

MINUTES OF A REGULAR MEETING OF THE MAYOR AND COUNCIL
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,
MONDAY, JANUARY 25, 1988, 7:30 P.M.

Mayor Jonathan B. Howes called the meeting to order. Council Member present were:

- Julie Andresen
- David Godschalk
- Joe Herzenberg
- David Pasquini
- Nancy Preston
- James C. 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.

Retirees - Recognition of Retiring Town Employees

Mayor Howes presented certificates of appreciation to retiring and recently retired Town employees. Those present and receiving the certificate were:

- Russell Edwards - Public Works
- Willie Williams - Public Works

Those receiving certificates but not present were:

- Dorothy Jenner - Parks and Recreation
- Harold Harris - Public Works and Engineering
- Daniel Toomer - Public Works

Seat Belt Usage Award

Mayor Howes said the Mayor of Sante Fe, New Mexico sponsored a competition each year for cities and towns to compete amongst themselves for improvement in various aspects of seat belt use. He said that during Council Member Wallace's tenure as Mayor and at the prodding of his assistant Claudia Cannady, the Town submitted an application in response to the challenge. Mayor Howes stated that with documentation ably provided by the Highway Safety Research Center the Town had been awarded the prize. He thanked Council Member Wallace, Don Rienfurt, Bill Hunter and Lauren Marchetti of the Highway Safety Center for their efforts on behalf of the Town.

Petitions

Milton Van Hoy, speaking as a citizen and member of the Municipal Building Expansion Committee, asked to speak to item #11, Municipal Building expansion site location.

Henry Whitfield, speaking as a citizen, asked to speak to item #8 Rosemary Square.

Jane Norton, representing Save Duke Forest Organization, requested the Council to ask Duke University to make a long term commitment to preserve Duke Forest as open space and a research area.

Mayor Howes commented that as Mayor he had written to the President of Duke University expressing this sentiment but that he thought it would be appropriate for the Council to adopt a resolution in support of preserving Duke Forest. He asked the Manager to work with Ms. Norton to prepare a resolution for consideration by the Council.

Mike Sullivan, speaking as Chair of Carolina Beach Blast, petitioned the Council for an exemption to the noise ordinance in order to hold a concert on Sunday, April 10 on Eringhaus Field. He said some of the proceeds from the sale of concessions and t-shirts would go to the Ronald McDonald House. Mr. Sullivan stated that campus police and organization members would provide security and that portable toilets would be provided.

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

Council Member Andresen asked if the Council wanted to make a statement before the February 3 public hearing on capacity use of the Eno River.

Council Member Wallace commented that a statement from the Council would be appropriate.

Mayor Howes said that the Council would not meet in a regular meeting before the February 3 hearing and that comments would be accepted for 30 days after the hearing. He said that a statement from the Council after the hearing would be acceptable.

Minutes

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER WILKERSON TO ADOPT THE MINUTES OF JANUARY 4, 1988 AS CIRCULATED. THE MOTION PASSED UNANIMOUSLY, (9-0).

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG TO ADOPT THE MINUTES OF JANUARY 9, 1988 AS CIRCULATED. THE MOTION PASSED UNANIMOUSLY, (9-0).

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT THE MINUTES OF JANUARY 11, 1988 AS CIRCULATED. THE MOTION PASSED UNANIMOUSLY, (9-0).

Council Member Herzenberg stated that on page 23, the first vote on the Planning Board vacancy should indicate that Mayor Howes voted for Donald Shaw.

Council Member Preston stated that on page 14, stipulation #5 should state that driveway access be denied onto Piney Mountain Road and Eastwood Road.

COUNCIL MEMBER HERZENBERG MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT THE MINUTES OF JANUARY 13, 1988 AS CORRECTED. THE MOTION PASSED UNANIMOUSLY, (9-0).

15-501 Bypass Environmental Assessment - Public Forum

Manager Taylor said that the process for 15-501 Bypass improvements had begun over a year ago and that there had been public meetings, a public hearing, and a public forum on the proposal. He said in addition the Council had had discussions on the proposal throughout. He stated that since the January 11 meeting, the staff had modified the proposed resolution to include the comments made at that meeting regarding a provision for consideration of alternative medians including variable width; median and shoulder landscaping in the construction plans; that the construction area be staked; and that the Town be included in the review of the design plans as developed.

William T. Crisp, speaking as a member of the Kings Mill Road/Morgan Creek area Homeowners' Association, questioned the reason for a 24' median. He asked if the width of the median was in order for additional lanes to be added in the future, and if not, then NCDOT should go on record as saying that the median would not be used for that purpose. He commented that the proposed 24' median would encroach upon a beautiful residential area that was currently being maintained by the residents. He stated that four lanes were needed on the bypass but that a median which would adversely affect adjoining property owners was not needed.

Pat Nelson, speaking as a resident of Morgan Creek Road area, spoke in support of a variable width median, especially in the vicinity of the Morgan Creek area. She said the noise impact would be greater with the removal of existing trees and replanting of grass. She also said an emergency telephone needed to be in the area to assist individuals whose vehicles break down.

Al West, speaking as a resident, urged the Council to recommend that the Bypass not be widened beyond four lanes and for further analysis of the need for a 24' median. He also said the noise impact study had been done with the present foliage intact and did not take into account the cutting of the buffer. He stated that U.S. 501 in northern Durham contained four travel lanes and

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had a fifth lane for turning. He said this design seemed to be working well in that area and he suggested that this would be better for the 15-501 Bypass proposal. Mr. West questioned the need for a median at all.

Betsy Pringle, representing the Greenways Commission, urged the Council to ensure that provisions for pedestrian crossings were included in the Bypass design. She asked that the Council get a commitment from NCDOT as to the location of the pedestrian crossings. She also stated that sidewalks and bikelanes were needed and that a reduction of the median width would result in less destruction of the current buffer between the highway and the residential areas.

Eva Metzger, speaking as a resident and member of the Greenways Commission, spoke in support of the inclusion of pedestrian crossings in the improvements to the 15-501 Bypass. Ms. Metzger presented the Council with some information on innovative pedestrian crossings.

Tom Barnett, speaking as a resident of the Morgan Creek Road area, spoke in support of reducing the median width. He said he agreed with Dr. Soloways' comments at the January 11 meeting. Mr. Barnett also stressed the need for noise impact reductions in the area of the Botanical Gardens. (For copy of text, see Clerk's files.)

Barry Margolin, representing the Kings Mill Road/Morgan Creek Road Homeowners Association, spoke in support of the variable width median. He said NCDOT's assessment that a variable width median would only provide marginal benefit was a matter of opinion. He said the 400' of variable width median would offer the maximum benefit to the area affected.

Bill McLendon, speaking as a resident of Woodbine Drive, said he was not opposed to the four laning of the Bypass but that he had some concerns which he felt should be addressed. He said there should be serious planning for a real bypass around the Town. Mr. McLendon stated he was in favor of a landscaped boulevard but he wanted to know what assurances the Town would have for the maintenance and landscaping of the median. He also asked what assurances there would be that the 24' median would not become a parking lot for individuals attending campus events. He said the Town needed these assurances before road was improved.

George Entenman, speaking as a resident of Bartram Drive, said the bond issue had been approved so that construction on the Bypass would be moved forward and to enable Chapel Hill to be a part of the planning process. He urged the Council and NCDOT to listen to the comments made by the citizens and to construct a road with a narrower median.

Paul Brandes, speaking as a resident, showed two diagrams of what the road would look like with a 24' median and with a smaller median. He indicated that more trees in the existing

buffer could be retained with a narrower median. Mr. Brandeis also expressed concern about the maintenance of the median and buffer and presented the Council with a trash bag of garbage he had recently picked up along the highway.

Betty Smith, speaking as a resident of Morgan Creek Road, said she agreed with the previous speakers and that she hoped the Council would listen to their concerns.

Richard Soloway, speaking as a resident and President of Kings Mill/Morgan Creek Homeowners' Association, thanked the Council for delaying action on this matter and holding this public forum. He said he appreciated having his concerns included in the resolution before the Council for consideration. He said he would also like a phrase included in the first statement of the resolution which said "...to include these alternatives in engineering plans for comparative evaluation..". He also suggested specific variable widths for the median and that the Town and citizens be allowed to review the proposal once engineering drawings were made and that the Town be allowed to walk the construction area to see which areas would be affected and in what manner. Dr. Soloway said the citizens' desire was not to be adversarial but cooperative but that they wanted a minimum amount of environmental damage.

Philip Rees, speaking as a resident of Oteys Road, said he supported the proposal for a 24' median because of the safety issues involved in left and U-turn traffic. He urged the Council to consider the safety concerns as well as the aesthetic concerns when deliberating over the construction of the Bypass improvements.

Henry Whitfield, speaking as a resident, said he agreed that an emergency telephone was needed in the Kings Mill/Otey's Road area. He also suggested that the Bypass be four lanes with a fifth lane for turning from Plantation Acres to Glen Lennox and then from Glen Lennox to Eastgate four lanes with a median. He said this would address the environmental concerns and help ease the traffic congestion from the University during events.

Henry Landsberger, speaking as a resident of Kings Mill Road, said that he felt turning lanes were necessary but that he did not see a need for a 24' median. He said to cut down on speeding there could be more traffic signals. He said he did not even think a median was necessary at all.

Jerry Kiel, speaking as a representative of St. Thomas More School, expressed concern about the turning movements necessary onto and off of the Bypass onto the service road which provided access to the school. He said a signal would be beneficial.

Peter White, representing the N.C. Botanical Gardens, said Garden officials had met with the DOT and discussed problems and concerns. He said additional meetings and discussions were necessary in order to address all the issues. He suggested that the Council might add a statement to the resolution in support of continued negotiating efforts.

Larry Meisner, representing Kimley-Horn Associates and NCDOT, showed a schematic with a variable width median and two slides of a 24' median in the area (Westin Planned Development in Cary). He said he and DOT officials had met with representatives of the Botanical Gardens to discuss some of their concerns and have agreed to do further research into some of the questions raised, including review of the noise analysis and classifications. He said in response to the question on the future of the 24' proposed median, it was not the intention of DOT to turn the median into two additional travel lanes in the future. Mr. Meisner said the reasons for a 24' median were included in the Council's packet and dealt with the safety issues of left and U-turns. He also stated that studies showed fewer accidents occurred on roads with a median. Mr. Meisner said the noise analysis did not include foliage on the cleared part of the right-of-way. He stated that the pedestrian crossings mentioned by the Greenways Commission were planned for locations where traffic signals were located and when the traffic signals were designed the traffic engineers would look at including pedestrian phases. He said the one location that was mentioned and not currently planned was at Otey's Road and that the proposal did not include a median opening at that location due to comments made at the public meetings. He said the median would provide some refuge for pedestrians and that during the design DOT would look at the situation to see if a pedestrian crossing was warranted. Mr. Meisner stated that the recommendation for a curb on the median was to discourage individuals from parking there.

Frank Vick said the traffic signals would be a part of the traffic engineering plans and would be a separate contract and not necessarily part of the roadway design plan. He also said that it was NCDOT's recommendation for a 24' median but that as a result of comments they would be looking at a variable median at the Morgan Creek area to try and reduce it as much as possible. He said the 24' median was at this point the design recommendation as part of the environmental document. He said they did not have survey data on whether footage could be saved at various points along the road. Mr. Vick said that during the design process DOT would try to decrease the taking of trees along the existing right-of-way that the State owned.

Mayor Howes asked if when the area was staked with ribbons on trees, etc., would it be possible for the Council and other interested citizens to walk the area. Mr. Vick said he would like to be able to provide this opportunity as much as possible, but that it was not something which would be able to occur within the next two or three months. He said he would make this recommendation to the design engineer.

Council Member Wallace said it was important for continued good relations for all to know which trees, etc. would be affected by the road improvements. He said he felt there was a sense of great cooperation from NCDOT and he felt this could certainly continue.

Council Member Andresen asked if NCDOT had responded to some of the concerns expressed by the representative of St. Thomas More School. Mr. Vick said the school entrance was along the frontage road and that DOT would look at the situation as part of the traffic engineering request by the school but that it would not be part of the Bypass improvements.

Council Member Andresen asked for clarification on the pedestrian crossings. Mr. Vick replied that once the improvements were made the intersections would be evaluated for warranting a signal. He said that if a signal were warranted then the pedestrian crossing phase would be included. He stated however, that the construction of the bypass and the installation of the signals would not necessarily occur simultaneously. Council Member Andresen said that she hoped that a formula would not determine whether or not a pedestrian crossing were needed. Mr. Meisner commented that most of the intersections the Greenways Commission had indicated they would like pedestrian crossings already were signalized.

Council Member Werner asked if Mr. Soloway's suggestions were included in the resolution. Manager Taylor said that the staff recommendation included reviewing variable widths but did not limit it to specific widths. He said by stating specific variable widths it could be more restrictive than what was wanted. He also said that by the time the engineering plans were developed all of these factors would have been decided. He said that the staff recommendation which tied further review with the design process addressed, in his opinion, the concerns of the citizens.

Manager Taylor suggested an addition to the resolution to address the concerns mentioned by Dr. White of the Botanical Gardens: "...BE IT FURTHER RESOLVED that the Council requests NCDOT continue discussion with the N.C. Botanical Garden concerning issues raised in their letter of December 9, 1987 to mitigate the adverse impact of noise..." Dr. White said he agreed with this suggestion.

Council Member Wilkerson said he would also like an addition to the resolution: "...BE IT FURTHER RESOLVED that the Council expresses its concern that the median ultimately designed be preserved as a landscaped and grassed area for a four lane divided parkway, and that the Council expresses its desire that this median not be reserved by NCDOT for further use as additional traffic lanes..." Mr. Vick said he had no objections to this addition.

Council Member Preston asked for clarification of who the "Town" was in the resolution regarding inclusion in the review process. She asked if this meant the Engineering Department or the Council as well. Mr. Vick responded that he interpreted this to mean the Engineering Department. He said NCDOT would not be coming back before the Council for final design approval but that he assumed

that once the plans were submitted to the Town's Engineering Department, the Engineering Department would inform the Council of the conformance/non-conformance with the resolution adopted by the Council. Council Member Preston said that between the time the Engineering Department received the plans and returned them to DOT, the Engineering Department could consult with the Council. Mr. Vick agreed.

Manager Taylor said that when the plans were submitted to the Engineering Department the staff could make them available to the Council and receive the Council's comments and recommendations before commenting back to DOT. He said that, however, he did not believe DOT was going to delegate their authority to approve the plans to any other body than the State Board of Transportation.

Mayor Howes said however, that the Town wanted as much input as possible within those constraints.

Council Member Preston asked if havens would be available in the medians for pedestrians. She said havens she felt should be included as part of the construction and that if the State waited until after the construction to determine where the pedestrian crossings would be warranted, this could cause problems. Mr. Vick said that the havens would be part of the median. He said the signals and crosswalk signals might not be there at the time construction was completed. He said some of the crossings were already warranted. Council Member Preston asked if there would be a depressed area, etc. which would be recognizable as a pedestrian haven. Mr. Vick said that he thought that at the location for the crossing area would be designed such that it would be obvious. Ms. Preston asked if this meant leaving the curb out and depressing these areas. Mr. Vick replied yes.

Council Member Werner said he was impressed with NCDOT's response to the concerns expressed. He said he thought what was before the Council was a good resolution which contained most of the issues of concern.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER WILKERSON TO ADOPT RESOLUTION 88-1-25/R-1 WITH AMENDMENTS. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION ENDORSING THE CONCEPTUAL DESIGN AND ENVIRONMENTAL ASSESSMENT OF THE PROPOSED U.S. 15-501/N.C. 54 BYPASS IMPROVEMENT PROJECT (88-1-25/R-1)

WHEREAS, representatives of the Town, the North Carolina Department of Transportation (NCDOT), the Federal Highway Administration (FHWA), and citizens at-large have met and discussed the project needs, scope, costs, and impacts; and

WHEREAS, all input has been evaluated in conjunction with formal engineering and environmental studies in reaching a decision concerning the recommended design; and

WHEREAS, the proposed design meets the most community-wide needs with the least negative impact of the alternatives studied;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council requests the NCDOT to continue review and consideration of alternative and/or variable median widths during the formal design process, in order to minimize project impacts on adjacent properties; and

BE IT FURTHER RESOLVED that the Council requests NCDOT continue discussion with the N.C. Botanical Garden concerning issues raised in their letter of December 9, 1987 to mitigate the adverse impact of noise; and

BE IT FURTHER RESOLVED that the Council expresses its concern that the median ultimately designed be preserved as a landscaped and grassed area for a four lane divided parkway, and that the Council expresses its desire that this median not be reserved by NCDOT for future use as additional traffic lanes; and

BE IT FURTHER RESOLVED that the Council requests that final design include plans and specifications for landscaping in the median and along the project clearing limits to provide a buffer between the project and adjoining properties; and

BE IT FURTHER RESOLVED that the Council requests that field stakes showing the construction and/or clearing limits necessary for this project be placed, at such time that the formal design is complete enough to make this possible; and

BE IT FURTHER RESOLVED that the Council requests the NCDOT to include the Town in the review process as the final plans are developed.

BE IT FURTHER RESOLVED that the Council herewith endorses the conceptual design and environmental assessment for the U.S. 15-501/N.C. 54 Bypass Improvement Project, as recommended by the NCDOT at its public hearing on November 30, 1987, which conceptual design includes a four-lane divided roadway, with a raised 24-foot-wide landscaped median with appropriate left turn storage lanes, and four-foot wide paved shoulders along the outer lanes.

This the 25th day of January, 1988.

Cloverleaf Property - Zoning, 2nd Reading

Ordinance 88-1-11/O-13a was on the floor for second reading.

Jim Haar, representing the Chapel Hill Alliance of Neighborhoods, urged the Council to vote against mixed use zoning. He said the Council should zone the Cloverleaf property OI-1 to protect the Northwoods neighborhood.

Floyd McKissick, Jr., an attorney representing the property owners, said the property owners were still willing to meet with the neighbors to discuss concerns about potential development of the site. He urged the Council to approve the mixed use zoning. He said the area was designated mixed use on the Town's Land Use Plan.

Council Member Preston said that she had deliberated long and hard on this issue. She said she was concerned about the neighborhood concerns and protection. Ms. Preston stated that she had met with some of the residents and then had asked several questions to Town staff. She said that if the property were zoned mixed use, then in order for the property owner to take advantage of the mixed use zoning they would have to come before the Council with a very detailed Master Plan. She said she felt the Council would have the opportunity to protect the neighborhood more with the Mixed Use zoning than with Office Institutional zoning.

Council Member Godschalk said he agreed with Council Member Preston that the mixed use zoning was better for this site. He said he was concerned with the cut through traffic but that this should be a separate issue from the zoning. He stated that the Council should take a separate action to address this matter.

Council Member Andresen said she could not vote in favor of mixed use zoning for this site. She said she would like to caution the Council that zoning the site mixed use meant the availability of increases in height limits and density.

Council Member Wilkerson asked for clarification of the statements in the November 23 memorandum regarding mixed use and office institutional zoning. Manager Taylor responded that it meant that the Town could not guarantee the quality of development regardless of the zoning of the property. He said it also meant that even if the site were zoned mixed use, the property could still be developed under office institutional-1 regulations.

Council Member Wilkerson asked why the area had been designated as mixed use on the Land Use Plan.

Council Member Godschalk commented that the Council had determined during discussions on the Land Use Plan that the areas around the Interstate-40 interchanges would be good areas for mixed use zoning and would allow the Council better opportunities for controlling the type of development in these areas.

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

The ordinance, as adopted, reads as follows:

AN ORDINANCE ZONING NEWLY ANNEXED LAND (88-1-11/O-13A)

WHEREAS, the Council of the Town of Chapel Hill has annexed property described as follows:

BEGINNING at a point in the northern right-of-way line of Eubanks Road, said point marking the intersection of the northern right-of-way line of Eubanks Road with the proposed western right-of-way line of Interstate Highway No. 40 as shown on a survey by William Jerry Autry, dated October 23, 1983; running thence from said beginning point South 87 degrees 12 minutes 27 seconds West with the northern right-of-way line of Eubanks Road 157.06 feet to a point, thence North 85 degrees 19 minutes 35 seconds West with the northern right-of-way line of Eubanks Road 403.75 feet to an iron stake; thence North 2 degrees 17 minutes 29 seconds East 242 feet to an iron stake; thence North 85 degrees 36 minutes 25 seconds West 900 feet to a point; thence North 2 degrees 15 minutes East with the Eastern line of the "Sparrow" tract 624.53 feet to a point; thence North 87 degrees 26 minutes 28 seconds West with the northern line of said "Sparrow" tract 246.25 feet to a point; thence South 2 degrees 35 minutes 12 seconds West with the western line of said "Sparrow" tract 852.83 feet to an iron stake in the northern right-of-way line of Eubanks Road; thence North 84 degrees 47 minutes 42 seconds West with the northern right-of-way line of Eubanks Road 279.35 feet to an iron stake; thence North 80 degrees 8 minutes 22 seconds West with the northern right-of-way line of Eubanks Road 168.97 feet to a State highway monument; thence North 75 degrees 45 minutes 13 seconds West with the northern right-of-way line of Eubanks Road 591.86 feet to an iron stake; thence North 0 degrees 15 minutes 54 seconds West with the Eastern line of the "Mellott" tract 710.27 feet to an iron stake located in the right-of-way of Piedmont Electric Company; thence South 87 degrees 22 minutes 53 seconds East 1,967.99 feet to an iron stake marking the southeast corner of the "Erber" tract; thence South 47 degrees 56 minutes 22 seconds East with the proposed western right-of-way line of Interstate Highway No. 40 as shown on the Autry survey 64.64 feet to a point; thence continuing with the said proposed western right-of-way line of I-40 South 47 degrees 56 minutes 22 seconds East 166.61 feet to a point; thence continuing with the said proposed western right-of-way line of I-40 South 40 degrees 21 minutes 42 seconds East 172.25 feet to a point; thence continuing with the said proposed western right-of-way line of I-40 South 31 degrees 39 minutes 44 seconds East 480.06 feet to a point; thence continuing with the said proposed western right-of-way line of I-40 South 33 degrees 9 minutes 46 seconds East 114.95 feet to a point; thence continuing with the said proposed western right-of-way line of I-40 South 56 degrees 17 minutes 51 seconds East 211.03 feet to a

point; thence continuing with the said proposed western right-of-way line of I-40 South 19 degrees 30 minutes 2 seconds West 33.14 feet to the point of BEGINNING.

BEING 36.34 acres more or less, and being a portion of the land conveyed to Marvin P. Hogan by deed recorded in Book 350, Page 427 of the Orange County Register of Deeds.

This property is the same property described in a deed to I-40/86 Cloverleaf Associates recorded in Book 517, Page 413 of the Orange County Register of Deeds.

and

WHEREAS, the Council has considered the appropriate zoning designation for this property in the context of the surrounding land uses and zoning, and in the context of Chapel Hill's Comprehensive Plan;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Chapel Hill that the Mixed Use OI-1 zoning category be assigned to the above property.

BE IT FURTHER ORDAINED that the Chapel Hill Zoning Atlas be amended accordingly.

This is the 11th day of January, 1988 - FIRST READING.

This the 25th day of January, 1988 - SECOND READING.

Coker Woods - Preliminary Plat

Dave Roesler, Planning Development Coordinator, said that this item had been before the Council on November 9 and had been referred back to the applicant for resolution of pedestrian easement issues. He there had been many discussions with the Coker Hills neighborhood residents concerning school children using the power line easements to access their property and then eventually to Phillips Junior High and Estes Elementary School. Mr. Roesler stated that in an attempt to address these concerns the applicant proposed several things to funnel pedestrian traffic so it did not go through Coker Hills West or the proposed Coker Woods subdivision. He said that the applicant proposed to construct a 6' wood fence along the perimeter of the property with openings between Lot #15 and 16, along the Duke Power line easement and then along Piney Mountain Road there would be a stucco masonry wall. He said the applicant had also worked out with the utility companies a gate system where the easements cross. He also said there was a stipulation that a pedestrian path be provided between Lot #15 and 16 that would go through the Pine Tree Corporation property. Mr. Roesler said this idea was to construct a pedestrian path from Shadowoods apartment complex

across the Pine Tree Corporation property and connect with the gas easement. He stated that the applicant would also dedicate a 20' pedestrian easement across the power line for inclusion in the greenway system.

Council Member Andresen asked what was to keep the pedestrians from walking through the backyards of the Coker Hills West neighborhood from the gas easement. Mr. Roesler said that as part of the this application he did not know of any control that could be required at that point. He said that the proposed pedestrian path along the Coker Woods site might prove a more direct route to the schools. Council Member Andresen asked if this plan was acceptable to the neighbors. Mr. Roesler replied yes, to the best of his knowledge.

Council Member Godschalk said he was pleased to see the pedestrian easement problems worked out. He asked why the easement proposed from the developer was 11' x 22'. Belinda Wells, representing Ballentine Associates, said that this dimension was agreed upon because Duke Power would not permit fencing any closer than 10' to any of the existing power poles. She said this easement had been agreed upon by the developer and the residents of Coker Hills West so that the Coker Hills West neighborhood could fence around the power poles to keep individuals from trespassing upon their property.

Council Member Pasquini said that he did not like the idea of a 6' tall fence. He said there should be a consistent Town policy on fences. He asked if the fence would be reviewed by the Appearance Commission. Mr. Roesler replied that the fence along Piney Mountain Road was probably for aesthetic purposes and privacy, while the fence along remaining perimeter was probably for security. He said the two types of fences commonly used were chain link or wooden. He stated that without the fence there would be no deterrent to cut through traffic.

Council Member Pasquini said that with Coker Hills West neighborhood planning to fence in their property along the Duke Power easement and this proposal was also proposing to fence the easement there would be a 23' wide fenced corridor. He said he did not believe this would be attractive or the type of greenway the Town wanted. He asked if a sidewalk was being recommended on the internal street. Mr. Roesler replied yes.

Council Member Pasquini asked how the easement would be recorded for the pedestrian path to the Pine Tree Corporation property. Mr. Roesler said that a stipulation in the resolution requires that a recorded easement was necessary prior to granting the zoning compliance permit and that the path be improved prior to the issuance of the certificates of occupancy. He stated that the Coker Woods Homeowners' Association would be responsible for the upkeep of the path.

Council Member Pasquini said that Lots #11, 12, 21 and 22 were transversed significantly by easements. He said that he felt it was time the Town established a quality of a subdivision or lot that indicated that if a certain portion of a proposed lot were covered by an easement then it would not be a buildable lot. He suggested adding this to the resolution as well as that the fences be reviewed and approved by the Appearance Commission.

Council Member Werner said he understood the reasoning for the fence along the Duke Power easement because of the current problems in that area. He said he had some concern that the Town was stipulating a fence around a new development in expectation of a problem. He said that if the residents wanted to put up a fence in response to a problem he thought that was fine but that he was uncomfortable with the Town making the decision that this area should be fenced now before there was an obvious need for it. Mr. Roesler responded that the applicant, not the staff, had proposed the fence. He said he thought the proposal for the fence was the applicant's response to some of the neighbors concerns in the area about the existing problem.

Council Member Werner asked how the fence affected the buffer requirements. Mr. Roesler replied that the only buffer requirements were along Piney Mountain Road, where the applicant had adequate area to provide the class "C" buffer. He said he did not think the fence in that area would affect the buffer. He also said a class "B" buffer was required along the western property line.

Council Member Pasquini said he was concerned about the location of the fences in relation to the buffer.

Council Member Preston said that she was concerned that the homeowners in this proposed development would have to take care of the pedestrian path on the Pine Tree Corporation property. She questioned how effective this would be and if it might be better for the Town to maintain the path. Manager Taylor replied that this path was not proposed to be part of the greenway system and that the Town had not assumed the maintenance for pedestrian paths or trails through various subdivisions unless they were part of the formal adopted greenway system. He said the Town had always placed this responsibility on the Homeowners' Associations.

Council Member Preston asked how the Town monitored the upkeep of these paths. Manager Taylor responded that monitoring was generally accomplished through complaints.

Council Member Preston asked if the Manager thought there was a problem with a Homeowners' Association maintaining something that was not on their property. Manager Taylor replied yes, but that the Homeowners' Association would have an easement and duty and responsibility within their covenants as part of the Association to maintain the pedestrian path.

Council Member Andresen said that she thought there were potential problems with the easements but that she lived in a neighborhood adjacent to this area and that none of these matters were attended to when her neighborhood was developed. She said the fact that the neighbors, developer and staff agree on this plan indicated that the easements were acceptable. Council Member Preston said that she felt the developer had requested the fence for a reason, but that she would agree that it should be reviewed and approved by the Appearance Commission.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO ADOPT RESOLUTION 88-1-25/R-2C.

Council Member Werner said he would like to amend his motion to remove stipulation #7 which dealt with the fence. He said he did not want to preclude a fence being built but he did not want it as part of the preliminary plat approval.

Council Member Andresen asked what affect this amendment would have on the neighbors concerns.

Joan Bettman, speaking as a resident of Coker Hills West, said that she thought the primary reason for the inclusion of a fence around the site was that the developer had a jogging trail that was a recreation feature for the development and the developer did not want trespassers onto the jogging trail, as well as the problems with crime in the area. Ms. Bettman also stated that the fence on her property was not a 6' fence but rather a split rail fence.

Council Member Godschalk questioned if it might not be a more aesthetically pleasing fence if it was installed at the time the subdivision was constructed instead of having a separate fence behind each lot. He said if the homeowners in this area feel they will need a fence and one was not provided then it was likely they would build their own.

Belinda Wells, representing Ballentine Associates, responded that due to the traffic the residents of Coker Hills West indicated went through the area and the fact that the Duke Power easement was part of the greenway plan, the developer felt it would be in the best interest of the proposed neighborhood to include a fence around the site to deter trespassers.

Council Member Godschalk said he felt the fence should be reviewed and approved by the Appearance Commission but that it should not be removed from the stipulations.

Council Member Pasquini asked if the developer was willing to accept the notion that the fence should be on the inside of the buffer, with the plantings on the outside of the fence. Ms. Wells replied yes.

Council Member Pasquini suggested amending stipulation #3 to add the phrase that the buffers be outside of any fence that was constructed on the property.

Mayor Howes asked the Manager to comment on this proposal. Manager Taylor said that fences were and could be a part of buffers and that normally the Appearance Commission would work with the applicant in locating any fences. He said by placing the plantings outside of the fence, the buffer would benefit the apartment property and not the subdivision. He stated that the staff had no problem with including the Appearance Commission in stipulation #7 to approve the fence and also include that the Appearance Commission would also approve the location of the fence in relation to the buffer.

Council Member Andresen said she had walked the property and that the land dropped off and there were woods between the two sites and that additional plantings would probably not be necessary due to the current vegetation.

Council Member Pasquini said he was concerned with the larger issue of buffers and fences which were not considered part of the buffer.

Council Member Wilkerson said he had a problem with the Town mandating fences. He said that the Town had an Appearance Commission that did a fine job and that the matter of what type of fence and where they were located should be left up to them instead of the Council spending valuable time nitpicking over whether or not a fence should or should not be included in a project. He stated that the developer and neighborhood had gotten together and decided what they thought to be best for their situation.

Manager Taylor suggested that stipulation #7 in Resolution R-2c include a statement that the plans for the wood fence be approved by the Appearance Commission instead of the Town Manager.

Council Member Werner suggested that stipulation #7 be amended to state that "...plans for any fence proposed around the perimeter of the Coker Woods Subdivision, be approved by the Appearance Commission.."

Mayor Howes asked if the makers of the motion agreed to Council Member Werner's latest amendment. Council Members Werner and Godschalk agreed.

RESOLUTION 88-1-25/R-2C AS AMENDED, PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION APPROVING AN APPLICATION FOR PRELIMINARY PLAT APPROVAL FOR COKER WOODS SUBDIVISION (88-1-25/R-2c)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Coker Woods Subdivision proposed by Goforth Properties, identified as Chapel Hill Township Tax Map 29, Lot 3F, if developed according to the preliminary plat dated July 15, 1987 and Preliminary Utility, Storm Drainage and Erosion Control Plan dated September 1, 1987, and the conditions listed below, would comply with the provisions of the Development Ordinance:

1. That Piney Mountain Road be improved to 1/2 of a 41-foot cross-section with curb and gutter and sidewalk along the property's frontage, 1/2 of a 70-foot right-of-way be dedicated along this frontage, and sight triangle easements be provided at the entrance onto Piney Mountain Road.
2. That the new street be built to class "B" standards with a sidewalk.
3. That a type "C" buffer easement be provided along the Piney Mountain Road right-of-way and a type "B" buffer easement be provided along the western property line.
4. That all of the land which surrounds the jogging/fitness trail be designated as recreation area, and:
 - a. That a homeowners' association that has the capacity to place a lien on property of members that do not pay their dues, be established; and
 - b. that the recreation area be designated on the final plat as "Dedicated to the Coker Woods Homeowners' Association for Parks and Recreation Purposes Only."
5. That 23 feet along the western edge of the Duke Power line easement be designated on the final plat as a "public access, pedestrian and non-motorized vehicular easement."
6. That a 20-foot-wide pedestrian non-motorized vehicle easement be provided over the Pine Tree Corporation property to the south that:
 - a. would provide for pedestrian access from the Shadowoods Apartments, Coker Woods Subdivision and Coker Hills West to intersect the Public Service Co. easement, as shown on the preliminary plat;
 - b. the pedestrian easement be an improved gravel path to be installed by the applicant prior to the issuance of any Certificates of Occupancy, and maintained by the Coker Woods homeowners' association;
 - c. that the easement be recorded prior to issuance of any building permits;

- d. that a 20-foot-wide pedestrian non-motorized easement between Lots 15 and 16 be shown on the final plat and that an improved path be installed prior to issuance of any Certificates of Occupancy; and
 - e. that this pedestrian, non-motorized vehicle easement be shown on the final plat for the Coker Woods Subdivision.
7. That plans for any fence proposed around the perimeter of the Coker Woods Subdivision, be approved by the Appearance Commission, and OWASA, Duke Power Co. and Public Service Co. prior to issuance of a Zoning Compliance Permit, and that a note be placed on the final plat indicating that the wood fence is to be maintained by the homeowners' association, and that the fence be installed prior to issuance of any Certificates of Occupancy.
 8. That the names of the development and its streets be approved by the Town Manager prior to issuance of a Zoning Compliance Permit.
 9. That an erosion control permit be obtained from the County Erosion Control Officer prior to issuance of a Zoning Compliance Permit.
 10. That a fire flow report prepared by a 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 the final utility/lighting plan be approved by OWASA, Duke Power, Public Service Company of N.C., Southern Bell, and Carolina Cable before issuance of a Zoning Compliance Permit or final plat approval.
 12. That final street plans, grading plan, utility/lighting plan, stormwater management plan (with hydrologic calculations), and buffer planting and maintenance plan be approved by the Town Manager before issuance of a Zoning Compliance Permit or application for final plat approval, and that such plans conform to the plans approved as part of this application and demonstrate compliance with all applicable conditions and the design standards of the Development Ordinance and the Design Manual.
 13. That the applicant take appropriate measures during construction to prevent the deposit of wet or dry silt on adjacent paved roadways.
 14. That the final plat contain a "no access" easement along Piney Mountain Road which prohibits vehicular access to Piney Mountain Road for lots abutting Piney Mountain Road.

15. That before paving streets, utility service laterals be stubbed out to the front property line of each lot. Sanitary sewer laterals shall be capped off above ground.
16. That no Certificates of Occupancy be issued until all required public improvements are completed; and that a note to this effect shall be placed on the final plat.

If the Town Manager approves a phasing plan, no Certificates of Occupancy shall be issued for a phase until all required public improvements for that phase are complete; no Building Permits for any phase shall be issued until all public improvements required in previous phases are completed to a point adjacent to the new phase; and that a note to this effect shall be placed on the final plat.

If the Town Manager approves a phasing plan, all Piney Mountain Road improvements and the dedication of the Piney Mountain Road right-of-way be part of Phase I.

17. That the continued validity and effectiveness of this approval is expressly conditioned on the continued compliance with the plans and conditions listed above.
18. 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 preliminary plat approval for Coker Woods Subdivision in accord with the plans and conditions listed above.

This the 25th day of January, 1988.

Rosemary Square - Deadline Extension

Council Member Werner stated that on January 11 the Council created a subcommittee to meet with the developer to negotiate a mutually agreeable closing date and time of essence clause. He said the committee had met in an open meeting on January 19 and discussed the matter and received a detailed briefing from Mr. Daniels of the Fraser Development Company of N.C. Council Member Werner said the need for an extension was due to the submittal of documents to the SEC and receipt of approval (hopefully in March) in order to sell the condominium units. He stated that upon approval the developer would commence marketing the project for a period of six to seven months. Council Member Werner said that also during this time they would be working on qualifying potential buyers. He said that the developer indicated that in order for the development company to get a construction loan they needed to have pre-sold 90% of 188 units before closing. Council Member Werner said he had not been able to find anyone in the area who had experience building condominium hotels and financing

them, and therefore it was not possible for the subcommittee to independently come up with what they considered a reasonable time. He stated that the information provided by Mr. Daniels seemed reasonable, therefore the subcommittee agreed that a November 30, 1988 closing deadline was reasonable.

Council Member Werner stated that the subcommittee was also to negotiate the terms and conditions for a time of essence clause. He said the subcommittee agreed and Mr. Daniels accepted on behalf of Fraser Development Company a time of essence clause which was included in the resolution for consideration by the Council.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT RESOLUTION 88-1-25/R-3.

Council Member Werner asked for clarification of the time of essence clause and what the development company might feel would be potential extenuating circumstances and what, if any, circumstances would not affect the clause.

Walter Daniels, representing the Fraser Development Company of N.C., said that the development company accepted the principle and the opportunity to work with the Town to go forward, to have this period from now until November 30 to do this project and that if it didn't work, then it did not work. He said there had to be a point in time where both parties could say the time was now to either do the project or not do the project. He stated that this was the general principle the development company was operating under. Mr. Daniels stated that as to what might happen at some point further down the road, and under what circumstances would time of the essence not apply, generally speaking it was a rather narrow range of factors that would apply. He said in terms of a legal opinion, he was not offering one, but in terms of practical matters, physical inability like a snow storm, etc., those types of things would normally be considered an extenuating circumstance. He said he thought there could be some technical aspects with respect to the Town's ability to issue its bonds at the time it so desired. He stated that the basic principle was that if there was no interference as the project went forward, the development company assumed that if they were not ready to close and give notice to the Town by September 30 to close on November 30, then it would be time for both the Town and development company to walk away from the project. He said of course they did not think this would be the case. Mr. Daniels stated, however, that it did not mean that the Town and development company, as long time partners in this venture and both having a lot at stake, if something happened on either side, as the project got down to the final wire that might not meet within the technical language of an extenuating circumstance that would extend the time of the essence clause, it did not mean either party would not sit down with the other, explain where the project was, and go the final fraction of a step. He said that was not what the development company was asking for at this time.

Mr. Daniels said he did not wish to speculate how this might be affected by another lawsuit against the project. He said this would be a case where the development company and Town would have to discuss the ramifications at that point in time. He said that the company, if another lawsuit were filed, would not be as passive as in the past in terms of what appropriate actions the company would take on their side. He said the development company was operating under the assumption in going forward and executing this agreement that those issues were now behind them and were ready for the project to go forward.

Council Member Werner asked if a month or two before closing it was clear to the developer that it would not be able to sell 90% of the units in order to get the construction loan, what options might the development company pursue at this point. Mr. Daniels said under a scenario where the development company had 80% of the units sold, he thought the options which might be available would be to discuss with the construction lender possible changes in the requirements for the loan. He said if the lender felt comfortable with the project at that stage of the process of sales they might be willing to do that. He also said there could be other types of negotiations in terms of equity partners, etc. He said these were all sort of crystal ball types of consideration at this point in time, but obviously as the development company got to that point in time in the project it would have to look at the facts and deal with them. Mr. Daniels said he was certainly not going to be flippant about dealing with what would be at that time a \$2.5 million exposure on the development company's part. He said in the subcommittee discussions they had talked about whether the project could go forward as a hotel and not a condominium hotel and what the factors were that related to that. Mr. Daniels stated that the project was designed, costed, structured in terms of the joint venture arrangement with the Town of Chapel Hill as a condominium hotel. He stated that a condominium hotel project from the development perspective had a much higher value than a conventional hotel because of the normal economics of a hotel there was a premium as a unit buyer that also was placed on the investment. He said in structuring the arrangement with the Town the development company had used that premium to provide substantial subsidies in the project to the Town to order of magnitude of \$2.5 to \$3 million. He said this was a factor of costs built into the project related to the subsidy of the parking garage, street improvements, plaza and alley improvements. He stated that these factors were consciously factored into the program because it was seen as a way to make the public/private venture work. Mr. Daniels stated that going the conventional route, with these factors built in, would make it a more difficult thing to accomplish. He said the development company felt it had a commitment to the Town both personally, professionally and contractually. He said the company's primary plan was, as it had always been, to finance the project as a condominium hotel. He said even though the probabilities were not the same and were more restricted if the project were financed as a conventional hotel, the company was exploring that alternative,

and if that alternative was available sooner, then the company would exercise that alternative. He said it was not a question of waiting until the final minute to address that question, but rather something that the development company was currently reviewing.

Council Member Werner asked if there were a formal mechanism for the Council to be kept informed as to how the project was proceeding. Mr. Daniels responded that the development company had kept the Town administration up-to-date on events. He said once the company went effective with the SEC, that if the Council wished a report every month he said the company would be glad to provide this.

Council Member Wallace asked for clarification that the development company was relying upon the actual wording in the resolution as the basis for the new agreement and that the company was relying upon a reasonable interpretation of those words at some future time, under some future circumstances should such arise, as the basis for the company setting forth the proposal to accept the matter of, in connection with November 30, also adding the notion of time is of the essence. He said the company was putting a period there and was not wishing to hypothesize or to speculate as to how or in what way the company might have to go or go, but was leaving these words here to be interpreted by reasonable people at a future time under whatever circumstances which might eventuate. Mr. Daniels replied that what he was saying was that the development company had agreed to the terms in the resolution and have assumed all along that when any matter relating to this project that the element of good faith would prevail.

Council Member Wallace said he appreciated the inclusion of the time of the essence clause. He said that he would vote against the resolution on grounds of the date of the closing extension since he felt all of the matters could be handled by June, 1988.

Henry Whitfield, speaking as a resident, urged the Council to take a fresh look at the project and hopefully decide against going through with it.

Council Member Pasquini commended the subcommittee for their work. He said he agreed with Council Member Wallace that an earlier closing deadline would be adequate. He said he would like to receive a monthly status report.

Council Member Wilkerson said that what the Council should be voting on, was not the merits of the project, but on whether or not an extension was necessary. He expressed concern that the Council had not advised the Manager at the January 9 retreat that it wanted the Manager to re-negotiate the closing date proposed by the developer. He said he hoped that in the future, as the Council worked together as a unified Council, whether the Council Members agreed or disagreed on a specific project, that they would be open and honest with each other and work together to do that which was best for the Town of Chapel Hill. He said his vote this evening would be on the merits of granting the extension on the project.

Council Member Andresen thanked the subcommittee for their work. She said although the idea of a subcommittee had not been discussed at the retreat but had come up at the January 11 meeting, she thought it had been a good idea.

Manager Taylor said that Mr. Whitfield Morrow, as president of Fraser Development Company of North Carolina, had signed the resolution formally accepting the terms stated in the resolution.

THE MOTION TO ADOPT RESOLUTION 88-1-25/R-3 CARRIED, (6-3), WITH COUNCIL MEMBERS HERZENBERG, PASQUINI AND WALLACE VOTING AGAINST.

The resolution, as adopted, reads as follows:

A RESOLUTION APPROVING AN AMENDMENT TO THE ROSEMARY SQUARE DEVELOPMENT AGREEMENT EXTENDING THE CLOSING DATE TO NOVEMBER 30, 1988 AND MAKING TIME BE OF THE ESSENCE (88-1-25/R-3)

WHEREAS, the Town of Chapel Hill and the Fraser Development Company of North Carolina entered into a Development Agreement on February 28, 1985, for a public-private project called Rosemary Square; and

WHEREAS, the Agreement provided for a closing to take place on or before December 31, 1985; and

WHEREAS, the date for closing has been modified and delayed three times by subsequent amendment to the Development Agreement, which Agreement now provides for a closing on or before March 3, 1988; and

WHEREAS, on December 30, 1987 the Fraser Development Company requested that the Town extend the closing deadline to November 30, 1988; and

WHEREAS, upon receipt of that request and consideration thereof on January 11, 1988, the Council appointed a committee consisting of Council Members Nancy Preston and Art Werner, the Town Manager and the Town Attorney to review the request and negotiate a deadline and conditions for closing with the Fraser Development Company; and

WHEREAS, the committee met and discussed the extension of the closing date with the Company's representative, Walter Daniels, and has recommended that the request of the Company be found by the Council to be reasonable and that the Council approve an extension of the closing deadline to November 30, 1988; and

WHEREAS, the Council finds that an extension of the closing deadline until November 30, 1988, is a reasonable extension to allow the Company to complete steps prior to closing; and

WHEREAS, the committee has recommended and the Council finds that it is in the best interest of the Town of Chapel Hill to make

time be of the essence in proceeding to closing under the Development Agreement; and

WHEREAS, the Fraser Development Company has stated that an extension of the closing deadline until November 30, 1988 would constitute a reasonable amount of time to complete the steps necessary for closing; and

WHEREAS, the Fraser Development Company has stated its acceptance of a modification of the Development Agreement to grant this extension and to establish time to be of the essence;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council approves amendments to the Second Restated Rosemary Square Development Agreement dated May 13, 1986, as amended, which amendments would extend to November 30, 1988 the deadline for closing and would provide that the Fraser Development Co. of North Carolina agrees that the Town shall have no obligation to close after that date and no obligation to approve any further extension of the closing deadline beyond November 30, 1988; and would provide that the Town and Fraser Development Co. agree that because of the need for additional public parking on the Rosemary Square site, time is of the essence in proceeding to closing no later than November 30, 1988; that the Town's obligation to close will expire if the Fraser Development Co. is unable to close by November 30, 1988, and that, if closing has not occurred by November 30, 1988, either party at its sole election, may act to cancel and terminate the Agreement without further obligation to the other party.

BE IT FURTHER RESOLVED that the Council's approval of the above described amendments is subject to the Company's acceptance of these amendments to the Development Agreement by the signature of a copy of this resolution by an authorized officer of the Company.

BE IT FURTHER RESOLVED that the Council authorizes the Mayor to execute such amendments as provided above, with the form of the amendments subject to approval by the Town Attorney.

This the 25th day of January, 1988.

ACCEPTED BY FRASER DEVELOPMENT COMPANY, this _____ day of January, 1988.

By _____
President

Janus Tree House - Report

Manager Taylor stated that the memorandum addressed the process for receiving Special Use Permit applications and was in response to a petition from the Janus Tree House organization to be moved up on the public hearing schedule. Mr. Taylor said that no application had been filed to date from Janus Tree House and that once filed, it would follow the process described in the memorandum. He stated that currently only the February public hearings had all time slots scheduled. He said it was important that the application be filed as soon as possible so that it could be processed in a timely manner.

Council Member Herzenberg commented that when Dr. Matthews had petitioned the Council he had implied that they were in a hurry. He asked why an application had not been filed.

Dr. Matthews responded that the organization was working with the realtors and the banks in filling out the application for the Special Use Permit and hoped to have it filed by February 2.

Lee Court Subdivision - Amendment to Preliminary Plat

Council Member Wilkerson said that he would abstain from discussion and voting on this issue as he was a general partner in the venture.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG TO ADOPT RESOLUTION 88-1-25/R-6.

Council Member Pasquini asked why there needed to be a change in the road width design. Manager Taylor said that as the staff had reviewed the designs for Piney Mountain Road, the engineers had come to the conclusion that the road should be 41' back to back up to Eastwood Road and then from Eastwood Road north, it should only be 33'. He said the new section the Town had built under the assessment basis had been 33' and that the subdivision was immediately adjacent to that area. He stated that the staff felt the requirement of 41' in the preliminary plat approval had been an oversight on the Town's part and were asking the Council to correct this at this time.

THE MOTION PASSED UNANIMOUSLY, (8-0), WITH ONE ABSTENTION.

The resolution, as adopted, reads as follows:

A RESOLUTION MODIFYING A PRELIMINARY PLAT APPROVAL (88-1-25/R-6)

BE IT RESOLVED by the Council of the Town of Chapel Hill that Stipulation #8 of the Approved Preliminary Plat Resolution dated May 11, 1987 for the Lee Court Subdivision proposed by Howard Lee and Lee Court Associates of Chapel Hill, N.C. on property identified as Chapel Hill Township Tax Map 28, Lot 37G, if developed according to preliminary plat dated April 17, 1987, be amended to read as follows:

8. That Piney Mountain Road be improved along the site's frontage as follows:
 - a. That 1/2 of a 60-foot right-of-way be provided;
 - b. That the roadway be improved to 1/2 of a 33-foot cross-section, with curb and gutter;
 - c. That a sidewalk be provided.

This the 25th day of January, 1988.

Municipal Building Expansion Schematic Design

Council Member Preston stated that the architects had developed four conceptual ideas for the Municipal Building expansion site location. She said the Municipal Building Expansion Committee had reviewed the four locations and eliminated one. She said the Committee then presented the three alternatives to the Planning Board, who recommended Location B, adjacent to the northwest corner of the current building. Council Member Preston said the Committee reviewed the concerns raised at the Planning Board meeting with the architects and concluded that Location B was the best place for the new construction to be located.

Dan Huffman, representing the architects for the project, Hager, Smith and Huffman, described the three alternatives: A) the area between the Fire Station and the Municipal Building, close to Airport Road; B) the area bounded by the north side of the Municipal Building and the parking lot at the corner of North Columbia Street and Stephens Streets; and C) the area bounded by the north side of the Municipal Building and the gravel path along Airport Road. He said they had analyzed each site with consideration of the building from the perspectives of circulation with the existing building, views to and from the exterior, pedestrian access from Airport Road and the quality of view from Airport Road.

Milton Van Hoy, speaking as a member of the Municipal Building Expansion Committee, suggested that the Town institute a policy of having Town employees use park and ride facilities. He said by doing this it could eliminate the need for the additional parking spaces with the building expansion. He stated that the additional 28 parking spaces would cost approximately \$300,000. He said he felt the Town should set an example for good transportation planning.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER WALLACE TO ADOPT RESOLUTION 88-1-25/R-7B.

Council Member Preston asked if the parking situation could be decided later in the process. Mr. Huffman replied yes.

Council Member Godschalk said he was extremely skeptical of digging out under the existing parking in order to put additional parking under ground. He said he felt it would be more cost effective to extend a parking deck over the lower lot. He stated that he was surprised to see the proposal for digging out under the present lot. Council Member Godschalk said he would like to know what the comparative cost figures would be for the underground proposal and for extending the existing deck over the lower lot. He asked if this could be considered as a part of the schematic for location B even though it did put the parking in front of the building. He said that this negative could be mitigated by putting the parking back a little from the lot.

Mr. Huffman said the setback line would put the building further back on the site into the ravine and the parking would be right against the building. He said with a parking deck on top of the lower lot it would mean part of the building would look out onto the deck and that there were fire codes prohibiting windows overlooking the parking deck.

Council Member Godschalk asked if the building could not be set back further from the parking deck. Mr. Huffman said it could be set back further, but the further it was set back, the more trees which would have to be removed.

Council Member Godschalk commented that the Town could always plant some new trees for the cost of excavating the area. Mr. Huffman said the excavation cost estimates were only around \$50,000. He said the majority of the cost was the actual construction of the deck and the retaining walls.

Council Member Godschalk said he would vote against the resolution if it were predicated on excavating the parking underneath the present parking.

Council Member Werner stated that in response to Mr. Van Hoy's comments that the reason, in large measure, for the additional parking was to allow individuals to have on-site parking when attending meetings. He said if the parking was going to be available for the public for meetings then the Town might as well allow its employees to use it during the daytime.

Council Member Andresen said that she was going to vote for the resolution. She stated that the fact that the expansion would not be readily visible from Airport Road was not a big problem in her opinion. She said the proposal did take advantage of saving the majority of the trees but that she wanted the best design possible, and if it took an additional 15'-20' between the building and the parking lot to provide a buffer then she said she would prefer to have the buffer and plant new trees in the ravine area.

Council Member Pasquini said he agreed with Council Members Godschalk and Andresen with regard to buffers and parking. He

said he would rather plant new trees than to excavate the site for parking.

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

The resolution, as adopted, reads as follows:

A RESOLUTION DIRECTING HAGER SMITH AND HUFFMAN GROUP TO DEVELOP DESIGN DRAWINGS FOR THE MUNICIPAL BUILDING EXPANSION (88-1-25/R-7b)

WHEREAS, the Municipal Building Expansion Committee has worked closely with the Hager Smith and Huffman Group in the development of a program for the Municipal Building Expansion project; and

WHEREAS, the Committee and architects have analyzed the site and compared four alternative locations for the expansion; and

WHEREAS, the Planning Board has held a public meeting to solicit public input on these alternatives, and the Committee attended that meeting and considered all comments made;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that Hager Smith and Huffman Group is directed to proceed with the development of design drawings based on the location of the expansion at the northwest corner of the existing building, that site known as Location B.

This is the 25th day of January, 1988.

Quarterly Reports - Second Quarter

Triangle J Council of Governments - Mayor Howes said that he had nothing to report since the group's meeting was to be held later in the week.

Joint Orange Chatham Community Action Commission - Council Member Preston said she would report following the next JOCCA meeting.

Solid Waste Task Force - Council Member Preston stated that a public forum would be held on Wednesday, January 27 at the Chapel Hill High School to discuss solid waste alternatives.

Transportation Advisory Committee - Mayor Howes said that there would be a public meeting on Thursday, January 28 at Jordan High School in Durham to discuss the Durham Urban Area Transportation Study and proposed changes to the Thoroughfare Plan.

Manager Taylor said that the staff second quarterly report was included in the Council's agenda packet and that he would be glad to answer any questions.

Council Member Pasquini asked that the Quarterly Report include a table of contents and page numbers in the future. He also asked for a more detailed report on the status of the Tandler project.

Council Member Wilkerson asked for clarification of the use of computers in the Town and hoped that there was no duplication of efforts within the departments. Manager Taylor responded that most of the departments contained personal computers which the staff used for projects specific to their department and that those items which needed to be accessed by more than one department were created with a program that was common to all the computers.

Council Member Wilkerson asked for clarification of the training hours listed in the Fire Administration portion of the quarterly report.

Affirmative Action Update

Manager Taylor said that this was the third annual report on the Town's affirmative action plan.

Consent Agenda

Council Member Herzenberg asked that item #a be removed from the consent agenda.

COUNCIL MEMBER WALLACE MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT RESOLUTION 88-1-25/R-8 MINUS ITEM #A. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolutions, as adopted, reads as follows:

A RESOLUTION APPROVING VARIOUS RESOLUTIONS (88-1-25/R-8)

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

- b. Release of funds to the Council of Governments (R-10).
- c. Bids for Dozer (R-11).

This the 25th day of January, 1988.

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Economic Development Funds to the Council of Governments

The resolution, as adopted, reads as follows:

A RESOLUTION REGARDING RELEASE OF STATE FUNDS (88-1-25/R-10)

WHEREAS, in North Carolina the Lead Regional Organizations, as voluntary organizations serving municipal and county governments, have established productive working relationships with the cities and counties across the State; and

WHEREAS, many counties and cities continue to need assistance in pursuing economic and community development opportunities, but federal assistance in the form of intergovernmental revenues has been severely curtailed in recent years; and

WHEREAS, the 1987 General Assembly has again recognized this need through the appropriation of \$990,000 each year of this biennium to help the Lead Regional Organizations assist local governments with grant applications, economic development, community development, support of local industrial development and other activities as deemed appropriate by their local governments; and

WHEREAS, these funds are not intended to be used for payment for members' dues or assessments to a Lead Regional Organization or to supplant funds appropriated by the member governments; and

WHEREAS, in the event that a request is not made by a unit of government for release of these funds to our Regional Council, the available funds will revert to the State's General Fund; and

WHEREAS, in Region J, funds in the amount of \$55,000 will be used to carry out the economic development plan approved by the COG Board of Delegates and especially to improve the economy of the counties and towns of the Region by strengthening ties to and consequently benefits of the Research Triangle Park.

NOW, THEREFORE, BE IT RESOLVED that the Council of the Town of Chapel Hill requests the release of its \$3,201.65 share of these funds to the Triangle J Council of Governments at the earliest possible time in accordance with the provisions of Chapter 830 of the 1987 Session Laws (HB 1515).

This the 25th day of January, 1988.

Crawler Dozer Bids

The resolution, as adopted, reads as follows:

A RESOLUTION ACCEPTING BIDS AND AWARDING A CONTRACT FOR THE PURCHASE OF A CRAWLER DOZER (88-1-25/R-11)

WHEREAS, the Town of Chapel Hill has solicited formal bids by legal notice in The Chapel Hill Newspaper on December 20, 1987, in accordance with G.S. 143-129 for the purchase of a Crawler Dozer; and

WHEREAS, the following bids have been received and opened on December 30, 1987;

<u>Company</u>	<u>Base Bid</u>	<u>Trade-In 1961 C-500</u>	<u>Total Cost</u>
Coble Crane & Equip. Raleigh, N.C.	\$36,920.00	-\$3,500	\$33,420.00
R.W. Moore Equip. Co. Raleigh, N.C.	\$37,958.03	-\$3,000	\$34,958.03
Gregory Poole Equip. Raleigh, N.C.	\$42,426.45	-\$2,500	\$39,926.45
N.C. Equip. Co. Raleigh, N.C. (Alternate)	\$62,445.00 \$59,358.00	-\$21,449 -\$21,449	\$40,996.00 \$37,909.00
Mitchell Dist. Co. Raleigh, N.C.	\$52,175.00	-\$3,000	\$49,175.00

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Town rejects the low bid of Coble Crane and Equipment Company in the amount of \$33,420 as the bid did not meet specifications, and accept the bid of R.W. Moore Equipment Company in the amount of \$34,958.03 in response to the Town's advertisement for bids published December 20, 1987, in accordance with G.S. 143-129.

This the 25th day of January, 1988.

Local Bill Requests - Process

Council Member Herzenberg asked if the adoption of the resolution calling for the public hearing would limit the public hearing to just those items indicated in the resolution. He said he would also like to see the Council request legislation regarding an entertainment tax and a code of ethics.

Manager Taylor responded that the resolution did not limit what could be considered at the public hearing but that the more topics included in the resolution, the better the hearing could be advertised.

COUNCIL MEMBER HERZENBERG MOVED, SECONDED BY COUNCIL MEMBER WERNER TO ADOPT RESOLUTION 88-1-25/R-9 WITH THE ADDITION OF AN ENTERTAINMENT TAX AND CODE OF ETHICS REQUESTS FOR LEGISLATION. THE MOTION PASSED UNANIMOUSLY, (9-0).

The resolution, as adopted, reads as follows:

A RESOLUTION ESTABLISHING A PROCESS FOR MAKING REQUESTS TO THE GENERAL ASSEMBLY FOR ENABLING LEGISLATION IN 1988 (88-1-25/R-9)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby adopts the following procedures for legislative requests to the General Assembly in 1988:

1. Scheduling of public forum on Monday, March 28, 1988 on whether the Town should request enabling legislation to:
 - a. Adopt adequate public facilities ordinance(s) with requirements that public facilities of various types must exist, or be provided, to adequately serve developments within the Town's planning areas. Such facility requirements may include, but are not limited to, adequate and safe streets, traffic and transportation facilities.
 - b. Adopt an ordinance on towing vehicles from parking facilities owned or operated by the Town.
 - c. Enact an "entertainment" tax on admission to large facilities.
 - d. Enact ordinance(s) or resolution(s) requiring disclosure of (1) financial interests of the Mayor and Council and (2) campaign finance information including contributions, contributors and expenditures.
 - e. Adopt policies on other matters which may be proposed by citizens or Town Council members.
2. Publication of notices in newspapers with circulation in Orange and Durham Counties, and mailing of notices to community groups.
3. Public forum (March 28, 1988 in the Municipal Building Meeting Room, 306 N. Columbia Street, Chapel Hill, N.C., 27516).
4. Consideration and action by the Council at a meeting after the public forum.
5. Preparation of draft local bill by Town Attorney for submittal to the General Assembly delegation.
6. Transmittal of request to the General Assembly delegation by the Mayor.

This the 25th day of January, 1988.

Board/Commission - Library Board of Trustees Nomination and Appointment

Council Member Godschalk nominated Everett Emerson.

Council Member Preston nominated Eric Leifer.

For one seat on the Library Board of Trustees the following vote was taken.

June Dunnick (0):

Everett Emerson (8): Andresen, Herzenberg, Howes, Godschalk, Pasquini, Preston, Werner, Wilkerson

Eric Leifer (0):

Barbara Rogers (0):

Jon Veigel (0):

Nina Wallace (1): Wallace

Everett Emerson was appointed.

Executive Session

COUNCIL MEMBER WALLACE MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADJOURN TO EXECUTIVE SESSION TO DISCUSS LITIGATION AND INTEREST IN REAL PROPERTY. THE MOTION PASSED UNANIMOUSLY, (9-0).

The meeting adjourned to executive session at 11:10 p.m.

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

The meeting adjourned at 11:20 p.m.

