no curb and gutters along the outside travel lanes except in a few places. He asked what would happen to the bike lanes at those places. Mr. Meisner responded that he was not sure but would not expect for the bike lanes to cease at these points but rather would probably be located outside of the curb and gutter.

Council Member Preston asked if Mr. Meisner could point out any examples of 24' medians in the area. Mr. Meisner responded that South College Drive in Wilmington was the only one he could think of and that generally NCDOT constructed 30' medians.

Council Member Preston said that there had been concerns, especially from the Botanical Gardens, on the noise pollution that was expected from the road improvements. She asked if NCDOT had any plans as to how to deal with these problems. Mr. Vick responded that the studied showed that generally there would not be an excessive amount of noise pollution as a result of the improvements, except for possibly in the area of the Botanical Gardens and that NCDOT was to meet with the staff of the Botanical Gardens to discuss methods of how to further minimize the potential impact.

Council Member Preston asked if consideration had been given to creating underpasses for pedestrian crossings and if such underpasses could be lighted through skylights within the median. Mr. Meisner said the staff had discussed this issue and were considering the possibility of extending a culvert in an effort to provide such a crossing but that there were problems with crossing streams and wetlands and also the problems of safety, etc. He stated generally there were intersections near the areas of the greenway where citizens would want to cross the Bypass which could be signalized for pedestrian crossings.

Council Member Andresen said she was also concerned about pedestrian crossings of the Bypass, especially near the Botanical Gardens. She hoped NCDOT would not clear-cut trees in the right-of-way during construction which did not interfere with sight distances, etc. Mr. Meisner and Mr. Vick said the staff had discussed this and did not intend to cut any trees that were not necessary to cut and that NCDOT would be landscaping areas that were disturbed in order to lessen the visual impact.

Council Member Preston asked who would landscape the median. Mr. Vick replied that he felt NCDOT would provide some funding and would work with the communities to provide adequate landscaping.

Steve Patty, speaking as a resident, spoke against the Bypass widening, especially with a landscaped median of which there were no examples from which to review. He said he felt the widening of the Bypass would only encourage speeding traffic which would endanger pedestrians who use the roadways. He pointed out that there were no cost projections for the installation or maintenance of the median and it was not specific as to who would maintain the median.

Richard Soloway, speaking as a resident and President of Kings Mill Homeowners Association, said the Association supported the need for additional traffic lanes on the Bypass however they felt the encroachment needed to be kept to a minimum to protect the trees and Botanical Garden. He said he felt the proposal with the 24' median and additional 22' shoulders would unnecessarily destroy the area. He said he would prefer that NCDOT consider using variable width medians, like the area on NC 54 in front of the General Administration Building.

Watts Hill, Jr., speaking as a resident, spoke in support of the proposed widening of the Bypass. He said the Council represented the Town as a whole and that the citizens of Chapel Hill had shown their support for the widening through the passage of the bond referendum and therefore did not need to attend all of these meetings to reinforce their commitment to the project. He said he felt there could be improvements to the proposal with regard to Manning Drive intersection and that the University, with the Student Activities Center, should help fund additional improvements since they were the major source of additional traffic in that area. (For a copy of text, see Clerk's files.)

Paul Brandeis, speaking as a resident, said he had voted in favor of the bond referendum and supported a median, but the size of the median was what he questioned. He said he would prefer a variable median. He suggested another meeting with the Town and NCDOT to discuss this possibility.

Council Member Andresen said she would prefer the Council delay action on this item until January 25 and that there be an opportunity at that meeting for citizens to further speak on this matter.

Council Member Preston commented that the Council needed to take action soon. She asked what affect, if any, would the Council's decision to delay action until January 25 have on the project.

Mayor Howes said he thought the Town and Council would have the opportunity throughout the process for input. He asked if the Council would be able to have input on the final design. Mr. Vick responded that what NCDOT was requesting was approval from the Council on the conceptual design which included a four-lane highway with a 24' divided median. He said that once the environmental assessment report was approved by the State Board of

Transportation and Federal Highway Administration, NCDOT would go forward with the engineering design and right-of-way purchases where needed. He said that the staff could continue to look at the possibility of a variable width median in certain areas, but that preliminary studies showed that it would not be recommended.

Council Member Werner asked if the Manager or DOT could provide a reasonably detailed map of the current right-of-way, where the road was planned and the location of homes. Manager Taylor said that the staff could provide the aerial maps showing the road and right-of-way, but could not yet show any engineering drawings since design had not yet reached that stage.

Mayor Howes said the Council needed to be assured that the Town would have further input in the preliminary and final engineering drawings. Manager Taylor replied that he did not think NCDOT would grant the Town the approval/veto power on the project but that he felt NCDOT would allow for continued input into the decision making process. He said the resolution could include a statement regarding review of the engineering designs, staking the construction area and planting shrubs along the construction border.

Council Member Wallace asked what was the deadline for preparing detailed designs. Mr. Vick responded that the schedule indicated that with the environmental impact report approved in February they hoped to have the construction contract on line by fiscal 1989.

COUNCIL MEMBER WALLACE MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO DEFER ACTION UNTIL JANUARY 25, 1988 AT WHICH TIME A PUBLIC FORUM WOULD BE HELD. THE MOTION PASSED UNANIMOUSLY, (9-0).

Council Member Preston stated that she would like illustrations of various median widths and further information on the Manning Drive intersection and the University's role in the situation.

Rosemary Square

Manager Taylor stated that the Council at the retreat last Saturday, had asked for information on the Securities and Exchange Commission (SEC) process and a timetable for the steps necessary for closing. He said the Fraser Development Company had provided a memorandum addressing these issues.

Walter Daniels, representing Fraser Development Company, discussed the process for filing with the SEC and the estimated timetable necessary for closing. He stated that this was the first time the Company had requested an extension in response to problems with their portion of the development agreement. He said the previous extensions had been in response to changes in design requested by the Town and the lawsuit. (For copy of memorandum, see Clerk's files.)

Council Member Werner asked if Fraser Development Company needed to get approval from the SEC. Mr. Daniels responded yes, that the SEC would hopefully grant approval and once the registration became effective, then the securities could be sold.

Council Member Wallace asked what was the current status with OWASA with regard to water and sewer service for the project. Mr. Daniels responded that the company had reached an agreement with OWASA and that the development company would provide an indemnification to OWASA. He said the engineering drawings had been approved subject to some minor changes and that OWASA had requested some working drawings for service during construction.

Council Member Wallace asked if OWASA had requested that the development company to notify persons who have laterals in the alley regarding the intention to alter the line and reconnect them. Mr. Daniels replied that the company had been asked by OWASA to do this and have agreed. He said he anticipated letters going to those individuals in the next few days.

Council Member Wallace commented that the Town had been unable to get any information from the SEC other than that Fraser Development Company had filed with them. He asked what was Fraser Development Company's judgement as to what the SEC's attitude was concerning the request. Mr. Daniels said that the SEC had simply given a letter back to the company asking for clarifications with respect to the closing date with the Town, information on finalizing the appraisal and market study and other questions of clarification.

Council Member Wallace said the Town Attorney had certified a series of questions to the Town's attorneys for the Rosemary Square project. He said the attorneys stated they could not find any language necessitating time being of the essence and that the developer should be allowed a reasonable time of extension. He said that if an extension were granted, he felt the language should include statements relating to the essence of time and that this would be the last extension.

Mr. Daniels replied that barring any extraordinary occurrence, the development company did not foresee requesting any further extensions. He pointed out that each delay in the project was costing the developers as well as the Town.

Ralph Karpinos, Town Attorney, said there had been a number of letters back and forth among the participants and questions and answers had been given. He said he had provided the Town's attorneys, Womble, Carlyle, Sandridge and Rice, the letter from the Fraser Development Company outlining the reasons for requesting the extension and he said he had asked the attorneys to address the facts in the letter as to whether or not they established grounds for requesting an extension as well as whether their arguments for the ten month period of extension constituted a reasonable period of time. Mr. Karpinos said that he had reported to the Council on Saturday the basic conclusions that the developer had made a good case for justifying the activities

having been carried out in good faith and with reasonable diligence and therefore good grounds for granting an extension, and the attorneys said that there appeared to be the possibility of some overlap of time and that it might be possible for the Town to negotiate with the developer and possibly arrive at some period of time for an extension less than the amount first indicated by the developer. He stated that, however, the attorneys had not seen the letter from the development company provided to the Council today which went into more detail as to the reasons why the ten-month period was necessary. He stated that what the attorneys had stated, basically, was that the development company was entitled to an extension by the Council announcing that evening when the deadline would be, or by some negotiated time period, and that the attorneys and he felt the Town would be in a substantially stronger position if the Town identified that final deadline by a mutual agreement than by the Town unilaterally deciding what "reasonable time" was.

Council Member Wallace spoke in support of negotiating with the developer for a closing deadline earlier than November 30 and expressing language relating to time being of the essence.

Mr. Daniels reiterated that the previous extensions had been necessary to accommodate the public interest in the project; in negotiating the development agreement; changes in the design; and the lawsuit on the constitutionality of the Town's actions. He stated that this was the first time the development company was requesting an extension due to the private part of the project. Mr. Daniels stated that the development company felt November 30, 1988 was a reasonable amount of time necessary for closing and that if it could finish the items necessary to be completed prior to closing before November 30 then it would wish to close earlier.

Council Member Godschalk said that the letter the Town had received from the Town's attorneys stated that although the Town might negotiate a shorter extension of time than that requested by the developer, there would be an advantage to the Town in agreeing to the exact extension requested by the developer. He said the attorneys stated that by agreeing to such an extension the Town would be placing the developer on notice that the Town demanded strict performance of the development agreement and default of which the Town would terminate the development agreement without further liability. He said he felt this was a clear recommendation from the Town's attorneys and that it would be to the Town's advantage to go ahead and grant the extension as requested and attach to that a statement that beyond that the Town would have no further obligation. He suggested the Council adopt resolution R-3b with the added phrase that the closing deadline be extended to November 30, 1988, and that the Town had no further obligation to approve further extensions of the closing deadline beyond November 30, 1988 barring further delays resulting from lawsuits or other acts outside of the control of the Town or development company.

Council Member Werner stated that the Town had received a lot of correspondence on this matter over the last week and that the Council needed time to discuss all the issues. He suggested that the Council appoint a committee to negotiate with the developer a mutually agreeable extension to the closing deadline and a time of the essence condition and report back to the Council on January 25.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 88-1-11/R-3B WITH AN ADDITIONAL PHRASE THAT "... NO OBLIGATION TO APPROVE ANY FURTHER EXTENSION OF CLOSING DEADLINE BEYOND NOVEMBER 30, 1988, BARRING FUTURE DELAYS RESULTING FROM LAWSUITS OUTSIDE OF THE CONTROL OF THE TOWN OR DEVELOPMENT COMPANY.."

Council Member Godschalk asked the staff for comments on his motion.

Attorney Karpinos said that he had had a prepared statement for the Council, one point of which, dealt with the idea of establishing time by mutual consent and then refusing to grant any further extensions. He said that whether or not the Council granted the extension, the Council could unilaterally state that after a period of time the Town would not grant any more extensions, therefore the only issue would be determining what constituted a reasonable amount of time. He said the proposed resolution did this by an amendment to the development agreement. He said that he thought that if something did happen that was so unexpected or extraordinary after a time of the essence clause had been established and that there was a clear deadline, the law would probably say under those circumstances that the party should be allowed some additional time due to the extraordinary event. He said that as such he was not sure the additional phrase was inappropriate nor was he sure that it was necessary.

Council Member Godschalk stated that he did not think lawsuits were extraordinary events in Chapel Hill. Attorney Karpinos responded that could be a good reason for including the phrase on that basis. He said a lawsuit which had the effect of delaying the project would be cause for a valid extension whereas a lawsuit on the project which did not affect the timing of the project. Council Member Godschalk stated that this was why he had phrased the amendment so that it would say delays resulting from lawsuits. Attorney Karpinos stated that the implication of this would be that the lawsuits would have the effect of delaying the project and not simply filed and by definition constituted a delay.

Mayor Howes commented that it appeared to him that this indicated that the Council recognized that lawsuits would be the one potential impediment that it would contemplate.

Council Member Wallace said that this could however mean that a party could get an individual to file a lawsuit in order to extend the deadline. Attorney Karpinos agreed but pointed out that the lawsuit would have to be one which would in fact delay the project and not one over an immaterial issue.

Council Member Godschalk said that if the Council did form a committee and negotiated a month off the requested deadline, the Manager had indicated at the Council's retreat that this would not necessarily be beneficial to the Town and therefore he felt it might be better to agree to the developer's requested extension.

Council Member Preston agreed with Council Member Godschalk and said that the Manager had indicated that a delay in the closing deadline would work in the favor of the Town with all the things which needed to be completed in order for closing. She also asked for clarification on time of the essence clauses and the granting of further extensions. Mr. Karpinos responded that even with a time of the essence clause, there could be occasions, such as extraordinary events, which the courts would see as being valid grounds for extending deadlines. He said the Council if it adopted the resolution as amended would indicate that lawsuits beyond the control of the Town or developer which delayed the project would be an event which the Town would consider valid for a reasonable extension, and that this was something the developer indicated would be satisfactory. He further stated that if something else arose, the Council would have to deal with it at that time and see if it were something which would justify an extension. Mr. Karpinos stated the staff would have to research the issue based on the facts of that extraordinary circumstance.

Council Member Pasquini said the information on the SEC filing was adequate but that he did not see within the information provided on the timetable for the project any reason for the delay. He said he would prefer more detailed information than the bar charts to aid him in evaluating the situation.

Manager Taylor responded that the detailed letter of January 6 along with the bar charts showed the need for approximately nine months to accomplish the tasks necessary for closing. Council Member Pasquini said he did not see the justification for the nine month extension in the information provided. He also said that he was not in favor of the resolution as amended because he felt it further confused the issue. He said there could be lawsuits which would benefit the Town.

Mayor Howes said he also had some reservations about the amendment to the resolution.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN FOR A SUBSTITUTE MOTION THAT A COMMITTEE BE APPOINTED TO NEGOTIATE A MUTUALLY AGREEABLE, REASONABLE CLOSING DATE AND A TIME OF THE ESSENCE CONDITION, AND REPORT BACK TO THE COUNCIL NO LATER THAN JANUARY 25.

Council Member Werner commented that the statements that the extension would be beneficial to the staff were not exactly true in that closing unless an extension was granted would be February 29.

Manager Taylor stated that the Town and staff were moving ahead with the plans for closing on February 29 if the Council could take specific actions necessary to facilitate this matter. He said, however, that if the Council chose to extend the deadline for closing, he would prefer that the closing not occur on September 30. Manager Taylor said the reason for this, was that in the 45 days prior to closing the staff would need to be working on the project and the Council would have to make certain decisions and that if closing was scheduled for September 30, the 45 days prior was when the Council and much of the staff took vacations. He stated that the staff was prepared to close on February 29.

Mr. Daniels stated that he would prefer that the Council adopt the resolution extending the deadline for closing to November 30. He said the company planned to file further documents with the SEC on January 27.

Mayor Howes asked the Mr. Daniels if he felt there could be an earlier deadline for closing. Mr. Daniels responded that the development company had analyzed the situation and the steps needed to be completed prior to closing and felt that the November 30, 1988 extension was a reasonable time. He said that if the company could accomplish the tasks prior to that time then it would go to closing sooner, but that the amount of time was a reasonable amount. He said how long it took to sell the project would be the key to the length of time actually necessary.

Attorney Karpinos said that if reasonable time were established unilaterally the Town would expose itself to some risk. He said that there were advantages to the Town in reaching a mutual agreement, especially when such a strong case had been made by the developer that the extension request was a reasonable amount of time. He said that it gave the Town the strong position that if the developer could not meet the deadline then the Town could terminate the agreement if that be the desire of the Council. He said there were certain advantages the Town would gain as to any future possibilities by accepting the case that had been made at that time. Mr. Karpinos said this was particularly true as the developer had indicated that even with the Committee no earlier time would be acceptable.

Mayor Howes asked Council Member Werner what he thought would eventuate if the date that was mutually agreed upon was the date of November 30. Council Member Werner said that this was certainly possible and that the purpose of his motion was for further review of the information received over the last week. He said that he would prefer that the committee review the information and report back to the Council and that if they indicate that November 30 was a reasonable time, then that was fine, but that he would like them to look at it.

Council Member Wilkerson asked if the Council were saying that it would abide by the recommendation of the committee, if the committee were appointed. Mayor Howes replied no.

Council Member Godschalk said that Mr. Daniels had indicated that his staff had researched this matter and used their professional judgement to determine how long it would take them to accomplish the tasks necessary for closing. He said that he did not think anyone on the Council had professional experience in this matter and as such he did not feel the Council had grounds for substituting the Council's non-professional opinion on this issue. He said by delaying action until January 25 the Council was further delaying the process. He said he was willing to remove the amendment from his motion with regard to lawsuits being acceptable reasons for extending the deadline for closing.

THE SUBSTITUTE MOTION TO CREATE A COMMITTEE CARRIED, (5-4), WITH COUNCIL MEMBERS GODSCHALK, PRESTON, WILKERSON AND MAYOR HOWES VOTING AGAINST.

THE MOTION, AS SUBSTITUTED, CARRIED, (5-4), WITH COUNCIL MEMBERS GODSCHALK, PRESTON, WILKERSON AND MAYOR HOWES VOTING AGAINST.

Mayor Howes suggested that the Council Members Preston and Werner, Town Manager Taylor and Town Attorney Karpinos for the committee with the Manager to convene the group. The Council agreed.

Manager Taylor said agenda #6b dealt with the obligations necessary for the developer and Town to proceed to closing on February 29. He said that if the Council extended the deadline for closing then these items could be dealt with at that time.

Council Member Pasquini asked for clarification on the plaza easement and an agreement for a farmer's market and a limit on the Town's authority on what kind of vending would be allowed in that area.

Town Attorney Karpinos said he would like to ask the developer if he had any problems with the delay. He said the Town had an obligation under the current agreement to proceed to closing and to act in good faith and if the developer needed these documents next week in order to file something, and if the Town by not acting this evening were causing a delay, he felt this could have a negative effect on the Town's standing.

Mr. Daniels said that the company's position was that it wanted to get as much done as soon as possible. He said in response to Council Member Pasquini's question on the farmers' market, the company had spent many weeks working out the arrangement. He stated the Town had indicated it did not want to be in the business of regulating vendors because of the difficulty of discriminating among vendors on public streets. Mr. Daniels said the agreement provided for commercial rights on the plaza to be managed by the development company. He commented that it was the

company's intent to have street vendors that would be regulated as part of the commercial process. Mr. Daniels said with regard to the items in agenda #6b, that the company would prefer the Council vote on the items that evening and that each was a material exhibit for the SEC review.

Council Member Pasquini asked if the agreements and leases would be valid unless closing occurred. Manager Taylor responded that the documents would not be valid unless closing occurred. Attorney Karpinos replied that documents would be executed and transferred when the money and title were transferred. He said adoption of the resolutions would approve the form and content and authorized the execution of the documents, but unless closing occurred they would not be executed. He said his concern was that if by the Council not approving the documents that evening it caused the developer further delay then that might be another reason why the developer might ask for additional time during this negotiation or at some further point.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT RESOLUTION 88-1-11/R-4.1. THE MOTION CARRIED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION APPROVING, AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE TOWN AND DIRECTING THE TOWN ATTORNEY TO DELIVER AT CLOSING THE AIR SPACE DEED FOR ROSEMARY SQUARE (88-1-11/R-4.1)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby approves, authorizes the Mayor to execute on behalf of the Town, and directs the Town Attorney to deliver at closing the Air Space Deed for Rosemary Square in substantially the form submitted by the Town Manager to the Council for the Council's January 11, 1988 meeting; and authorizes said execution of the Air Space Deed with minor modifications in the final form of the Air Space Deed subject to approval by the Town Attorney or other counsel to the Town.

This the 11th day of January, 1988.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 88-1-11/R-4.2. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION APPROVING, AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE TOWN, AND DIRECTING THE TOWN ATTORNEY TO DELIVER AT CLOSING THE PARKING SPACE DEED FOR ROSEMARY SQUARE (88-1-11/R-4.2)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby approves, authorizes the Mayor to execute on behalf of the Town, and directs the Town Attorney to deliver at closing the Parking Space Deed for Rosemary Square in substantially the form submitted by the Town Manager to the Council for the Council's January 11, 1988 meeting; and authorizes said execution of the Parking Space Deed with minor modifications in the final form of the Parking Space Deed subject to approval by the Town Attorney or other counsel to the Town.

This the 11th day of January, 1988.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT RESOLUTION 88-1-11/R-4.3.

Council Member Herzenberg asked why the deed for the parking space was for 80 years but the ground lease was only for 40 years? Manager Taylor replied that during the 1st 40 years the developer would own the 188 private parking spaces and would lease the ground. He said the during the next 40 years the developer would lease the parking spaces from the Town. He said the parking space lease was only for the the years 2028 to 2068.

THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION APPROVING, AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE TOWN, AND DIRECTING THE TOWN ATTORNEY TO DELIVER AT CLOSING THE PARKING LEASE FOR ROSEMARY SQUARE (88-1-11/R-4.3)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby approves, authorizes the Mayor to execute on behalf of the Town, and directs the Town Attorney to deliver at closing the Parking Lease for Rosemary Square in substantially the form submitted by the Town Manager to the Council for the Council's January 11, 1988 meeting; and authorizes said execution of the Parking Lease with minor modifications in the final form of the Parking Lease subject to approval by the Town Attorney or other counsel to the Town.

This the 11th day of January, 1988.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO ADOPT RESOLUTION 88-1-11/R-4.4. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION APPROVING, AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE TOWN, AND DIRECTING THE TOWN ATTORNEY TO DELIVER AT CLOSING THE GROUND LEASE FOR ROSEMARY SQUARE (88-1-11/R-4.4)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby approves, authorizes the Mayor to execute on behalf of the Town, and directs the Town Attorney to deliver at closing the Ground Lease for Rosemary Square in substantially the form submitted by the Town Manager to the Council for the Council's January 11, 1988 meeting; and authorizes said execution of the Ground Lease with minor modifications in the final form of the Ground Lease subject to approval by the Town Attorney or other counsel to the Town.

This the 11th day of January, 1988.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER WILKERSON TO ADOPT RESOLUTION 88-1-11/R-4.5. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION APPROVING, AUTHORIZING THE MAYOR TO SIGN ON BEHALF OF THE TOWN, AND DIRECTING THE TOWN ATTORNEY TO DELIVERY AT CLOSING THE PLAZA EASEMENT FOR ROSEMARY SQUARE (88-1-11/R-4.5)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby approves, authorizes the Mayor to execute on behalf of the Town, and directs the Town Attorney to deliver at closing the Plaza Easement for Rosemary Square in substantially the form submitted by the Town Manager to the Council for the Council's January 11, 1988 meeting; and authorizes said execution of the Plaza Easement with minor modifications in the final form of the Plaza Easement subject to approval by the Town Attorney or other counsel to the Town.

This the 11th day of January, 1988.

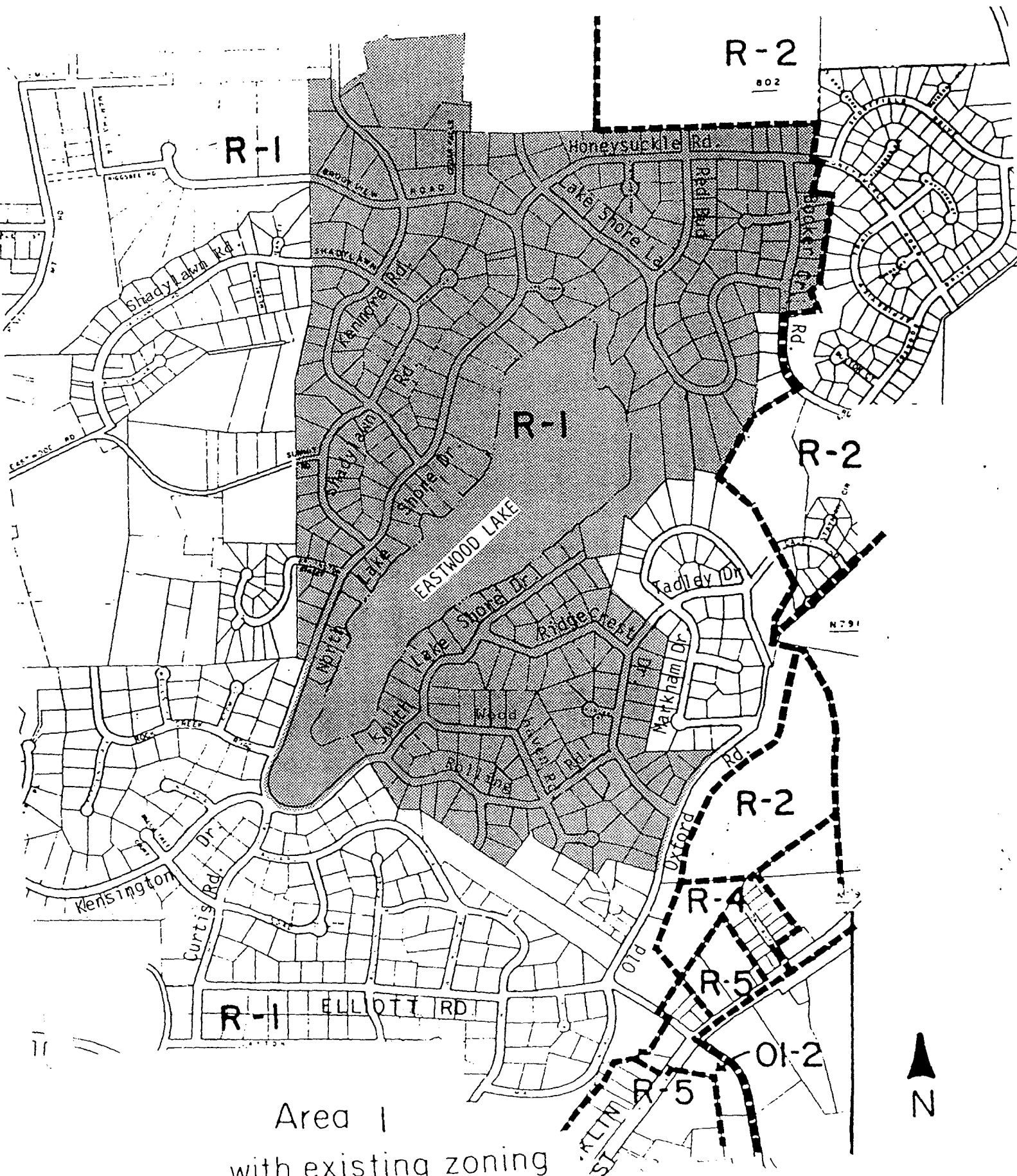
Comprehensive Rezoning

Area 1: Lake Forest

Council Member Andresen commented that she had spoken with the President of the Lake Forest Homeowners Association and that she had indicated that there was not a consensus among the homeowners in favor of the R-1a zoning.

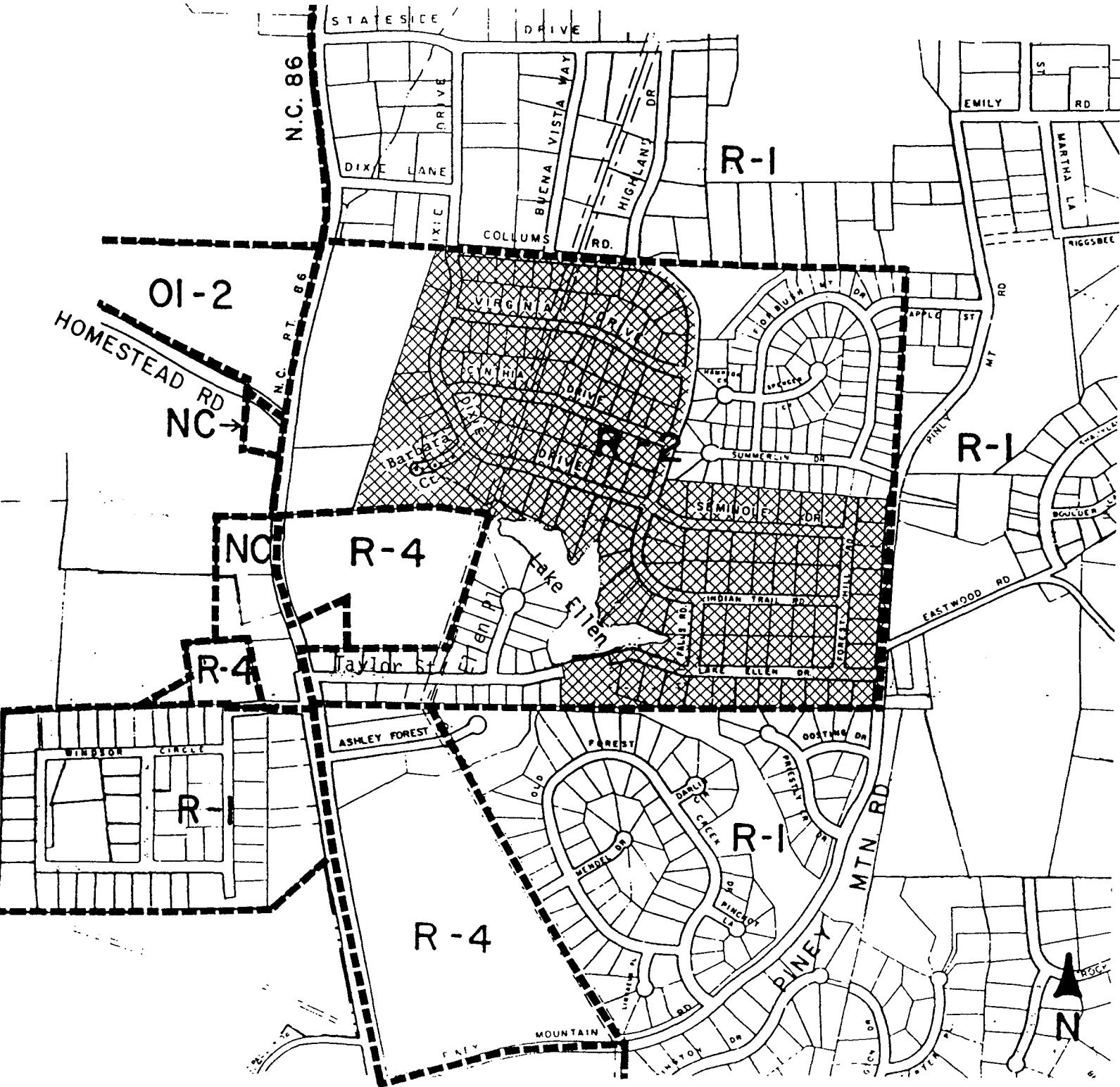
AREA 1

The shaded portion of the following map is "Area 1."



AREA 2

The shaded portion of the following map is "Area 2."



Area 2
with existing zoning



COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG TO ADOPT RESOLUTION 88-1-11/R-5, TO RETAIN THE CURRENT R-1 ZONING. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION DENYING A PROPOSAL TO REZONE PROPERTY - AREA 1, LAKE FOREST (88-1-11/R-5)

WHEREAS the Chapel Hill Town Council has considered a proposal to rezone property from R-1 to R-1A, such property labeled as Area 1 on the attached map; and

WHEREAS the Council does not find it appropriate to rezone this property in this manner at this time;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that it denies the proposal to rezone this property as indicated above.

This the 11th day of January, 1988.

Area 2: North Forest Hills

Council Member Pasquini asked to be excused from voting on this issue as he owned property in the area under consideration for rezoning. The Council agreed.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER WALLACE TO ADOPT ORDINANCE 88-1-11/O-2, TO REZONE THE AREA TO R-1. THE MOTION PASSED UNANIMOUSLY, (8-0, WITH ONE ABSTENTION).

The ordinance, as adopted, reads as follows:

AN ORDINANCE REZONING PROPERTY - AREA 2, NORTH FOREST HILLS (88-1-11/O-2)

WHEREAS, the Chapel Hill Town Council adopted a Land Use Plan in July, 1986; and

WHEREAS, this Land Use Plan is a component of the Town's Comprehensive Plan; and

WHEREAS, the Town Manager and Planning Board have identified areas on the Town's Zoning Atlas where existing zoning is not consistent with the Comprehensive Plan; and

WHEREAS, owners of property to be considered for rezoning, as well as owners of property adjacent to those being considered for rezoning, have been notified of these proposals to rezone property;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that the Chapel Hill Zoning Atlas be amended as indicated on the attached map labeled as Area 2, rezoning from

R-2 to R-1; such amendment being necessary to achieve the purposes of the Comprehensive Plan.

This the 11th day of January, 1988.

Area 3: Estes Hills, single lot

Council Member Andresen said that she thought this lot had been included at her request but that the lot she had indicated for possible rezoning was not the one under consideration.

COUNCIL MEMBER ANDRESEN MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG TO ADOPT RESOLUTION 88-1-11/R-7, TO RETAIN THE CURRENT R-1 ZONING. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION DENYING A PROPOSAL TO REZONE PROPERTY - AREA 3, SINGLE LOT, ESTES HILLS (88-1-11/R-7)

WHEREAS the Chapel Hill Town Council has considered a proposal to rezone property from R-1 to R-1A, such property labeled as Area 3 on the attached map; and

WHEREAS the Council does not find it appropriate to rezone this property in this manner at this time;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that it denies the proposal to rezone this property as indicated above.

This the 11th day of January, 1988.

Area 8b: Parker Road/Morgan Creek

COUNCIL MEMBER HERZENBERG MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT ORDINANCE 88-1-11/O-4, TO REZONE THE AREA TO RT. THE MOTION PASSED UNANIMOUSLY, (9-0).

The ordinance, as adopted, reads as follows:

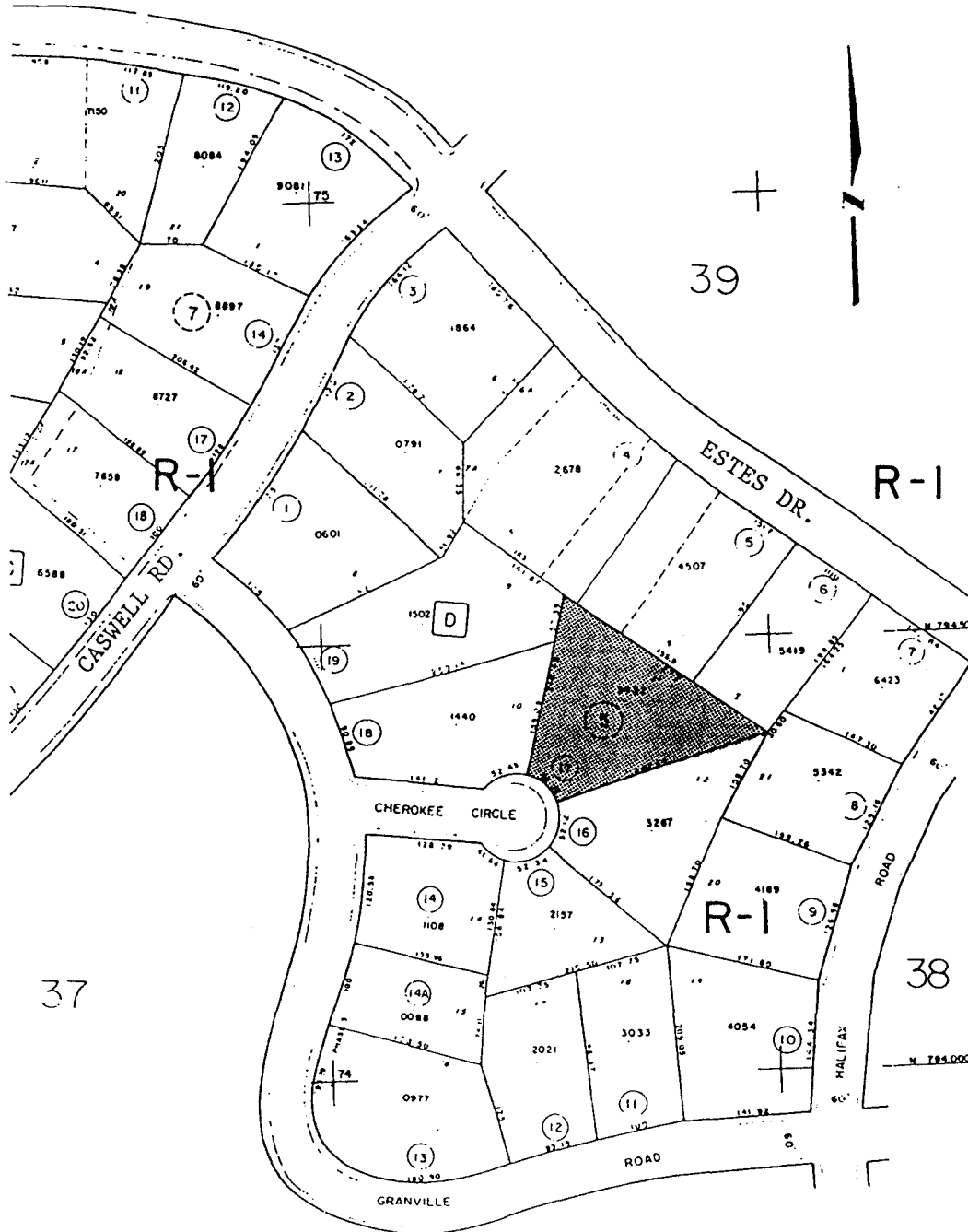
AN ORDINANCE REZONING PROPERTY - AREA 8B, PARKER ROAD/MORGAN CREEK (88-1-11/O-4)

WHEREAS, the Chapel Hill Town Council adopted a Land Use Plan in July, 1986; and

WHEREAS, this Land Use Plan is a component of the Town's Comprehensive Plan; and

AREA 3

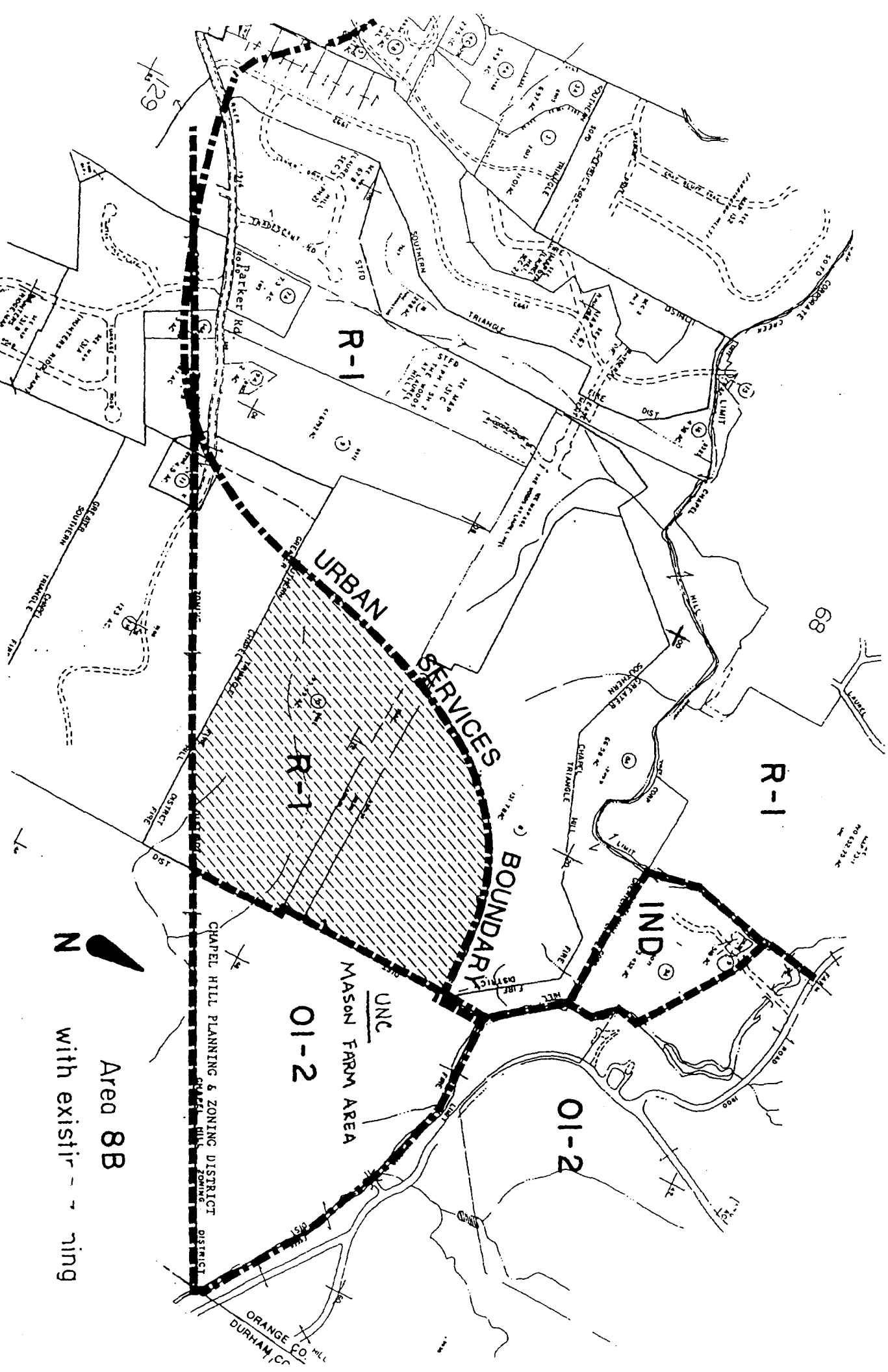
The shaded portion of the following map is "Area 3."



Area 3
with existing zoning

AREA 8B

The shaded portion of the following map is "Area 8B."



Area 8B
with existing zoning

WHEREAS, the Town Manager and Planning Board have identified areas on the Town's Zoning Atlas where existing zoning is not consistent with the Comprehensive Plan; and

WHEREAS, owners of property to be considered for rezoning, as well as owners of property adjacent to those being considered for rezoning, have been notified of these proposals to rezone property;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that the Chapel Hill Zoning Atlas be amended as indicated on the attached map labeled as Area 8B, rezoning from R-1 to RT; such amendment being necessary to achieve the purposes of the Comprehensive Plan.

This the 11th day of January, 1988.

Area 9: The Oaks I

Council Member Pasquini noted that at least two lots would be nonconforming if the area were rezoned.

COUNCIL MEMBER WILKERSON MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT ORDINANCE 88-1-11/0-5, TO REZONE THE AREA TO R-1A. THE MOTION CARRIED, (8-1), WITH COUNCIL MEMBER HERZENBERG VOTING AGAINST.

The ordinance, as adopted, reads as follows:

AN ORDINANCE REZONING PROPERTY - AREA 9, OAKS I (88-1-11/0-5)

WHEREAS, the Chapel Hill Town Council adopted a Land Use Plan in July, 1986; and

WHEREAS, this Land Use Plan is a component of the Town's Comprehensive Plan; and

WHEREAS, the Town Manager and Planning Board have identified areas on the Town's Zoning Atlas where existing zoning is not consistent with the Comprehensive Plan; and

WHEREAS, owners of property to be considered for rezoning, as well as owners of property adjacent to those being considered for rezoning, have been notified of these proposals to rezone property;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that the Chapel Hill Zoning Atlas be amended as indicated on the attached map labeled as Area 9, rezoning from R-1 to R-1A; such amendment being necessary to achieve the purposes of the Comprehensive Plan.

This the 11th day of January, 1988.

Area 10: The Oaks II

Council Member Pasquini noted that at least five lots would be nonconforming if the area were rezoned.

COUNCIL MEMBER ANDRESEN MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT ORDINANCE 88-1-11/O-6, TO REZONE THE AREA TO R-1A. THE MOTION CARRIED, (8-1), WITH COUNCIL MEMBER HERZENBERG VOTING AGAINST.

The ordinance, as adopted, reads as follows:

AN ORDINANCE REZONING PROPERTY - AREA 10, OAKS II (88-1-11/O-6)

WHEREAS, the Chapel Hill Town Council adopted a Land Use Plan in July, 1986; and

WHEREAS, this Land Use Plan is a component of the Town's Comprehensive Plan; and

WHEREAS, the Town Manager and Planning Board have identified areas on the Town's Zoning Atlas where existing zoning is not consistent with the Comprehensive Plan; and

WHEREAS, owners of property to be considered for rezoning, as well as owners of property adjacent to those being considered for rezoning, have been notified of these proposals to rezone property;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that the Chapel Hill Zoning Atlas be amended as indicated on the attached map labeled as Area 10, rezoning from R-1, R-3, R-4 and R-5 to R-1A; such amendment being necessary to achieve the purposes of the Comprehensive Plan.

This the 11th day of January, 1988.

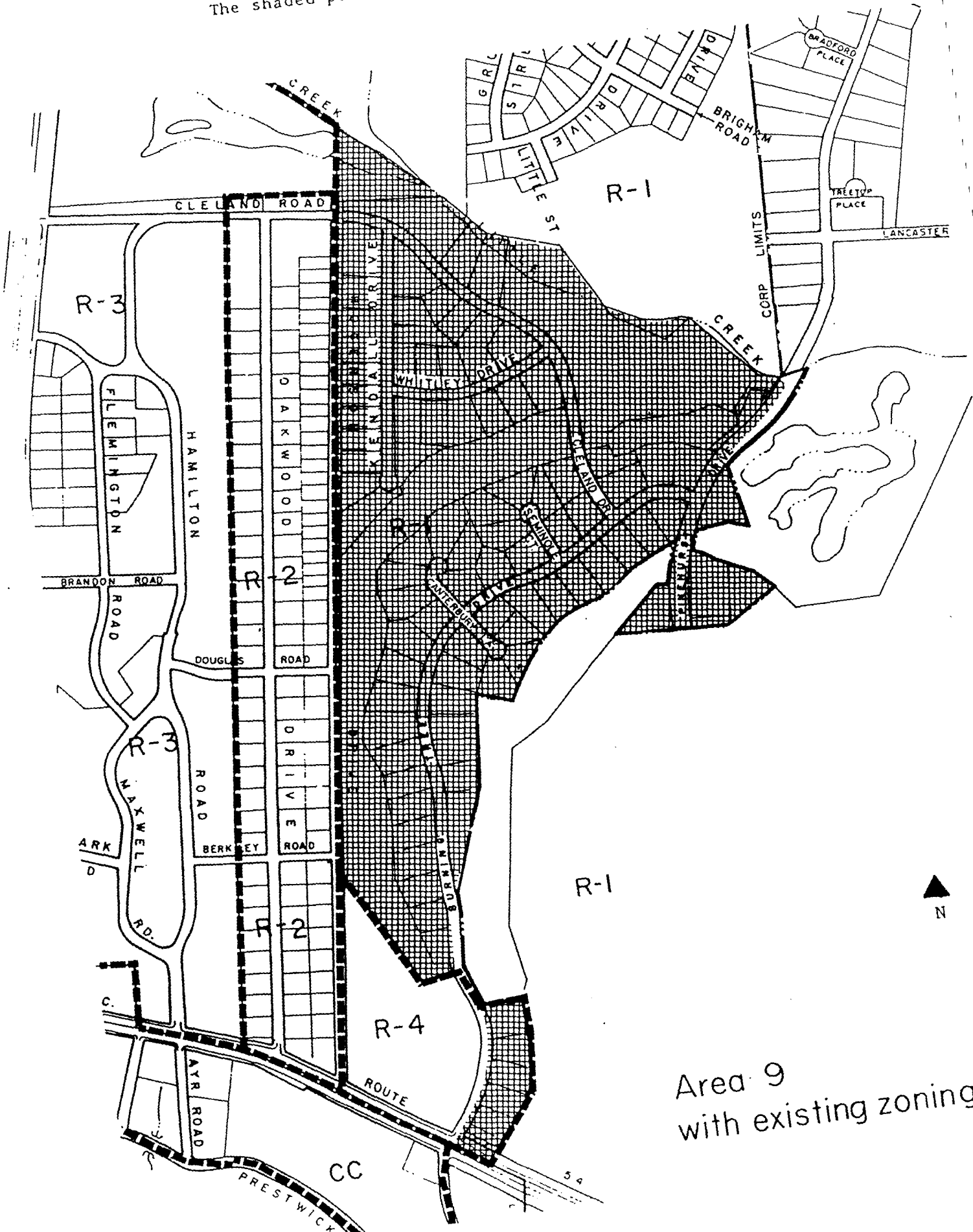
Area 11a: Europa Center

Council Member Andresen asked what was included in this area. Roger Waldon, Planning Director, responded that this area included the current Europa Center and the approved expansion of the site. He said that by rezoning the site it would mean the development would be nonconforming since the development would have more floor area than allowed under an OI-1 zone.

COUNCIL MEMBER HERZENBERG MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 88-1-11/R-11, TO RETAIN THE CURRENT CC ZONING. THE MOTION PASSED UNANIMOUSLY, (9-0).

AREA 9

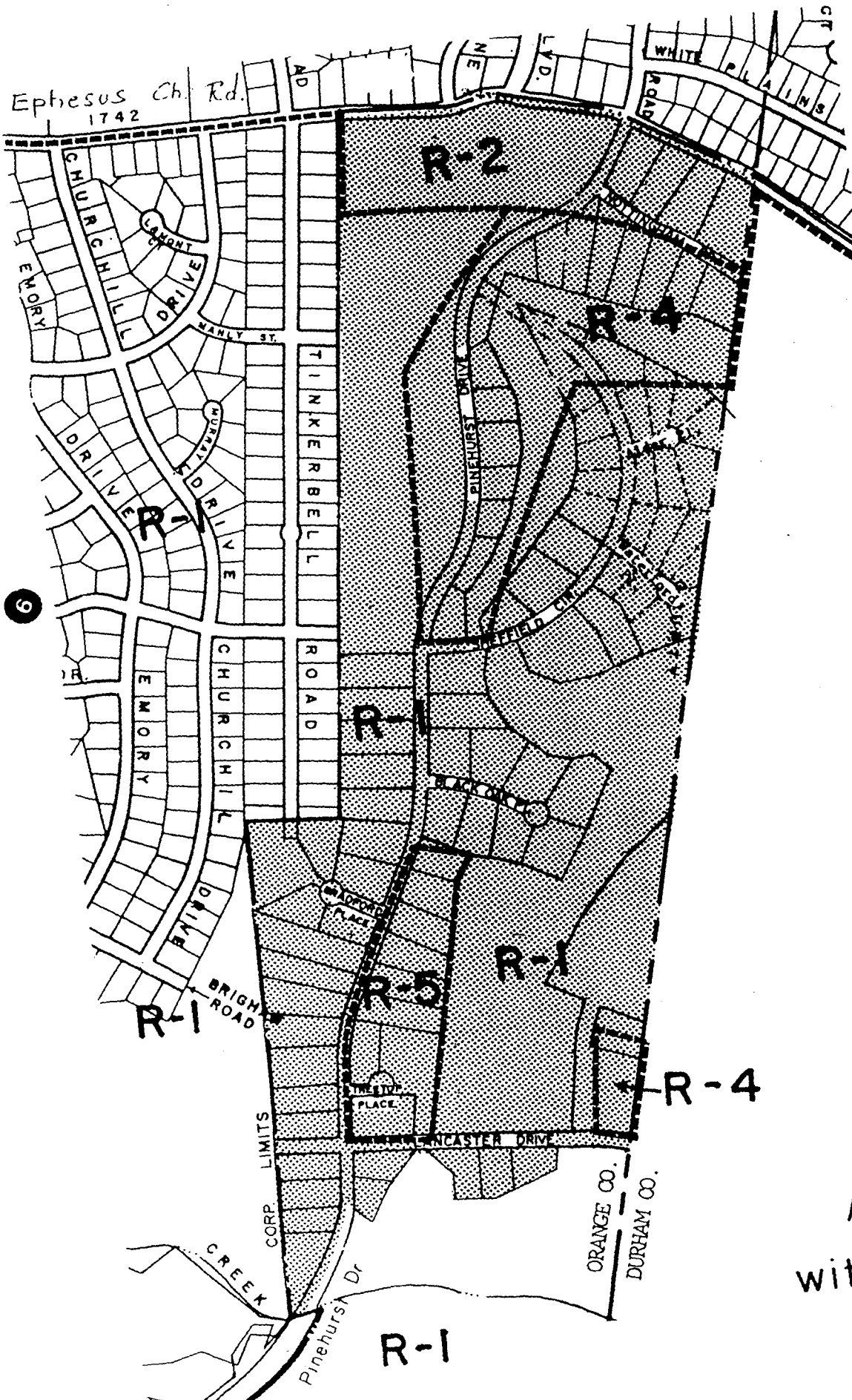
The shaded portion of the following map is "Area 9."



Area 9
with existing zoning

AREA 10

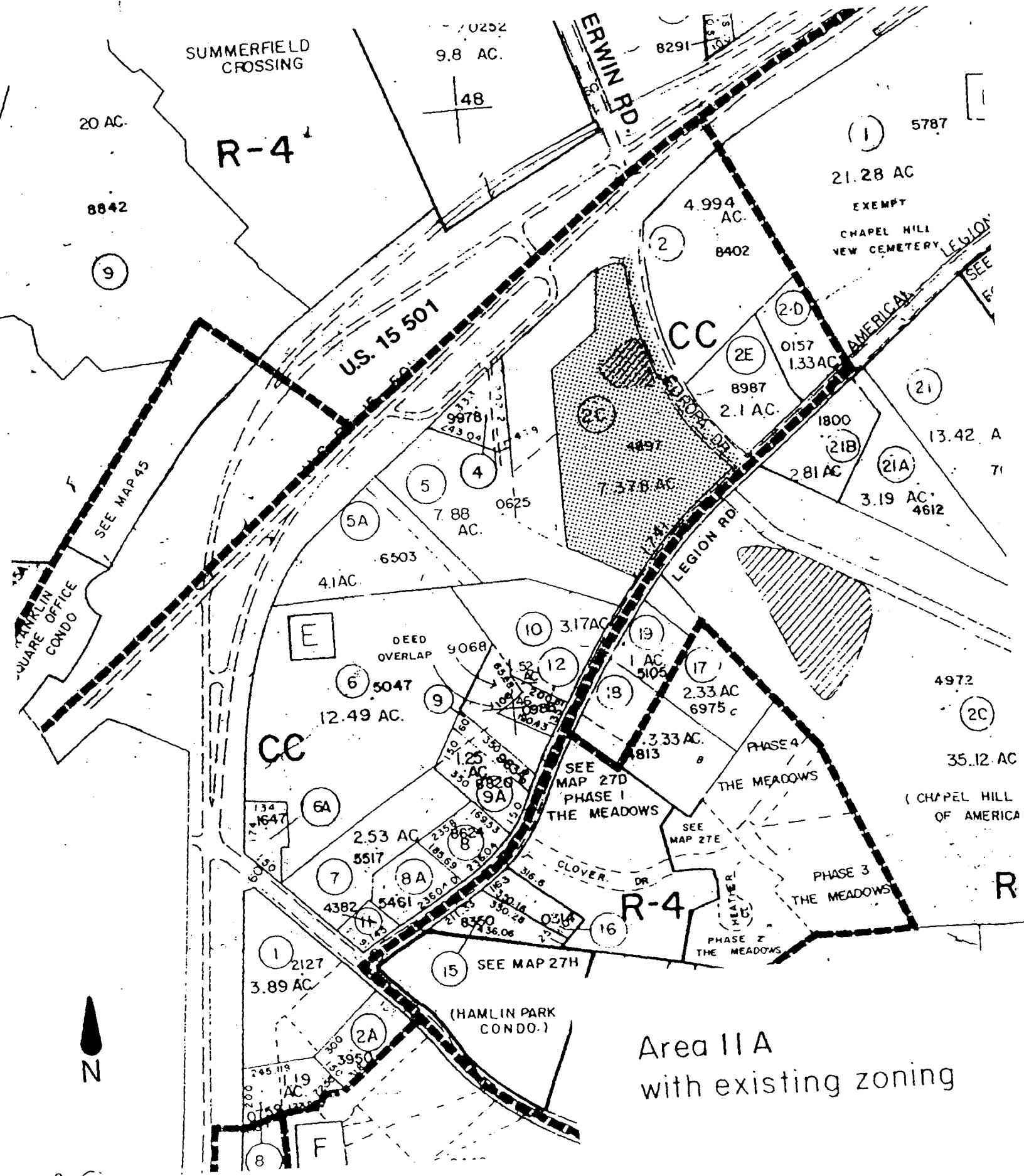
The shaded portion of the following map is "Area 10."



Area 10
with existing zoning

AREA 11A

The shaded portion of the following map is "Area 11A."



Area 11A
with existing zoning

The resolution, as adopted, reads as follows:

A RESOLUTION DENYING A PROPOSAL TO REZONE PROPERTY - AREA 11A,
EUROPA CENTER (88-1-11/R-11)

WHEREAS the Chapel Hill Town Council has considered a proposal to rezone property from CC to OI-1, such property labeled as Area 11A on the attached map; and

WHEREAS the Council does not find it appropriate to rezone this property in this manner at this time;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that it denies the proposal to rezone this property as indicated above.

This the 11th day of January, 1988.

Area 11b: Legion Road

Council Member Andresen commented that the current zoning offered no protection to the neighbors across the street.

Council Member Wallace said it would be more anomalous to rezone the property to OI-1 than to retain the current CC zoning since the site was developed as commercial use.

Council Member Werner agreed with Council Member Wallace and said that the Town needed more commercial areas and that he could not think of a better place than in this location.

COUNCIL MEMBER WALLACE MOVED, SECONDED BY COUNCIL MEMBER GODS-CHALK TO ADOPT RESOLUTION 88-1-11/R-12, TO RETAIN THE CURRENT CC ZONING. THE MOTION CARRIED, (8-1), WITH COUNCIL MEMBER ANDRESEN VOTING AGAINST.

The resolution, as adopted, reads as follows:

A RESOLUTION DENYING A PROPOSAL TO REZONE PROPERTY - AREA 11B,
LEGION ROAD (88-1-11/R-12)

WHEREAS the Chapel Hill Town Council has considered a proposal to rezone property from CC to OI-1, such property labeled as Area 11B on the attached map; and

WHEREAS the Council does not find it appropriate to rezone this property in this manner at this time;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that it denies the proposal to rezone this property as indicated above.

This the 11th day of January, 1988.

Area 12: Blue Cross/Blue Shield

Roger Waldon, Planning Director, said the proposal was to rezone the area from OI-2 to MU-OI-1 because this area was designated as mixed use on the adopted land use plan and such a rezoning would not make the existing use nonconforming.

Council Member Godschalk asked to what extent the 43 acres were already developed. Mr. Waldon replied that there was not a clear answer to that question in that the existing floor area was less than was allowed for the site and therefore further development could occur, but there was also a Special Use Permit on the entire site.

COUNCIL MEMBER ANDRESEN MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG TO ADOPT RESOLUTION 88-1-11/R-13, TO RETAIN THE CURRENT OI-2 ZONING. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION DENYING A PROPOSAL TO REZONE PROPERTY - AREA 12, BLUE CROSS/BLUE SHIELD (88-1-11/R-13)

WHEREAS the Chapel Hill Town Council has considered a proposal to rezone property from OI-2 to MU-OI-1, such property labeled as Area 12 on the attached map; and

WHEREAS the Council does not find it appropriate to rezone this property in this manner at this time;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that it denies the proposal to rezone this property as indicated above.

This the 11th day of January, 1988.

Area 19: Sage Road

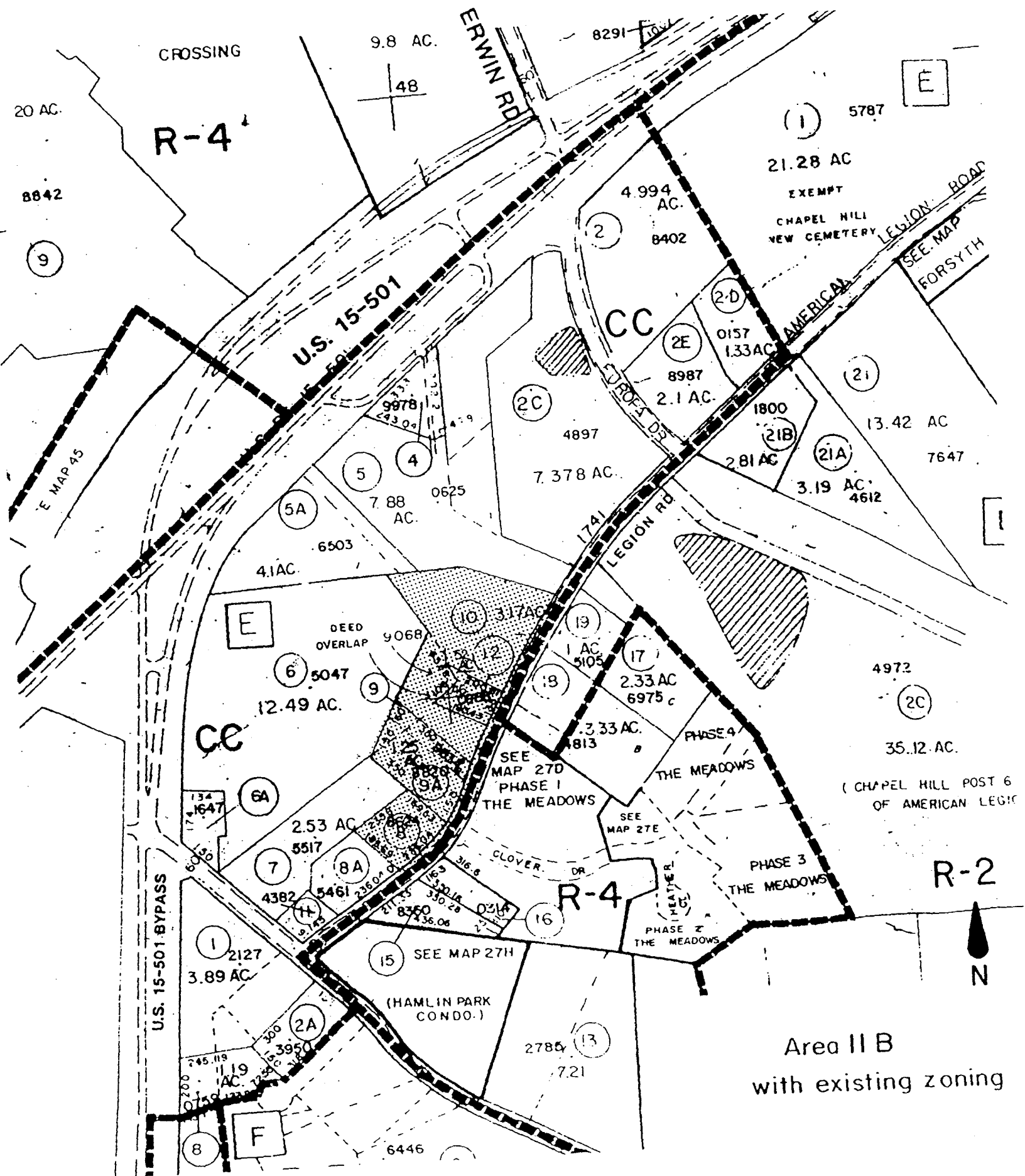
Council Member Andresen asked how many units per acre were allowed in R-3 and R-4 zones. Mr. Waldon responded that R-3 allowed 7 units per acre and R-4 allowed 10 units per acre.

Council Member Godschalk commented that this was one of the areas that the Planning Board had wanted further study.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG TO ADOPT RESOLUTION 88-1-11/R-14, TO RETAIN THE CURRENT R-4 ZONING. THE MOTION CARRIED, (5-4), WITH COUNCIL MEMBERS ANDRESEN, PASQUINI, PRESTON AND WERNER VOTING AGAINST.

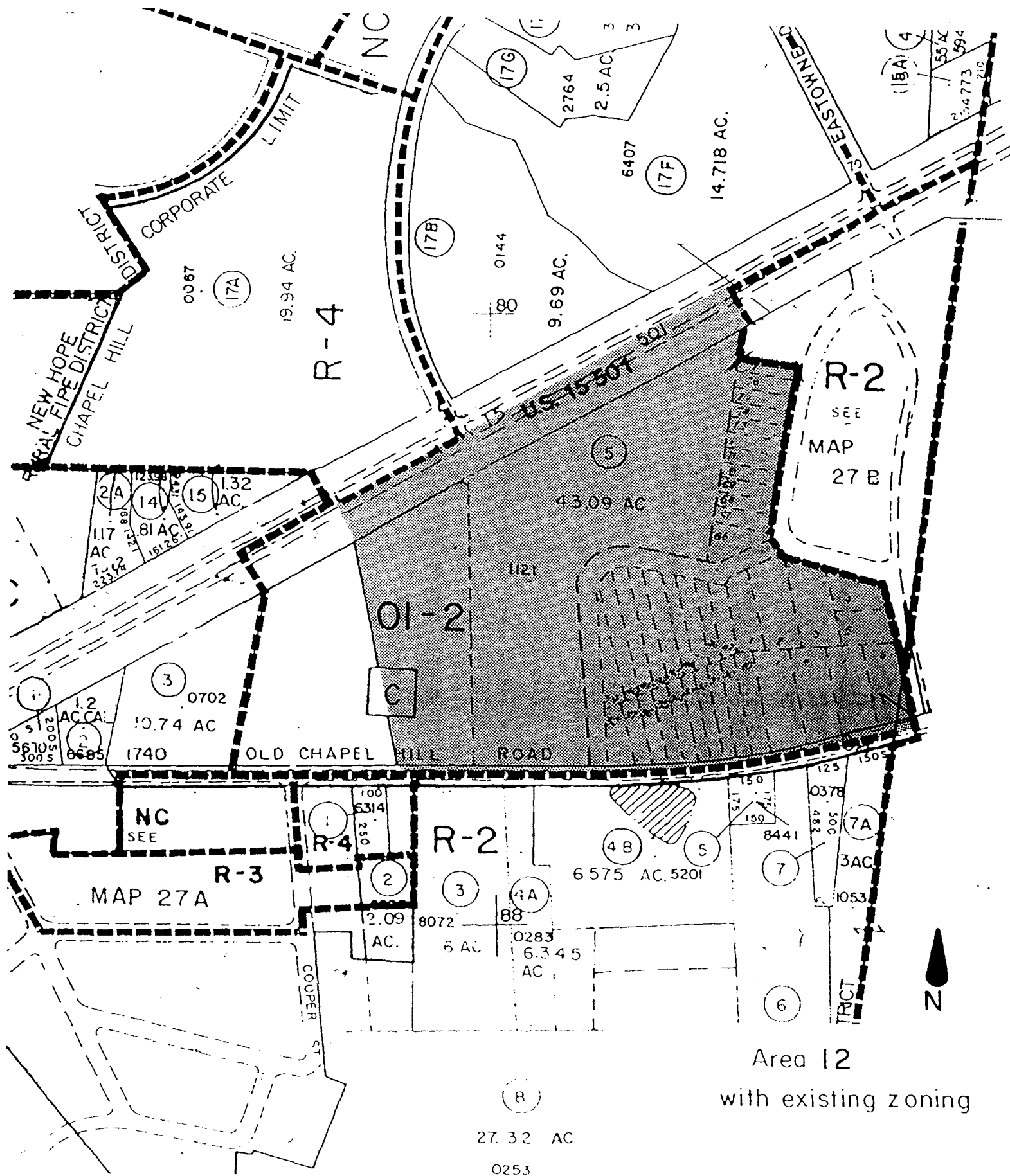
AREA 11B

The shaded portion of the following map is "Area 11B."



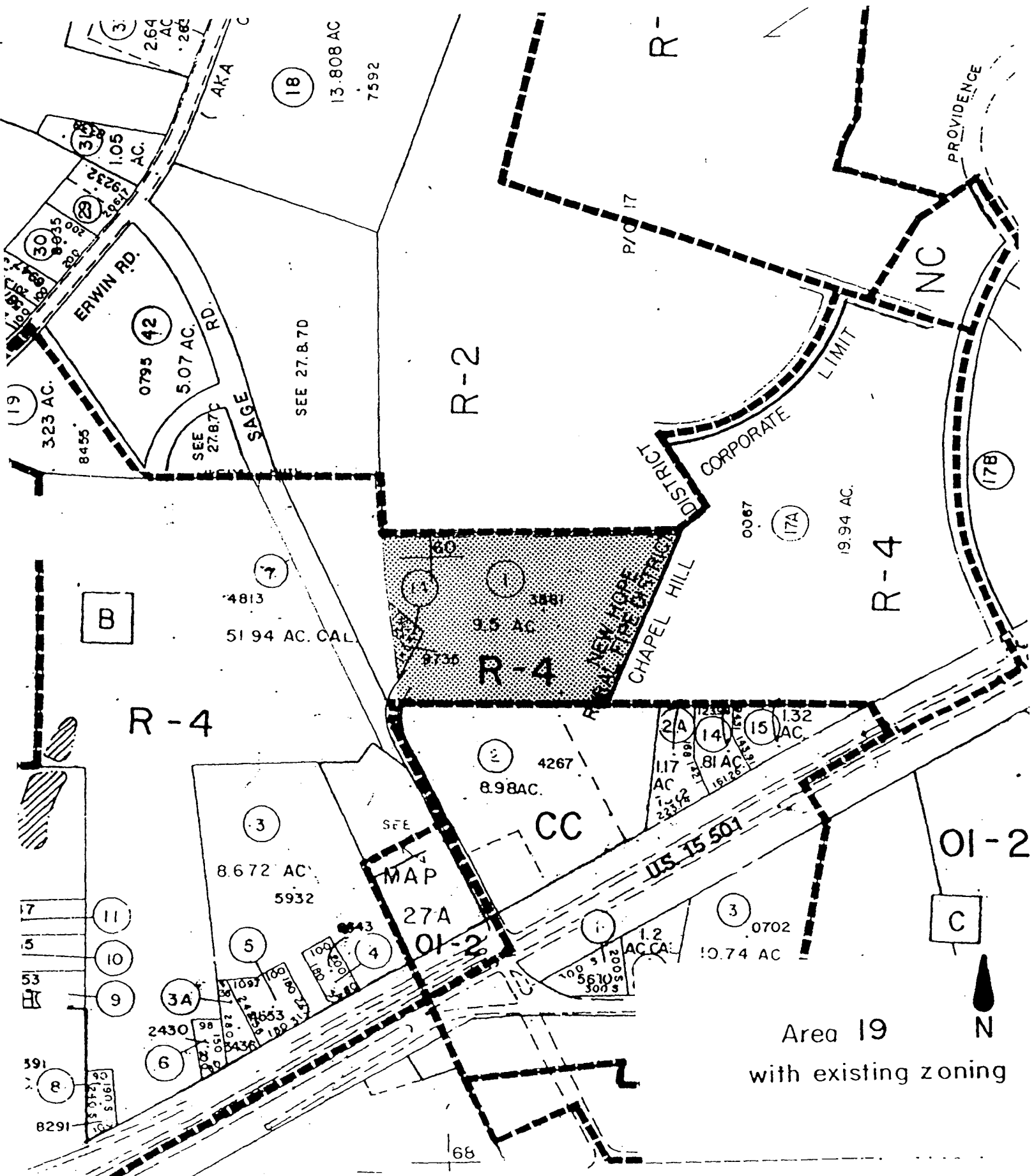
AREA 12

The shaded portion of the following map is "Area 12."



AREA 19

The shaded portion of the following map is "Area 19."



Area 19
with existing zoning

The resolution, as adopted, reads as follows:

A RESOLUTION DENYING A PROPOSAL TO REZONE PROPERTY - AREA 19, SAGE ROAD (BEHIND BRENDELES) (88-1-11/R-14)

WHEREAS the Chapel Hill Town Council has considered a proposal to rezone property from R-4 to R-3, such property labeled as Area 19 on the attached map; and

WHEREAS the Council does not find it appropriate to rezone this property in this manner at this time;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that it denies the proposal to rezone this property as indicated above.

This the 11th day of January, 1988.

Area 20a: Dobbins Drive

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER WALLACE TO ADOPT ORDINANCE 88-1-11/O-11, TO REZONE THE AREA TO R-2. THE MOTION PASSED UNANIMOUSLY, (9-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE REZONING PROPERTY - AREA 20A, DOBBINS DRIVE (WEST OF ERWIN ROAD) (88-1-11/O-11)

WHEREAS, the Chapel Hill Town Council adopted a Land Use Plan in July, 1986; and

WHEREAS, this Land Use Plan is a component of the Town's Comprehensive Plan; and

WHEREAS, the Town Manager and Planning Board have identified areas on the Town's Zoning Atlas where existing zoning is not consistent with the Comprehensive Plan; and

WHEREAS, owners of property to be considered for rezoning, as well as owners of property adjacent to those being considered for rezoning, have been notified of these proposals to rezone property;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that the Chapel Hill Zoning Atlas be amended as indicated on the attached map labeled as Area 20A, rezoning from R-4 to R-2; such amendment being necessary to achieve the purposes of the Comprehensive Plan.

This the 11th day of January, 1988.

Area 22: Airport Road/Critz Drive

COUNCIL MEMBER WALLACE MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT ORDINANCE 88-1-11/O-12, TO REZONE THE AREA TO R-3. THE MOTION PASSED UNANIMOUSLY, (9-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE REZONING PROPERTY - AREA 22, AIRPORT ROAD/CRITZ DRIVE (88-1-11/O-12)

WHEREAS, the Chapel Hill Town Council adopted a Land Use Plan in July, 1986; and

WHEREAS, this Land Use Plan is a component of the Town's Comprehensive Plan; and

WHEREAS, the Town Manager and Planning Board have identified areas on the Town's Zoning Atlas where existing zoning is not consistent with the Comprehensive Plan; and

WHEREAS, owners of property to be considered for rezoning, as well as owners of property adjacent to those being considered for rezoning, have been notified of these proposals to rezone property;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that the Chapel Hill Zoning Atlas be amended as indicated on the attached map labeled as Area 22, rezoning from R-4 to R-3; such amendment being necessary to achieve the purposes of the Comprehensive Plan.

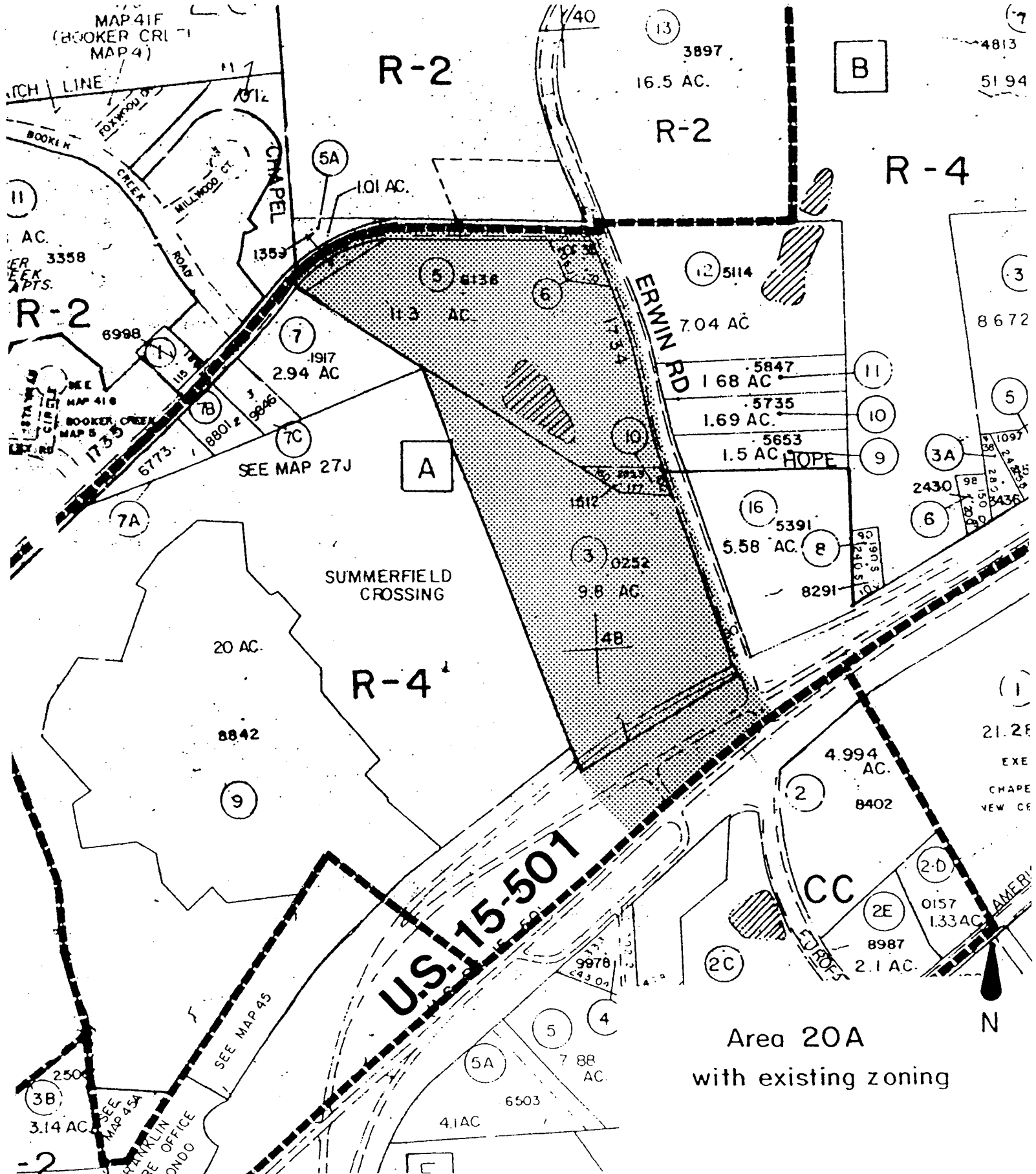
This the 11th day of January, 1988.

Cloverleaf Zoning

Floyd McKissick, Jr., an attorney representing the property owner, said they had met with the Northwoods Homeowners Association on December 10 and developed a list of restricted covenants including the type of things the neighbors did not want to see on the property, and that the owner had responded by letter of the voluntary restrictions he was willing to adhere to in developing the property. Mr. McKissick said that unfortunately, the discussions had since broken down. He stated that the property owner had attempted to meet the concerns of the neighbors as requested by the Council. He said the owner would prefer the mixed use zoning as it best conformed to what was designated in the Town's adopted land use plan. He stated that he felt an uncoordinated development of the site would create more problems and limit the amount of protection available to the neighbors than a development based on the mixed use zoning.

AREA 20A

The shaded portion of the following map is "Area 20A."

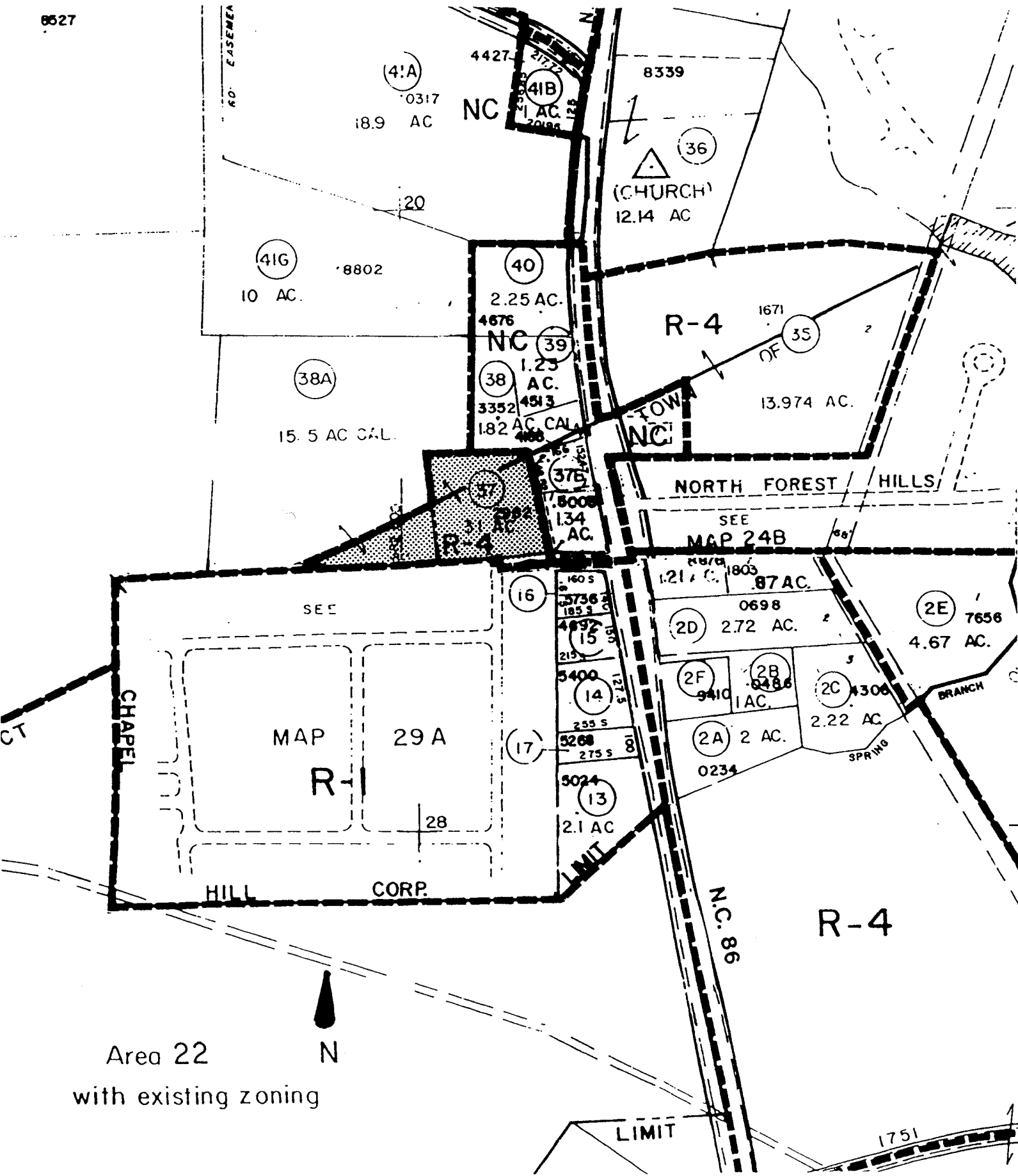


Area 20A
with existing zoning

AREA 22

The shaded portion of the following map is "Area 22."

8527



Area 22
with existing zoning

Council Member Godschalk commented that the Council had requested that the parties involved get together and try to settle some of the concerns. He said it appeared that there had been a good faith effort on the part of the property owner to do so. He said the proposed zoning did comply with the land use plan and would give more control over the development of the site.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER WALLACE TO ADOPT ORDINANCE 88-1-11/O-13A, TO ZONE THE PROPERTY MU-OI-1.

Council Member Andresen expressed concerns about zoning the property mixed use. She said mixed use allowed for higher heights, density and commercial uses. She said she would prefer the site be zone OI-1 or R-1.

Council Member Pasquini said he would prefer to see the site zoned OI-1, primarily because of the shape of the property. He said if the interior lots could be added to the site, then he would be more inclined to approve a mixed use zoning.

THE MOTION TO ADOPT 88-1-11/O-13A, CARRIED, (5-4), WITH COUNCIL MEMBERS ANDRESEN, HERZENBERG, PASQUINI, AND WERNER VOTING AGAINST.

A second reading is required on January 25.

Council Member Herzenberg spoke in support of the parties involved using the Dispute Settlement Center for matters like this.

Consent Agenda

Council Member Herzenberg asked that item #c, Mason Farm Place Parking restrictions, be removed.

COUNCIL MEMBER WALLACE MOVED, SECONDED BY COUNCIL MEMBER WERNER TO ADOPT RESOLUTION 88-1-11/R-17 MINUS ITEM #C. THE MOTION PASSED UNANIMOUSLY, (9-0).

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

A RESOLUTION APPROVING VARIOUS ORDINANCES AND RESOLUTIONS (88-1-11/R-17)

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. Calling hearing on Louise Street right-of-way closure request (R-18).
- b. Calling hearing on Development Ordinance Text Amendment (R-19).

- d. Parking regulations - Town Facilities (O-15).
- e. Rescheduling Easter Holiday to Good Friday (O-16).
- f. Setting just compensation for Jolly property interest (R-20).

This the 11th day of January, 1988.

Louise Street Right-of-Way Closure - Calling Public Hearing

The resolution, as adopted, reads as follows:

A RESOLUTION CALLING A PUBLIC HEARING ON THE PROPOSED CLOSURE OF AN UNUSED RIGHT-OF-WAY BETWEEN FRANKLIN STREET AND ROOSEVELT DRIVE (88-1-11/R-18)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby declares its intent to consider closing an unused right-of-way between East Franklin Street and the Roosevelt Drive, as shown on Orange County Tax Map 76 adjacent to Lot 1 of Block D, and Lots 6 and 7 of Block C, which right-of-way is approximately 40 feet wide and 350 feet long; and calls a public hearing at 7:30 p.m. on Monday, February 8, 1988, in the Meeting Room of the Municipal Building, 306 N. Columbia Street, Chapel Hill, on the proposed closing of said right-of-way.

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

This the 11th day of January, 1988.

Calling Hearing on Development Ordinance Text Amendment Re New Joint Planning Agreement

The resolution, as adopted, reads as follows:

A RESOLUTION CALLING A PUBLIC HEARING (88-1-11/R-19)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby calls a public hearing on March 23, 1988 on amending the Development Ordinance pursuant to the Joint Planning Agreement among Chapel Hill, specifically to provide for County appointees to the Planning and Adjustment Boards from the Chapel Hill Transition Area.

BE IT FURTHER RESOLVED that the Council refers this matter to the Planning and Adjustment Boards and Manager for recommendations.

This the 11th day of January, 1988.

Parking Regulations - Town Facilities

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING SECTION 21-28.2 OF THE TOWN CODE OF ORDINANCES RELATED TO OFF-STREET PARKING (88-1-11/O-15)

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

Section I

Change Section 21-28.2 to Section 21-28.2(a).

Section II

Add new sections (b) and (c) to read as follows:

- (b) No vehicle shall be parked in an off-street parking facility provided by the Town at its buildings or facilities unless an occupant of the vehicle is a patron of that Town building or facility. This shall apply only during the hours of operation of the building or facility.
- (c) No vehicle, other than a vehicle operated by an employee of the Town, shall be parked in a Town operated off-street parking facility that is duly marked as being reserved for Town staff or employees. Said markings shall be at the entrances of any lot reserved for employees or staff or on individual spaces reserved for employees and staff in any lot shared by patrons and Town employees. This shall apply only during the hours of operation of the building or facility.

Section III

This Ordinance shall be effective upon posting of signs at entrances to Town operated off-street parking lots and at staff reserved spaces within Town operated lots.

Section IV

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

This the 11th day of January, 1988.

Easter Holiday - Change to Good Friday

The ordinance, as adopted, reads as follows:

AN ORDINANCE TO REVISE THE PERSONNEL ORDINANCE (88-1-11/O-16)

BE IT ORDAINED by the Council of the Town of Chapel Hill that the Council revises Section 14-68 of the Code of Ordinances, deleting the words "Easter Monday" and replacing them with the words "Good Friday".

This the 11th day of January, 1988.

Just Compensation - Sewer Easement- Tandler Project

The resolution, as adopted, reads as follows:

A RESOLUTION AUTHORIZING THE MANAGER TO ACCEPT AN OFFER TO CONVEY A SANITARY SEWER EASEMENT FROM MS. ELIZABETH JOLLY (88-1-11/R-20)

WHEREAS, the Tandler Homeownership Program requires a sanitary sewer easement across the lot known as Tax Map 91, Block H, Lot 4, to provide public sewer to the homes on the west side of Merritt Mill Road; and

WHEREAS, the Town has followed all applicable State and federal law and the policies and requirements of the Department of Housing and Urban Development regarding the acquisition of interest in real property,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Manager is authorized to accept the offer of Ms. Elizabeth Jolly to convey the said sanitary sewer easement for the sum of \$1200.

This is the 11th day of January, 1988.

Mason Farm Place - Parking Restrictions

Council Member Herzenberg commented that he felt the adoption of this ordinance would not stop the parking along Mason Farm Place and he did not want the residents to think that it would. He pointed out that during events on the UNC campus individuals would in all probability still park in these areas and the Police could not be in the area at all times to control the illegal parking. Manager Taylor said this was possible, but that this ordinance would allow for those vehicles illegally parked to be ticketed. He said the Town would not be able to tow the vehicles unless they were blocking a driveway or creating a hazard.

COUNCIL MEMBER HERZENBERG MOVED, SECONDED BY COUNCIL MEMBER PASQUINI MOVED TO ADOPT ORDINANCE 88-1-11/O-14. THE MOTION PASSED UNANIMOUSLY, (9-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE AMENDING CHAPTER 21 OF THE CODE OF ORDINANCES (88-1-11/O-14)

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

Section I

That Section 21-27 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>
Mason Farm Place	Either		Full Length

Section II

This Ordinance shall be effective beginning on Tuesday, January 26, 1988.

Section III

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

This the 11th day of January, 1988.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO RECESS THE MEETING TO JANUARY 13, 1988 AT 7:30 P.M. THE MOTION PASSED UNANIMOUSLY, (9-0).

The meeting recessed at 11:13 p.m.

