

MINUTES OF A REGULAR MEETING OF THE MAYOR AND COUNCIL  
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,  
MONDAY, MARCH 14, 1988, 7:30 P.M.

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

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

Council Member Werner was absent, excused. Also present were Town Manager David R. Taylor, Assistant Town Managers Sonna Loewenthal and Ron Secrist, and Town Attorney Ralph Karpinos.

Public Hearing on Proposed Annexation of Area 1 - East of Chapel Hill

Roger Waldon, Planning Director, said that this was a public hearing to receive citizen comments on the proposed annexation of an area east of the present Town limits, containing approximately 930 acres, and referred to as Area 1. He stated that the Town's general policy with regard to annexation decisions in the last ten years was to annex areas when they qualified under State law and the Town could practically extend and finance municipal services to those qualifying areas. He said annually the Town staff reviewed the character and development of areas around the Town and recommended to the Town Council a resolution designating areas as being under consideration for future annexation in accordance with State statute. He said approximately once a year, the Town staff analyzed specific areas which appeared likely to qualify for annexation in the near future. Mr. Waldon said this was a policy that the Town had been pursuing for a number of years and that the Town had gone through a number of steps in the process leading to this public hearing. He stated that the Council passed a resolution of intent to annex Area 1 on January 13 and also called this public hearing, and on February 8, the Council received and approved a staff annexation report outlining how this area qualified for annexation under State Annexation Statutes and how the Town would finance the provision of municipal services to the area.

Mr. Waldon stated that on February 8th, the Council received and adopted a detailed annexation report. He said the key points of

the report were that no additional personnel or equipment would be required to provide most Town services (municipal sanitation, fire, and police to the area). He said the Town would maintain streets which meet the Town's standards for acceptance into the Town's street system. He said if a road in this area were currently maintained by NCDOT the Town could take over maintenance only after the State and the Town agreed. He said this area was served by Shared Ride feeder service from the Transportation Department. Mr. Waldon stated that major water lines had already been extended to Area 1 and that additional major sewer lines and a pump station and force main as shown in the annexation report would be built and extended into Area 1 within two years of the effective date of annexation. He said that the cost of further service extension beyond the mains would be borne by those benefitting or requesting property owners in accord with the policies of the Orange Water and Sewer Authority. Mr. Waldon said that other Town services would also be provided on the same basis as they were provided to the rest of the Town's citizens.

Mr. Waldon stated that notices of this public hearing were sent to the property owners in the area as listed on the County tax records and were published in the Durham Morning Herald and Chapel Hill Newspaper.

He said the staff recommended that the Council, after hearing and receiving public comment, refer this matter to the Town Manager for further consideration and instructions that an annexation ordinance be brought back to the Council for consideration.

Mayor Howes asked those individuals who wished to speak on the proposal to annex Area 1 to come forward.

Bill Bayliss, an attorney representing the Chapel Hill Country Club, said they (the Club) had two reasons for opposing the annexation of the eastern area. He said that he would speak to one of the reasons and that Ralph Mason would also speak to the other. He said from their standpoint it did not look as though that it met the requirements for annexation by the State. Mr. Bayliss said that Area 1a, according to the proposal, indicated that it consisted of 104 lots in Oaks II and proposed Oaks III subdivisions and the Chapel Hill Country Club, 63 lots, or 60.58% of the total lots were being used for residential, institutional or governmental purposes. He said that from the Orange and Durham County tax maps they found that there were 121 lots in Orange County and 153 lots in Durham County for a total of 274 lots. (Orange County Tax Maps 135,136,137 and Durham County Tax Maps 479,479a,479b) He said a conversation with the developer indicated that there were 65 houses, (lots) used for residential

purposes. Mr. Bayliss said that this meant that this was only a 24% use and therefore did not meet the State requirement for 60% residential use.

He also said the area between Area 1a and the portion on NC 54 did not meet the State requirements. He said the Statute permitted municipal governing boards to extend corporate limits to include all nearby areas developed for urban purposes, and where necessary, to include areas which at the time of annexation were not yet developed for urban purposes but which constitute necessary land connections between the municipality and areas developed for the urban purposes, or between two or more areas developed for urban purposes. He indicated on the map two areas developed for urban purposes but said that it was not necessary to connect the two areas nor was it necessary to connect the Town of Chapel Hill to the (northern) area. Mr. Bayliss said because of this, they (Chapel Hill Country Club) felt the annexation failed to meet State requirements.

Ralph Mason, representing the Board of Governors of the Chapel Hill Country Club, which he said, represented the majority of the 750 local families who were members of the Chapel Hill Country Club. He said the Board of Governors would like to go on record as being opposed to the annexation. He said that annexation should be mutually beneficial to all parties concerned before it was undertaken. He said to annex simply to increase the tax base without real services provided did nothing more than make people living on the outskirts of the village in an unaffordable situation as the people living within the city limits. He said the Chapel Hill Country Club was a not-for-profit organization that served the Town of Chapel Hill. Mr. Mason said it served the Town by providing jobs with a year-round payroll of thirty people and in the summer additional part-time workers made the payroll 85 people. He said the Country Club had a \$700,000 payroll. Mr. Mason said they provided green and open spaces for the community. He stated that all purchases made contributed sales taxes back to the Town of Chapel Hill and Orange County. He said the Club provided a practice golf course for the local high schools and encouraged their use and provide the golf course for local charity drives. He said the Country Club provided recreational facilities that would otherwise be demanded of the Town. Mr. Mason said all members of the community were welcome to join the Country Club. He said that the reason for annexation as he understood from the memorandum were the services which would be provided. He commented that Chapel Hill Country Club built and paved the roads and bridges from the Chapel Hill city limits out to the Club House some ten years ago and maintained them at great expense. He said some hundreds of thousands of dollars had gone

into building those roads and those roads had been rebuilt in order to put in the residential building lots. He stated that there were numerous roads within the Country Club property which the Club maintained and therefore street maintenance services by the Town would not do much for the Country Club. Mr. Mason said that the Country Club had private refuse collection and would continue with this service. He commented that Country Club also had its own equipment for leaf removal and he understood that the Town would not be doing this in the future. He said with regard to maintenance of easements, he lived on Burning Tree Drive and the Town only mowed about twice a year, so the residents often maintained the easements. Mr. Mason said that the Country Club had received excellent police protection from the Orange County Sheriff's Department and that their alarm systems were hooked into the Sheriff's Department and had response times of six to seven minutes to break-ins at the Country Club. He said he had watched the Chapel Hill Police Department drive up and down Burning Tree Drive for as much as twenty minutes trying to find a house when there was an emergency. He said the present fire coverage by the New Hope Fire Department was considered adequate by the members of the Country Club and if in the future due to annexation the New Hope Fire Department was not available the Country Club would be willing to negotiate fire protection with the Town of Chapel Hill. Mr. Mason said with regard to parks and recreation, the Country Club had constructed parks and recreation and provided a green area that was a tribute to the Town. He said he thought it gave the Town something to be proud of and had attracted a lot of people who live in that area. He said that the Country Club had already paid to OWASA for water and sewer services. He said the Club ran the sewer line from the city limits for a mile up the hill and paid to tap into OWASA. He also said the Club had put in its own irrigation system and that there was no way the Club could maintain the golf course or tennis courts without a private water source. Mr. Mason said the members of the Country Club basically lived in Chapel Hill and paid school and city taxes on their residences and most feel they were doing their part in that manner. He said the members share the cost of the club which benefitted the Town. Mr. Mason said he thought timing was important. He said there were 930 acres in Area 1 and he understood that sixty-three lots had been developed. He said assuming the lots were one acre lots this equated to 7% density and as a result he said he thought the idea of annexing this area was premature.

Mayor Howes asked if there were others to comment on the proposed annexation with regard to the Country Club, and if not, if there were others to comment on the proposed annexation of Area 1.

Grainger Barrett, an attorney representing four property owners in the area known as annexation area 1b, on Little John Drive, said that the property owners opposed the annexation. He said they felt the Town was not bringing them any benefit for the cost and burden it would be to them. He said he felt the annexation report should have a statement showing that the area met the Statutory standards which were primarily subdivision for certain urban purposes as well as certain population density. He said as Mr. Bayliss had indicated, the actual area that comprised Area 1 was subdivided into three areas, two of which were described as areas developed for urban purposes. Mr. Barrett said the validity of annexing the area in between did depend upon the analysis of areas described to be for urban purposes. He said in the case of the area along Little John Drive and along Barbee Chapel Road he did not think the report allowed for an independent reader to determine that a statutory tests had been made because while there was a statement of the number of structures and building residences and total acreage for the entire area, there was no statement in the report to allow an individual to verify the assertions that area 1b had any kind of acreage or specific number of residences. He said from the property owners' view they were concerned that there was a discrepancy between the number of residences as opposed to cow sheds and outbuildings.

Mr. Barrett also said that there was a statement in the report on the sewer gravity main that would be required in the area of NC 54 that indicated that it would be provided within two years, but that the statement for the Little John pump station only said that it would be provided, or its equivalent. He said that he felt the phrase "or its equivalent" and the failure to state that it would be within two years raised questions as to whether or not the Town in adopting the annexation report actually intended to put a pump station and the associated force main in the area. Mr. Barrett said the appendices, in the OWASA report, stated that most likely these facilities would be built and left unused for some significant period of time. He said he thought this made sense, since the property owners were on septic tanks and would be unlikely to hook up to OWASA sewer service. He said the phrase "or equivalent" raised some questions as to what in fact the residents could expect if the sewer service were to be built within the two years. He also said that two years was the outside time period under the Statute and that as he read the Statute, sewer outfall services must be provided as soon as possible following the effective date of the annexation, and nowhere in the report did he find a statement to this effect. Mr. Barrett stated that there was a real problem with using the force main to get out to the Little John Road area because the force main would run from Barbee Chapel Road up to Little John

and into a pump station. He said as he understood it, OWASA would not allow anyone to tap into the force main and that this meant because of the awkward topography in the area that anyone who seriously considered tying into the OWASA system would either have to run a sewer interceptor or connector all the way to the pump station or all the way to Barbee Chapel Road. He said this would be a staggering financial burden which would discourage actual hook up. He said this was why there was a question as to the real utility of bringing a force main in the area as a device to provide the Statutory required sewer service. He said there was also a question as to whether or not the pump station could fit within the area of a street right-of-way at the end of an unused street as it currently existed.

Mr. Barrett stated with regard to the response time for fire and police service, there was no statement in the report as to response time for police services. He said he thought it was relevant to determining whether police services would be provided on substantially the same basis as the rest of the municipality. He said there was a statement that fire response time would be expected to be about five minutes to the newly annexed Little John area but there was no statement as to what the average response time was in the Town so it was difficult for an independent impartial reader to compare and determine whether or not service would be provided on the same basis.

Mr. Barrett also said the boundary of the area seemed to follow a boundary determined out of a lawsuit between the City of Durham and the Town of Chapel Hill about respective annexation territories. He said that as he read the Statute the boundary as far as possible should follow either streets or natural topographic lines. He said they did not appear to follow streets or topographic lines for a significant part of the area to the south and southeast of the Barbee Chapel/Little John area. He said therefore the property owners had serious questions about what the report really said about the Town going to or being able to provide municipal services as required, whether the sub-area of the Little John area met the Statutory required test, and the overall subdivision figures.

P. H. Craig, speaking as a property owner in the proposed annexation Area 1, said he owned property south of NC 54 and that the character of the neighborhood had not changed in the past 25 years. He said the OWASA tap on fees for one of his neighbors would be extremely large because a large part of the property had road frontage. He said the proposed sewer 3" force feed line would be a hardship for the residents because it was uphill from all the lots and the only reason to install such a line would be

to satisfy the Statute. He said he would not be able to tap into that line. He stated that there was sewer on the east side with the Downing Creek subdivision and that the area residents felt this would be the logical way to connect to sewer lines.

Mr. Craig said he could not locate the houses indicated in the Town's annexation report. He commented that on his property the report indicated five structures and he only had two. He also said that the topographical map, he felt, indicated that the proposed annexation line was not the place to put a sewer line nor a place for a demarcation between Durham and Chapel Hill. He said he did not feel any of the Statutory requirements for annexation had been met, population, growth, new development, etc.

He also said that a map in the report indicated a sewer line across a neighbor's yard and that neighbor indicated that he was against such a line and that a pump station at the end of Friar Lane where there was a creek. He said the Town did not own any land in the area and that the neighbors would probably challenge any attempt to take their land for a pump station. Mr. Craig concluded by saying that the residents of this area had provided one of the prettiest entrances to the Town of Chapel Hill without Chapel Hill having any jurisdiction over this area. He asked that this not be changed. He said he was prepared to go as far as necessary in Court to fight the annexation and that he thought the Council should balance this with its constituents as to whether or not they wanted to take on an expensive lawsuit.

Pete Dubose, speaking as a property owner in Area 1, said he and his family owned a large portion of the property in Area 1. He said his family had assembled the land in the early 1930's and that the property had been used as a family homesite and farm. He said they had maintained the pastureland along NC 54 and donated land to UNC. He said they had maintained an attractive landscape into Chapel Hill while other entranceways had failed. He said he did not know why the Town wanted to annex undeveloped land that was not necessary to connect developed areas. He commented that the bulk of their land was undeveloped and that there were no plans to develop at this time, but that if the Town pushed toward annexation it would hasten the day when the property would be developed. He said they wanted to work with Chapel Hill and had offered to work with Chapel Hill. He said when portions of the property were developed, they had sought out Chapel Hill's advice on the development. Mr. Dubose said that J. P. Goforth was developing some lots north of Little Creek, but that most of the land was undeveloped. He asked the Council to

look carefully at the logic with regard to this annexation and determine whether or not it achieved what was really wanted.

Dan Garner, an attorney representing the Dubose family, said his clients did not think the Statutory standards had been met for annexation of Area 1. He said he concurred with the comments made by Mr. Barrett and Mr. Bayliss. He said in reviewing the annexation report he said he found noticeably absent a photocopy of N.C.G.S. 160A-48 which was the Character of Area to be Annexed. He said he thought this was an essential part of evaluating a report that was developed under G.S.160A-47. He said that there were basically three areas which comprised the proposed annexation Area 1. He said there were two basic ways that land came into an annexation situation, if it was urban developed or if it was between things that were urban developed. Mr. Garner stated that the Town's annexation report indicated that the sub-areas 1a and 1b were urban developed but not sub-area 1c. He said that area 1c did not meet the Statutory standards under 160A-48.d. He commented that if for any reason sub-area 1a was not annexed then sub-area 1c would also not be able to be annexed. He said there was no perimeter and no connection between the two urban areas if either of the sub-areas 1a or 1b did not meet the Statutory requirements. He said the purpose of the General Statutes which addressed annexing of intervening areas was to permit municipal governing boards to extend corporate limits to include all nearby areas developed for urban purposes and where necessary to include areas which at the time of annexation were not developed for urban purposes but which constitute necessary land connections between the municipality and areas developed for urban purposes or between two or more areas developed for urban purposes. He said that even if the perimeters, acreages, and densities were met in area 1a, he said he felt G.S. 160A-48(d) was not met because there was no necessary land connection set forth in the report. He stated that there was nothing in the report about the necessity of utilizing that intervening land for providing any of the municipal services.

Mr. Garner said he felt the Council should when it refers this item back to the staff that it get information on the specific housing counts, area acreages because he said there was no way to tell if the Statutory standards were being satisfied. He also said there was a declaration of policy (G.S.160A-45) of the State with respect to annexation. He said the Statute indicated that municipalities were created to provide governmental services essential for sound urban development and for the protection of health, safety and welfare in areas being intensely used for residential, commercial, industrial, institutional and governmental purposes or in areas undergoing such development. He said



that this was not the case in this instance and to adopt an ordinance which annexed Area 1 was, in his opinion, contrary to the State's announced policy.

Mr. Garner said besides the Statutory requirements involved in annexation there was also the question of taxes. He said this area had been like it was for over 50 years however taxes would go up if the area were annexed and that if the taxes went up he said he was not sure how much longer his clients would be able to afford keeping the pastureland on NC 54 for all to enjoy. He said he felt if taxes went up, development would be forced to occur in this area. Mr. Garner said his clients asked the Council to consider the annexation proposal before voting in favor and that they delay until the area came into its own.

Mayor Howes asked if there were any other citizens wishing to speak to the proposed annexation of Area 1.

John McMillan, an attorney representing Goforth Properties, the developer of The Oaks III subdivision, said that all of this subdivision was included in the proposed annexation. He said the subdivision was designed and platted to conform with Durham County and Durham City zoning and subdivision regulations. He commented that plats had been approved for some time and development was in process. Mr. McMillan said the development had occurred with the knowledge of the Town of Chapel Hill's professional staff, who have been kept informed throughout the process. He stated that Mr. Goforth and Manager Taylor had reached an understanding about ten months ago that The Oaks III would be the subject of a voluntary annexation petition as soon as the streets were completed. He said that Goforth Properties had agreed to construct the streets in accordance with Chapel Hill standards, far in excess of what was otherwise required. Mr. McMillan said that voluntary annexation had been contemplated for late 1989 or 1990. He said Goforth Properties would not object to the current annexation procedures as they relate to The Oaks III as long as the timetable could be agreed upon. He said this had been discussed with the Town Manager and asked if approved, the effective date of the annexation for The Oaks III be June 30, 1989. He said the only other concern was that the plats and zoning as now approved be accepted. He said that based upon conversations with the Town's professional staff, he believed this would be the case. He said Goforth Properties had been assured that it would be able to construct what had been approved by the Durham authorities which was in keeping with the North Carolina General Statutes. Mr. McMillan commented that the staff had assured him that they did not intend to recommend zoning which would be inconsistent with the currently approved plats.

Charlie Stancell, speaking as a property owner in Area 1, said he owned property east of Barbee Chapel Road and south of NC 54. He said the General Statutes indicated that annexation was valid for new areas to be developed for urban purposes. He said that the area in which he lived had been developed since 1955 and in that area there were 48 houses. He said he did not think this area had been built for urban use. He said the roads were maintained by the State. He said he could not see how this area could be classified as urban development. Mr. Stancell said they did not want this entranceway to look like East Franklin Street and Airport Road.

Bob Gunn, an attorney representing three property owners in the proposed annexation Area 1, Lillian, John and Wallace Lloyd, said that his clients' property was on NC 54 adjacent to the Jordan Reservoir. He said they were at retirement age and lived on a fixed income. Mr. Gunn said that his clients could probably pay the Durham County and Chapel Hill taxes but that the added burden of the assessments for water and sewer would be excessive. He said his clients had in the last 18 years seen their 100-acre tract of land dwindle to approximately 40 acres with the taking of their land for the Jordan Reservoir and the widening of NC 54. He said he felt annexation into the Town of Chapel Hill and the ensuing increase in taxes and assessments would probably result in his clients' having to sell some of their property. He said his clients were at the age where they had lived their productive lives and were not able to get jobs to pay for the assessments that would be forthcoming. He requested that the Council consider eliminating this area from the proposed annexation Area 1.

Steve Pendergraph, speaking as a property owner on Barbee Chapel Road, said that he found it ironic that one of the points not discussed was education. He said that residents of this area went to Lowe's Groves School, approximately 11 miles from his home while Chapel Hill's Glenwood School was only 2 miles away. He said if the annexation took place the children in this area would still have to attend Lowe's Groves School. He said the proposed annexation line stopped approximately 1/4 of mile from the UNC Faculty Club. He said he felt annexation would force development of the area because of the taxes.

Phil Sparrow, speaking as a resident of Barbee Chapel Road, said he had not needed the services of the Town of Chapel Hill in all the years he had lived in that area and that if his property were annexed he would not be able to afford Chapel Hill taxes.

Mayor Howes asked if there were any other citizens who wished to comment on the proposed annexation of Area 1.

No other citizens came forward to speak.

Council Member Andresen if the street light policy which would go into effect in Area 1 if annexed would be the current policy. She said the sub-committee on the street light policy would probably come before the Council for possible policy changes and if so, she asked if the policy changes would be applicable to this proposed annexation area? Manager Taylor said the policy applied to the area would be the one in effect at the time the annexation was approved and the Town began installing street lights.

Council Member Andresen asked if there were a possibility that this would be done within the next two months. Manager Taylor said he felt the street lighting committee would have its work completed before the proposed effective date of the annexation.

Council Member Andresen asked when was the last attempt made to alter the school district lines in order to have the children who live in Durham County but within the Chapel Hill town limits attend Chapel Hill-Carrboro City Schools? Manager Taylor said he did not know the last time there was an official request made by the Chapel Hill Council, but the staff would research this question. He said under current law, the school districts have to agree to any change in boundaries. Council Member Andresen asked if the School Board had made an attempt in this area. Mr. Taylor responded that he was not aware of any attempt.

Mayor Howes said he would like to commend those who attended this hearing and were heard on this issue. He said annexation was an emotional issue, but those who spoke this evening kept their emotions under control and made their arguments compassionately and rationally.

COUNCIL MEMBER WILKERSON MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (8-0).

Public Hearing on Proposed Annexation of Area 2 - Northwest of Chapel Hill

Roger Waldon, Planning Director, stated that this public hearing was to receive citizen comments on the proposed annexation of an area comprised of approximately 287 acres north and west of the current Town limits and known as Area 2. He said the proposal was part of the Town's annual review of areas of the Town and what areas had been developed and might meet the requirements of State Statutes that designated what kinds of areas were eligible

for annexation. Mr. Waldon said the staff reported to the Council on January 13 that it believed Area 2 met the State requirements and at that time the Council adopted a resolution of intent to annex this area. He commented that on February 8 the Council approved the annexation service plans for the proposed annexation area which detailed how services could be provided to the area.

Mr. Waldon said the report indicated that the staff believed Area 2 could be served with no additional personnel or equipment to provide municipal sanitation, fire and police services. He stated the report said there would be some streets the Town would accept for maintenance, those which were built or improved to Town standards. He said there were a number of streets in Area 2 that were currently maintained by NCDOT. He also indicated that Area 2 was presently served by fixed-route transit service along Airport Road.

Mr. Waldon said major water lines had already been extended into this area, and that major sewer lines would be extended as indicated in the annexation report for Area 2 within two years of the effective date of annexation. He also said that in accord with the policies of the Orange Water and Sewer Authority the cost of further utility extension beyond those mentioned in the annexation report would be borne by the benefitting or requesting property owners.

Mr. Waldon said State law set forth detailed procedures for considering areas for annexation, and the staff believed the Town had followed those procedures. He stated that notices of this public hearing were published in the Durham and Chapel Hill newspapers, as well as direct mailings to owners of property in Area 2. He said the staff recommendation was that after receiving public comment on the proposal, the Council should refer the matter back to the staff with directions to prepare an annexation ordinance.

Mayor Howes asked citizens wishing to speak to the proposed annexation of Area 2 to please come forward and speak.

Charles Vinicombe, an attorney representing H.V. McCoy Company, the owner and developer of Brookstone Apartments, said his client opposed the annexation because he felt it did not meet Statutory requirements; because H.V. McCoy was being treated inequitably and unfairly; and because it would violate the U.S. and N.C. Constitutions. He said the report indicated that there were 292 acres, with 734 people living in this area. He said G.S.160A-48(c)(1) requires that there be 2 people per acre in this area and that

this meant there needed to be 584 people in the proposed annexation area. He said they had canvassed the area and found that 520 ±5 people lived in this area.

Mr. Vinicombe said he felt his client was also being treated inequitably in this instance. He said in February, 1986 his client applied for building permits to Orange County and at the same time the Council passed a resolution of consideration naming this area as one under consideration for annexation. He said upon the Council's recommendations, conditions for the public dedication of a public collector street and the granting of an easement to OWASA for proposed sewer lines were added to those being required by Orange County. He said his client built the public collector street, which exceeded the demand for the area, at a cost of \$50,000. Mr. Vinicombe said his at same time his client built a sewer outfall line, bringing it up Airport Road and tunneling underneath Airport Road to the development site, which cost approximately \$145,000. He said as required by the County and Town his client made the public dedication road and gave an easement to OWASA. He said his client felt he was being treated unfairly based upon the Statutory requirement that the Town would have to bring service into this area within two years of annexation. He commented that J.P.Goforth had petitioned for annexation and the Town was planning on contributing \$109,000 to bring sewer service to that area (Northwood V) and OWASA would be covering the other costs. He said to his knowledge, Mr. Goforth would not incur any costs for bringing the utility up to the annexed area, and in fact OWASA indicated in a letter that if it could not get this line hooked up within two years, it planned to put in a lift station and pump sewage back through the line that his client had built there. He said his client also felt that this same type of situation would occur in on the east side of Chapel Hill with its proposed annexation of Area 1.

Mr. Vinicombe said he felt that if the Town Council had brought it to his client's attention that his property was under consideration for annexation, his client would have petitioned for annexation and allowed OWASA and the Town to pay for the sewer outfall line. He said it was clear the Town planned to use the road his client built and OWASA was planning on tapping onto the sewer line his client installed. He said the compensation policy adopted by OWASA was not sufficient. He said it would not allow for compensation for tap ons after ten years and under the plan of reimbursement, those who built the lines closer to the Town would be compensated first and therefore his client would probably not realize any compensation for his investment.

Mr. Vinicombe also said that he felt that if the Town annexed the area, maintained the roads, and OWASA used the sewer lines it would constitute the taking of private property without just compensation and therefore be in violation of North Carolina and United States Constitutions. He distributed a letter setting forth his client's position with relation to constitutional argument. He said he understood that the Town Attorney disagreed with him on the assessment of the legal implications based on the fact that the Town imposed the conditions and OWASA used the line. He said he did not think the courts would agree because the Town initially recommended the conditions for the building permit and Orange County had had no intention of requiring these conditions until they were recommended by the Town. He also said that five of the nine members of OWASA were appointed by the Town Council.

Mr. Vinicombe requested that any annexation plans in the future be postponed so that his client could recoup some of its costs in terms of making the improvements that would benefit the public in the future, or that some compensation be made to his client.

Mayor Howes asked if there were others who wished to speak to the proposed annexation of Area 2.

Vern Chi, speaking as a resident, said his parents lived in the proposed annexation Area 2. He said his parents were pleased with the services they were receiving from Orange County and did not feel they needed the services of the Town of Chapel Hill. He stated that his parents were retired and were in their eighties as were many of their neighbors. Mr. Chi said that annexation by the Town would result in a heavy tax burden for the area residents. He commented that he also did not feel the area met the density requirements as much of the area was undeveloped.

Roscoe Reeve, speaking as a property owner in the proposed annexation area, said that he and his brother owned approximately 10 acres of undeveloped land in this area. He commented that he had offered his land to the Town for an affordable housing project at any time the Town wanted to undertake such a project. He said however that until the area was developed he did not see the need for annexation nor did he want to have to pay the extra taxes. Mr. Reeve said his property did not stand between two developed areas. He commented that when the property was developed or if the adjoining properties were developed then he could understand annexing the area. He urged the Council to defer annexation of this area until development occurred.

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John Maddry, speaking as a property owner, said his family owned approximately 160 acres and that most of it was designated as a tree farm by Orange County. He said he had done without Chapel Hill services and that he wished to continue to do without. He said there were only 8 residences on his property and he questioned whether or not Area 2 met the density requirements. Mr. Maddry asked if the area were annexed if the Town would be able to do something about the Riggsbee trailer park which he felt was not beneficial to the area. He also urged the Council to reconsider annexation until the area was developed.

Ms. Thompson, speaking as a resident of North Forest Hills, commented that in order to provide sewer service to the proposed annexation area, the sewer interceptor would go through North Forest Hills. She said she and her neighbors had appealed to OWASA to try to not to destroy the lake and creek in their area when putting in the interceptor and felt they had had marginal success. She urged the Council to take into consideration what effects annexation and the resulting extension of water and sewer lines would have on properties already within the Town. She said that if the interceptor were built, there should be a way for to recover the costs from those who would benefit.

Avery Maddry, speaking as a property owner in the proposed annexation Area 2, commented that he felt Chapel Hill did not have anything to offer. He said he was retired and living on a fixed income and would not be able to afford the increase in taxes.

Mayor Howes asked if there were others who wished to be heard.

Eloise Neeble, speaking as a resident of North Forest Hills, said her neighborhood was annexed some time ago and were now being forced to allow sewer lines in areas where there were not any rights-of-way. She said she hoped the lake would be protected when OWASA put in the sewer lines, but the residents were concerned that OWASA would not be as sensitive to the environment as it should when putting in the sewer lines. She said there was also concern in the neighborhood about the erosion from upstream development in the proposed annexation area. Ms. Neeble said there needed to be some kind of policy decision with regard to sewer extension and how it would affect neighborhoods already within the Town.

V. A. Hoyle, Jr., speaking as a citizen and representing his mother, Nell Hoyle, a property owner in the proposed annexation Area 2, said his mother lived on a fixed income and would not benefit from the proposed annexation.

Mayor Howes asked if there were any other citizens who wished to comment on the proposed annexation of Area 2.

No other citizens came forward to speak.

There were no questions or comments from the Council.

COUNCIL MEMBER HERZENBERG MOVED, SECONDED BY COUNCIL MEMBER WILKERSON TO REFER TO THE MANAGER AND ATTORNEY. THE MOTION PASSED UNANIMOUSLY, (8-0).

Public Hearing on Proposed Community Development Plan for FY 1988

Tina Vaughn, Director of Housing and Community Development, said this was the second public hearing on the proposed Community Development (CD) plan for 1988. She said that CD program funds were appropriated at the federal level for the 1988 grant year and that the staff expected the Congress to continue the annual appropriations through the three-year planning period ending 1989. She said the estimated grant for 1988 was \$279,000 and in addition the staff proposed to budget \$5,000 of program income received in 1987 for 1988 grant activities. She said the proposed general spending plan included \$60,000 for rehabilitation of existing housing serving lower income families; \$25,000 for renovation of a shelter for the homeless (This is in addition to the \$150,000 in CD funds authorized by the Town to help renovate the shelter.); \$131,000 to encourage lower-income homeownership opportunities; \$13,000 for playground equipment for Hargraves Center; \$25,000 for landscaping on Merritt Mill Road; and \$30,000 for general administration. Ms. Vaughn stated that the \$131,000 for homeownership opportunities would be used to establish another project similar to the Tandler project after the Tandler project was complete and the project was analyzed for effectiveness, etc. She said the purpose of this public hearing was to receive citizen comments on the proposed spending plan.

James Webb, speaking as a resident, asked the Council to consider the historical background of the Old Town Hall/Police Building when preparing the renovations. He suggested that the Council research the possibility of the building qualifying for the National Register of Historic Buildings. He said this should be done before any major renovation was begun.

Council Member Pasquini said he appreciated Mr. Webb's concerns and suggestions. He asked that the Council be given the schedule of when the funds would be given to the IFC and the schedule for work to be done on the Old Town Hall/Police Building. He asked that the staff determine if the renovations proposed would have



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an effect on any application for the National Register. He asked what the \$25,000 proposed in the 1988 CD grant was to be spent on at the shelter and why the staff was proposing to spend this money when the \$150,000 had not yet been used. Manager Taylor commented that the Council had already authorized the \$150,000 in CD funds for renovation of the shelter and that the proposal to spend \$25,000 of the 1988 CD funds was in response to a request for additional funding from the IFC and in response to what he understood was the Town's desire to aid the homeless in Chapel Hill. He said the IFC was in the process of establishing spending plans.

Peggy Polister, representing the IFC, said that they were working with the architect, Josh Gurlitz, to develop the plans for renovation and would have them soon. She said they were aware of the historical significance of the building.

Council Member Godschalk asked if the plans included changes to the exterior of the building. Ms. Pollister responded that at present the plans included replacing two blocked in window areas with glass and also the replacement of windows where the fire station doors used to be.

Council Member Andresen said that she would also like to have a staff recommendation on the an application for National Register for the Old Town Hall/Police Building.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG TO REFER TO THE MANAGER. THE MOTION PASSED UNANIMOUSLY, (8-0).

### Petitions

Grainger Barrett asked to speak to items #5, Tandler Homeownership Status Report, and #7, Village Associates Modification to Special Use Permit.

Adele Thomas and Rebecca Clark asked to speak to item #5, Tandler Homeownership Status Report.

Dave Maner and Sam Blankenship asked to speak to item #11, Duke Power Easement.

James Pickard and Clarence Gray asked to speak to item #6, Rezoning of Old Durham Road.

Minutes

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG TO ADOPT THE MINUTES OF FEBRUARY 15, 1988 AS CIRCULATED. THE MOTION PASSED UNANIMOUSLY, (8-0).

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER WILKERSON TO ADOPT THE MINUTES OF FEBRUARY 22, 1988 AS CIRCULATED. THE MOTION PASSED UNANIMOUSLY, (8-0).

Tandler Homeownership Program Status Report

Sonna Loewenthal, Assistant Town Manager for Environment and Development, said the Town's homeownership opportunity program, was considered worthwhile by HUD, who had designated it as an affordable housing project. She said this meant HUD would be watching the project carefully and hoped to disseminate lessons learned in Chapel Hill to other communities. She stated that the Tandler project was more complicated than usual because it was taking place adjacent to an existing major public works project (Merritt Mill Road improvements). Ms. Loewenthal said this status report covered the marketing situation, budget and present and projected costs, comparison of revenues and estimated costs and recommendations.

Ms. Loewenthal said that early last August the Town started the first phase of marketing and from this first marketing effort the Town received 131 applications, and have received 28 more since then. She commented that out of the 131 applications, 62 were determined to be income eligible and of those 62, 19 had signed purchase agreements or intent to purchase agreements, and one person had closed on a home. Ms. Loewenthal stated that 45 applicants had been found to be ineligible in terms of the income limits but that this past month, HUD had issued new designations for the median income for this area (Raleigh, Durham & Chapel Hill). She said that this meant 80% of the median income for a family of four had been raised from \$26,700 to \$29,300. Ms. Loewenthal said this meant an additional number of individuals would now be income eligible. She said to-date the staff had found 15 of the original 45 individuals who were found to be income ineligible now met the new standards. She said that in November, the marketing phase transferred from the Town to the developer and it would be their responsibility to extend marketing efforts this spring.

Ms. Loewenthal said the Town's cost as currently estimated exceeded the original budget by about \$220,000 and was primarily due to the high costs of public improvements based on the bids the Town received. She said included in the costs were land acquisitions which had not originally been contemplated as part of the budget. She stated that the remainder of the costs dealt with increases in engineering testing fees and in contingency.

Ms. Loewenthal said the land improvements accounted for about half of the increase in costs (\$30,000). She stated that land improvements included streets, water and sewer, and water and sewer connections. She said that when the bids came in significantly higher than estimates it was noted that the specifications as finally written included several items that were added during the process of preliminary plat approval. She said during the plat approval process the private driveways on the Legion Road site had been changed to a public road, a sidewalk was added to Adelaide Walters Street and T-turnarounds were added at the Legion Road and west Merritt Mill Road sites, and a bus stop and connecting walk and additional buffer was added to the West Merritt Mill Road site. She said in addition to the cost increases due to the additional items, the staff felt some of the estimates in June were low.

Ms. Loewenthal said timing played a part in the cost changes in that in May the Council authorized the Manager to enter into a development agreement and at that point serious, in-depth engineering began and continued into June when the preliminary plat went to the Planning Board and then the Council on July 13. She said the budget estimates which were included in the July development agreement were based on preliminary plat work and not on final detailed construction drawings or specifications which were written later in the fall. Ms. Loewenthal said grading was underestimated at Legion Road by about \$17,000; sewer service connections were under-estimated by about \$4,000 and other numerous items due to the detail of the engineering work. She stated that some changes were more significant like the re-design of the west Merritt Mill Road sewer which was due to the need to coordinate with what was occurring with the Merritt Mill Road improvement project.

Ms. Loewenthal said there was a \$35,000 addition to the budget or projected costs for contingency for soils. She said that during the planning project it was discovered that some of the soils in the east Merritt Mill Road area were soft and testing would be required with the potential for additional costs for the roadwork in that area.

Ms. Loewenthal said that land acquisition accounted for \$54,000 that had not been included in the original budget. She stated that the majority of this was for the Johnson Street property. She commented that the Council in December, 1986 authorized acquisition of a lot adjacent to town-owned land on Merritt Mill Road for \$42,700 and that a lot created from this tract was used for a displaced household due to the Merritt Mill Road project at a price of \$10,500. She said there were also two small sewer easement acquisitions which were needed to bring gravity sewer to some of the lower lots on the west Merritt Mill Road site, and the acquisition of a small lot, owned by Duke Power, in the middle of the east Merritt Mill Road site.

Ms. Loewenthal stated the budget of \$443,000 was comprised primarily of Community Development Funds and \$60,000 of which was from the 1/2 cent sales tax reserved for water and sewer purposes. She said a portion of the two 1/2 cent sales tax revenues had been reserved by the Legislature for use only in water and sewer capital projects. She stated that the \$443,000 budget was still low by about \$190,000 and recommended that the Council augment the budget by appropriating funds from either CD funds or from additional 1/2 cent sales tax reserves. She stated that if the \$190,000 were taken from CD funds then the proposed spending plan for CD funds as indicated in the previous public hearing would be drastically altered and this money would not be available for several months. Ms. Loewenthal said because of this the staff felt it was appropriate to consider using the 1/2 cent sales tax reserves. She commented that if the full \$190,000 were appropriated from the 1/2 cent sales tax it would cover almost all the costs in the Tandler project related to water and sewer capital improvements.

Ms. Loewenthal gave a comparison of the projected revenues to the projected costs which indicated that the appraised value of the developed lots (35 lots with water, sewer and streets completed) was \$805,000 and based on the bids received it would cost \$632,000 to actually improve the land. She said this left a difference of \$173,000 that would go to the Town after all the second liens had been paid. Ms. Loewenthal said that if the Town were to put a value on the raw land, as well as a value on the developed land, the Town would not recoup \$176,000, which would be a "paper" loss because all of the land being used had been previously acquired by the Town for other purposes. She said the price paid for the property was much less than the appraised value in 1987.

Ms. Loewenthal said that the Tandler project had been slow and difficult to start but felt that most of the problems had been worked through. She said the staff was working with various groups to develop an array of options to assist individuals in meeting the financial requirements. She said the staff felt the program was working and that the Town should complete all 35 units.

Rebecca Clark, speaking as a resident, expressed concern that applicants were not given all the necessary information when they applied for the homes and that often they were sent to several different staff members for information. She asked how much money would be needed at closing and why individuals were led to believe that they would be able to get a home and then were denied a loan.

Adele Thomas, speaking as an individual, said she did not feel the Town should subsidize housing for individuals making \$27,000 a year and that the Town should be providing lower costing homes. She felt the \$80,000 price was too high.

Council Member Wilkerson said that he was pleased that HUD had increased the median income level for families of four because he knew of a family who had missed the eligibility range by a few dollars. He asked if all of those who had been denied eligibility due to the level of income had been notified. Ms. Loewenthal said the staff had given a list of those now eligible to the developer who had written to them of this fact.

Council Member Wilkerson said he was also concerned about the information being given to individuals on the program. He also said that earlier that evening Mr. Roscoe Reeve had approached the Town about providing 10 acres of land for a new housing initiative and he would like to know if it were possible for the Town to follow through with this invitation. Manager Taylor replied yes.

Council Member Wilkerson said he would like to receive a monthly status report on the Tandler project.

Council Member Pasquini asked if the \$190,000 of 1/2 cent sales tax revenue reserves would be the same funds the Manager proposed to use in the Interim Budget report to pay for the 1986 Bond projects. Manager Taylor said it was the same category of funds but not the same funds. Mr. Taylor stated that there was approximately \$800,000 previously collected in the reserves. He said that the Budget proposal dealing with the bonds related to the funds for the current and future years.

Council Member Pasquini asked why the Manager was now recommending completion of the entire Tandler project when three weeks ago the recommendation had been not to develop the Tandler east site. Manager Taylor said that the staff had received more information since the previous report.

Council Member Pasquini said the development agreement allowed for the developer to increase the price of the house if the Town could not market and sell the homes by the end of the year. Manager Taylor said the developer had the right after February 28, 1988 to increase the price of the houses based on the price increases that they could document for materials and labor costs. He said the developer had indicated that they did not intend to increase those costs for the houses on the west side of Merritt Mill Road.

Council Member Pasquini said that since only one person had closed on a house and that there were only 19 agreements to purchase he questioned if there was a market for the homes. Manager Taylor said the staff still felt the market was available.

Council Member Pasquini said he had concerns about the validity of the project. He also said he was concerned that individuals went through the application process and were given every indication that they would get a house and then not be able to get the loan. Manager Taylor said that all applicants were told up front that their application was subject to final approval of the financing agency. He said all the Town's approvals were tentative approvals. He said the Town was not the financier of the houses, and that the bank was and that they had the final say as to whether or not a person qualified for a loan. Mr. Taylor said there were many extenuating circumstances other than just the current income that the banks review. He said the staff tell all the applicants this but obviously sometimes its not always understood.

Council Member Godschalk said it was very important when discussing this project that it was understood that the cost to the buyers of the homes was only \$55,000 to \$60,000 and not the \$80,000 as indicated by Ms. Thomas. He said the Town was subsidizing approximately \$18,000 in development costs per house and a total of \$28,000 for the house and land.

Council Member Pasquini left the meeting at this time, 10:15 p.m.

COUNCIL MEMBER WILKERSON MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG TO ADOPT ORDINANCE 88-3-14/O-0.1. THE MOTION PASSED UNANIMOUSLY, (8-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE TO AMEND "THE ORDINANCE CONCERNING APPROPRIATIONS AND THE RAISING OF REVENUE FOR THE FISCAL YEAR BEGINNING JULY 1, 1987 (88-3-14/O-0.1)

BE IT ORDAINED by the Council of the Town of Chapel Hill that the Budget Ordinance entitled "An Ordinance Concerning Appropriations and the Raising of Revenue for the Fiscal Year Beginning July 1, 1987" as duly adopted on May 26, 1987, be and the same is hereby amended as follows:

SECTION I

That \$190,000 from the half-cent sales tax revenue held in the Capital Reserve Fund and restricted for water and sewer purposes, be hereby removed from the Capital Reserve Fund and transferred to the Capital Improvements Fund in the amount and for the purpose as follows:

Homeownership Demonstration Project (for water and sewer costs of project).

This the 14th day of March, 1988.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER WILKERSON TO ADOPT RESOLUTION 88-3-14/R-1. THE MOTION PASSED UNANIMOUSLY, (8-0).

The resolution, as adopted, reads as follows:

A RESOLUTION ACCEPTING BIDS AND AWARING A CONTRACT FOR THE TANDLER PUBLIC IMPROVEMENTS (88-3-14/R-1)

WHEREAS, the Town of Chapel Hill has solicited formal bids by legal notice in The Chapel Hill Newspaper on November 15, 1987 in accordance with G.S. 143-129 for Tandler public improvements; and

WHEREAS, plans and specifications were distributed to the Association of General Contractors and F. W. Dodge Corporation regional offices in Raleigh, Greensboro and Charlotte, and State-wide minority business organizations; and

WHEREAS, the following bids were received and opened on December 22, 1987:

<u>Contractor</u>	<u>Base Bid Amount</u>	<u>Bid Alternate (Deduct Laterals Connections)</u>	<u>Base Bid (Less (Bid Alternate</u>
C. C. Mangum, Inc.	\$411,925.00	\$ 15,525.00	\$ 396,400.00
Mellott Trucking and Supply Co., Inc.	\$299,000.50	\$ 31,050.00	\$ 267,950.50
Nello Teer Company	\$330,483.64	\$ 23,000.00	\$ 307,483.64
(Engineer's Estimate)	\$244,201.00		\$ 244,201.00

and;

WHEREAS, Mellott Trucking and Supply Company, Inc. is the lowest responsible bidder;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Town accepts the bid of Mellott Trucking and Supply Company, Inc. in the amount of \$267,950.50, and awards the contract for the Tandler Public Improvements to Mellott Truck and Supply Company, Inc.

This the 14th day of March, 1988.

Comprehensive Rezonings

Area 14 & 15: Eastowne

Mr. Waldon stated that the Council had referred these two areas back to the staff for further review to modify Area 15 to include part of the area in the area to be rezoned to Mixed Use. He said the Manager's and Planning Board's recommendation was to rezone Area 14 to Mixed Use, Office Institutional-1 and that the Manager's recommendation was to rezone the present part of Area 15 zoned Neighborhood Commercial to Office Institutional-2 and another part of Area 15 zoned Office Institutional-2 to Mixed Use, Office Institutional-1 as indicated in Ordinance 2b. Mr. Waldon said that subsequent conversations with the property owner had resulted in a change in the area in Area 15 proposed to be zoned Mixed Use as was indicated in the map labeled: Substitute Map: Area 15.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER GODS-CHALK TO ADOPT ORDINANCE 88-3-14/O-1, TO REZONE THE AREA TO MIXED USE/OFFICE INSTITUTIONAL-1. THE MOTION PASSED UNANIMOUSLY, (8-0).



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The ordinance, as adopted, reads as follows:

AN ORDINANCE REZONING PROPERTY - AREA 14: EASTOWNE (COUNTY LINE)  
(88-3-14/O-1)

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 14, rezoning property from R-5 to MU-OI-1; such amendment being necessary to achieve the purposes of the Comprehensive Plan.

This the 14th day of March, 1988.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADOPT ORDINANCE 88-3-14/O-2B AS AMENDED BY REPLACING THE AREA 15 MAP WITH THE SUBSTITUTE MAP: AREA 15. THE MOTION PASSED UNANIMOUSLY, (8-0).

The ordinance, as adopted, reads as follows:

AN ORDINANCE REZONING PROPERTY - AREA 15: EASTOWNE (EXISTING)  
REZONING FROM NC TO OI-2, AND FROM OI-2 TO MU-OI-1  
(88-3-14/O-2b)

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 Substitute Map: Area 15, rezoning property from NC to OI-2, and from OI-2 to Mixed Use-OI-1; such amendment being necessary to achieve the purposes of the Comprehensive Plan.

This the 14th day of March, 1988.

Area 21: Old Durham Road

Ordinance 88-2-22/O-12 was on the floor for second reading.

James Pickard, speaking as a property owner, requested that the Council retain the current zoning. He said the Town needed the commercial tax base.

Clarence Gray, speaking as a property owner, said he would prefer that his property retain its current zoning.

Council Member Andresen spoke in support of the ordinance to rezone. She said if the property were rezoned, she encouraged the property owners to apply for Special Use Zoning to develop the sites as Neighborhood Commercial.

Council Member Preston said that she felt adoption of the ordinance to rezone would deny the property owners the use of their property. She said she was sympathetic with the neighbors concerns but she felt that development proposals for the sites would be scrupulously reviewed by the staff and that these concerns would be addressed if necessary.

Council Member Wallace said that he had visited the area and it was surrounded by multifamily units, and that he felt it should remain zoned as Neighborhood Commercial.

COUNCIL MEMBER WALLACE MOVED, SECONDED BY COUNCIL MEMBER PRESTON FOR A SUBSTITUTE MOTION TO ADOPT RESOLUTION 88-2-22/R-12 TO RETAIN THE CURRENT ZONING.

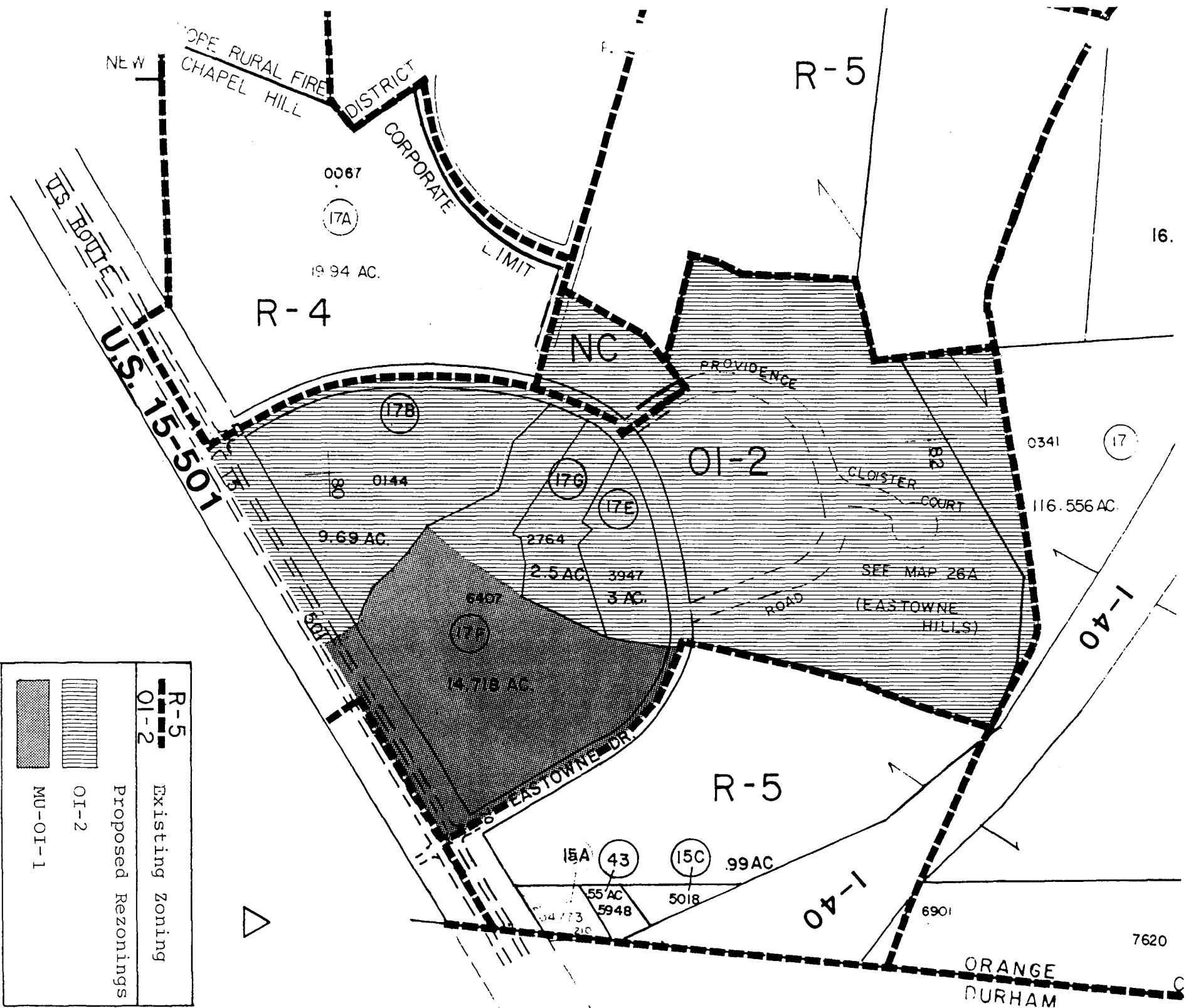




# Substitute Map:

Area 15

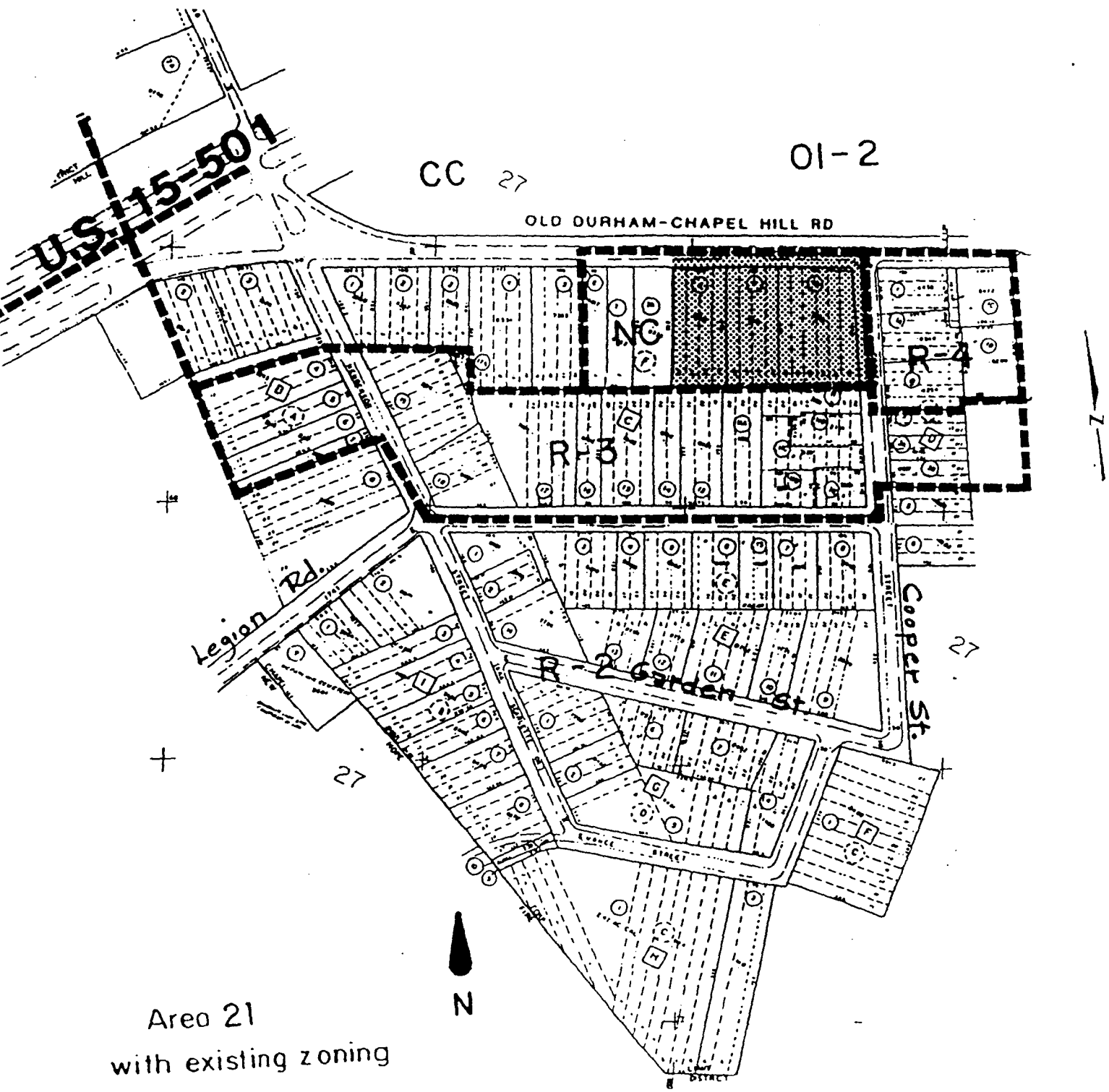
The shaded portion of the following map is "Area 15."





Area 21

The shaded portion of the following map is "Area 21."



Area 21  
with existing zoning





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Council Member Wilkerson stated that he had also visited the area and found 67 multifamily units in the area. He said that he had voted for the rezoning originally but now felt that to do so would be an injustice to the property owners.

THE SUBSTITUTE MOTION CARRIED, (6-2), WITH COUNCIL MEMBERS ANDRESEN AND HERZENBERG VOTING AGAINST.

THE MOTION, AS SUBSTITUTED, CARRIED, (6-2), WITH COUNCIL MEMBERS ANDRESEN AND HERZENBERG VOTING AGAINST.

The resolution, as adopted, reads as follows:

A RESOLUTION DENYING A PROPOSAL TO REZONE PROPERTY - AREA 21: OLD DURHAM ROAD (88-2-22/R-12)

WHEREAS the Chapel Hill Town Council has considered a proposal to rezone property from NC to R-3, such property labeled as Area 21 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 14th day of March, 1988.

#### Tate Property Rezoning Request

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER WILKERSON TO ADOPT RESOLUTION 88-3-14/R-3.3, TO DENY THE REZONING. THE MOTION PASSED UNANIMOUSLY, (8-0).

The resolution, as adopted, reads as follows:

A RESOLUTION DENYING AN APPLICATION FOR A ZONING ATLAS AMENDMENT (88-3-14/R-3.3)

WHEREAS, the Council of the Town of Chapel Hill has considered the application of George Tate, Jr. to amend the Zoning Atlas to rezone the property described below from Residential-3 to Town Center-2, and fails to find that the amendment corrects a manifest error in the Zoning Atlas, or is appropriate due to changed or changing conditions in the particular area or in jurisdiction generally, or achieves the purposes of the Comprehensive Plan;

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NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that it hereby denies the application of George Tate, Jr. to amend the Zoning Atlas to rezone the property identified as Chapel Hill Township Tax Map 93, Block L, Lots 17, 18, 20, 21, 22, & 23, located on the north side of West Rosemary Street and the east side of Sunset Drive, from Residential-3 to Town Center-2. The legal description of the property is as follows:

Lot 17

All of those certain lots or parcels of land situated, lying and being on the North side of Rosemary Street in the Town of Chapel Hill, N.C.; and known and designated as Lot Nos. 1 and 2 in Part "B" in the division of the Craig property as surveyed by J. Ralph Weaver September 14, 1939, and described as follows:

BEGINNING at a stake in the North property line of Rosemary Street, Eugenia Jones' Southeast corner; running thence with the said Jones line North 1 degree East 161 feet to a stake; running thence South 89 degrees East 50 feet to a stake; running thence South 1 degree West 156.6 feet to a stake in the North property line of Rosemary Street; running thence along the said Street South 85 degrees West 50 feet to the BEGINNING.

For further reference see Deed Book 110, at Page 300; Book 203, Page 401; Book 203, Page 523.

Lot 18

BEGINNING at a stake on the north side of Rosemary Street at the southeast corner of Lot #1 of said plat, which corner is also located North 83 degrees 50 minutes East 45.25 feet from the northeast intersection of Sunset Drive and Rosemary Street in the Town of Carrboro, North Carolina; running thence along and with the east property line of Lot #1 of said plat North 3 degrees 12 minutes West 130 feet to a stake in the south property line of Lot #3 of said plat; running thence along and with the South property line of Lot #3 North 84 degrees 20 minutes East 51.3 feet to a stake; running thence South 00 degrees 37 minutes East 130 feet to a stake in the inside property line of the North side of West Rosemary Street in the Town of Chapel Hill, North Carolina; running thence along and with the North property line of West Rosemary Street South 83 degrees 50 minutes West 45.25 feet to the point and place of BEGINNING.

Lot 20

BEGINNING at a stake in the northwest corner of Lot #1 of the plat above referenced to which said beginning point is located North 6 degrees 10 minutes West 130 feet from the northeast intersection of Sunset Drive and West Rosemary Street in the Town of Carrboro, North Carolina; running thence along and with the inside property line of the East side of Sunset Drive in Chapel Hill, North Carolina, North 6 degrees 10 minutes West 33 feet to a stake in the southwest corner of Lot #4 of said plat running thence along and with the South property line of Lot #4 of said plat North 84 degrees 37 minutes East 106.35 feet to a stake; running thence South 00 degrees 37 minutes East 32 feet to a stake in the northeast corner of Lot #2 of said plat; running thence along and with the North property line of Lots #2 and #1 of said plat, South 85 degrees 20 minutes West 103.3 feet to the point and place of BEGINNING.

Lot 21

BEGINNING at a stake which is located on the East side of Sunset Drive in the Town of Chapel Hill, North Carolina, at the Northwest corner of Lot #3 of the plat above referred to, which said beginning point is also located North 6 degrees 10 minutes West 163 feet from the Northeast intersection of Sunset Drive and West Rosemary Street in the Town of Carrboro, North Carolina; running thence along and with the East property line of Sunset Drive North 6 degrees 10 minutes West 33 feet to a stake in the Southwest corner of Lot #5 of said plat; running thence along and with the South property line of said Lot #5 North 84 degrees 54 minutes East 109.4 feet to a stake, the Southeast corner of Lot #5 of said plat; running thence South 00 degrees 37 minutes East 32 feet to a stake in the Northeast corner of Lot #3 of said plat; running thence along and with the North property line of Lot #3 of said plat South 84 degrees 37 minutes West 106.35 feet to the point and place of BEGINNING.

Lot 22

BEGINNING at a stake on the East side of Sunset Drive in the Town of Chapel Hill, North Carolina, which said stake is located in the northeast corner of Lot #4 of the plat above referred to, and which said stake is also located North 6 degrees 10 minutes West 196 feet from the northeast intersection of Sunset Drive and West Rosemary Street in the Town of Carrboro, North Carolina, running thence along and with

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the East property line of Sunset Drive North 6 degrees 10 minutes West 33 feet to a stake in the southwest corner of Lot #6 of said plat; running thence along and with the south property line of Lot #6 of said plat North 85 degrees 11 minutes East 112.45 feet to a stake in the southeast corner of Lot #6 of said plat; running thence South 00 degrees 37 minutes West 32 feet to a stake in the northeast corner of Lot #5 of said plot; running thence along and with the North property line of said Lot #4 of said plat, South 84 degrees 54 minutes West 109.40 feet to the BEGINNING.

Lot 23

All that certain lot or parcel of land situated, lying and being on the East side of Sunset Drive in the Town of Chapel Hill and more particularly described as:

BEGINNING at a stake the Northwest corner of the Rose Edwards' lot; running thence with that lot North 85 degrees 11 minutes East 112.45 feet to a stake; running thence North 0 degrees 37 minutes West 30.5 feet to a stake; running thence South 85 degrees 29 minutes West 115.5 feet to a stake in the East property line of Sunset Drive; running thence with said drive South 6 degrees 10 minutes East 30.5 feet to BEGINNING, being Lot #6 of the Jones property as surveyed by E.C. Leonard, Registered Surveyor, plot of which is on record in Deed Book 152 at Page 508.

This the 14th day of March, 1988.

Village Associates - Application for Modification of Special Use Permit

Council Member Godschalk asked why the staff was recommending that the road improvements to Weaver Dairy Road be completed prior to the Zoning Compliance Permit (ZCP) and not the Certificate of Occupancy (CO). Mr. Waldon replied that the staff felt this would mean the improvements would be done earlier in the process and could mean as much as 9 months to a year before the Certificate of Occupancy would be issued. He said a lot of the engineering design work had already been done.

Council Member Godschalk asked if the staff had considered a payment-in-lieu of the actual road improvements so that road improvements to Weaver Dairy could be done for a longer stretch of road at one time. Mr. Waldon said the staff had considered this option but had felt that the Town's policy had been to get

the improvements done by the developer at the time of development. He said this was consistent with other developments in the Town.

Council Member Preston asked if it were not unusual to request that the road improvements be done prior to the ZCP instead of the CO and would not this mean that the developer would have to have construction crews and equipment at the site at two different times. Mr. Waldon responded that under the current regulations road improvements were generally required to be completed before the CO but that with this case, the applicant already occupied the site. He said it was true that by requiring road improvements before the ZCP it would mean that construction would occur on the site at two different times but that the staff felt this was an adequate trade-off for the longer period for construction start (two years versus one year) and the fact that the site was already occupied.

Council Member Wilkerson expressed some concern about the lack of consistency with regard to this proposal and the Town's regulations. Mr. Waldon said that the Village Associates currently occupied the site under an existing Special Use Permit granted by Orange County. He said that if the applicant were applying for a SUP instead of a modification of one, then the road improvements would have to be made before occupancy of the site. He said it was the staff's contention that it was valid to request that the road improvements be completed before additional site improvements were made.

Council Member Preston said that since there was a construction bond for the road improvements she was not sure why the stipulation for the road improvements was written so that they would occur prior to issuance of the ZCP.

Council Member Wallace asked if the road construction bond had a forfeiture date and if so when it was. Mr. Waldon said the bond had a forfeiture date and that it had just recently been extended. He said that the staff did not want to use the bond as the means of making the road improvements because the bond was old and the amount would probably not cover the actual costs for the road improvements.

Grainger Barrett, an attorney representing the applicant, commented that the bond had been in place since the original Special Use Permit but that the condition precedent for the bond had never occurred in that the bond would go into effect when construction began on the second building of the office park. He said the bond had been renewed annually with an inflationary

factor included. He said what was proposed was a trade-off between the construction start date for the building addition to the existing office building and the road improvements. He said that the applicant felt the trade-off in the timing of the road improvements would only be about three or four months. Mr. Barrett said the road improvements would require a ZCP and therefore suggested that the stipulation for the road improvements be modified to state that the ZCP for the road improvements be obtained prior to construction start on the building expansion. He said that not only was there currently a bond in place for the road improvement but to build the road improvements under Chapel Hill's procedures required a Development Improvement Construction Permit which also required a bond in the amount of 125%. He said this would assure that the applicant got started with the road improvements. He said this would mean that much of the work would then be able to be done concurrently with the building addition. He stated that it would be appropriate to say that not only should the road improvements be started before the ZCP of the building was issued but also completed before the CO for the building.

Council Member Wallace questioned the validity of the bond and commented that he felt without a doubt that the other portion of the site would be developed.

Manager Taylor suggested that stipulation #3 in resolution A be amended to state ..."These improvements shall be completed prior to issuance of the Certificate of Occupancy".

Council Member Godschalk commented that this meant that the earliest that improvements to Weaver Dairy Road would be made would be 1992. He said this would not solve the problem with improvements to Weaver Dairy Road being done in bits and pieces.

Council Member Preston asked why did the road improvements have to wait until the Certificate of Occupancy? Manager Taylor said that the original staff recommendation was to have the road improvements completed prior to issuance of the Zoning Compliance Permit. He said another option would be prior to issuance of the building permit.

Mr. Barrett said that his suggestion was to note that two ZCP's would be necessary, one for the road improvements and one for the building, and that the Council could require that the road improvements be started at about the same time as the building addition.

Manager Taylor suggested that to accomplish this the stipulation #3 be amended to state ..."These improvements shall be started prior to issuance of a Zoning Compliance Permit for the building addition and shall be completed before the issuance of a Certificate of Occupancy for said building".

COUNCIL MEMBER WILKERSON MOVED, SECONDED BY COUNCIL MEMBER GODSCHALK TO ADOPT RESOLUTION 88-3-14/R-4A WITH THE AMENDMENT TO STIPULATION #3 TO STATE THAT ..."THESE IMPROVEMENTS SHALL BE STARTED PRIOR TO ISSUANCE OF A ZONING COMPLIANCE PERMIT FOR THE BUILDING ADDITION AND SHALL BE COMPLETED BEFORE ISSUANCE OF A CERTIFICATE OF OCCUPANCY FOR SAID BUILDING". THE MOTION PASSED UNANIMOUSLY, (8-0).

The resolution, as adopted, reads as follows:

RESOLUTION APPROVING AN APPLICATION FOR A SPECIAL USE PERMIT MODIFICATION FOR TIMBERLYNE OFFICE PARK NORTH (AKA VILLAGE COMPANIES) (88-3-14/R-4a)

BE IT RESOLVED by the Council of the Town of Chapel Hill that it finds that the Village Companies Home Office proposed by Village Associates, on property identified as Chapel Hill Township Tax Map 17, Lot 14A and Part of Lot 41, if developed according to the Site Plan dated September 14, 1987 and the conditions listed below, would:

1. be located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
2. comply with all required regulations and standards of the Development Ordinance, including all applicable provisions of Article 12, 13, and 14, and the applicable specific standards contained in Section 18.7, and with all other applicable regulations;
3. be located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or be a public necessity; and
4. conform with the general plans for the physical development of the Town as embodied in the Development Ordinance and in the Comprehensive Plan.

These findings are conditioned on the following:

1. That construction of the building expansion begin by March 22, 1990, and be completed by March 22, 1992. Construction at the site overall is deemed to have started.

2. That one-half of a 90 foot right-of-way be dedicated for Weaver Dairy road along the entire frontage of the 21 acres, and recorded prior to the issuance of a Zoning Compliance Permit.
3. That Weaver Dairy Road improvements, along the 7-acre parcel's frontage, include the dedication of one-half of a 90 foot right-of-way and construction of a 65 foot cross-section with a sidewalk. These improvements shall be started prior to issuance of a Zoning Compliance Permit for the building addition and shall be completed before issuance of a Certificate of Occupancy for said building.
4. That the full length of the McClamroch Circle 60-foot right-of-way, as indicated on the approved plans, be dedicated prior to the issuance of a building permit occupancy for the building expansion; and that a note be placed on the final plat for the 14-acre residual tract that indicates that roadway improvements to McClamroch Circle are to be made at the time of development of the 14-acre tract.
5. That within 6 months of the completion of the McClamroch Circle improvements, the access drive into the site shall be realigned to meet Town standards.
6. That the boundary of the area covered by this Special Use Permit be drawn so that all land within 155 feet of the transmitting tower is included in the coverage of this Special Use Permit.
7. That detailed building elevations, landscaping plan, and landscape maintenance plan be approved by the Appearance Commission prior to issuance of a Zoning Compliance Permit. A "D" type buffer is required along Weaver Dairy road, a "C" type buffer along the western property line, and "B" type buffers along the northern and eastern property lines. Alternate buffers to be approved by the Appearance Commission for the northern and western and southern if necessary, property lines.
8. That the final utility/lighting plan be approved by OWASA, Duke Power, Carolina Cable, Public Service Gas, and Southern Bell, and the Town Manager, before issuance of a Zoning Compliance Permit.



9. That final plans to be approved by the Town Manager before issuance of a Zoning Compliance Permit (detailed site plan, utility plan/lighting, grading and stormwater management plan, right-of-way/easement plats, fire flow report) conform to the approved preliminary plans and demonstrate compliance with the above conditions and the design standards of the Development Ordinance and the Design Manual.
10. That tree protection fences be shown on the final plans and installed to protect significant existing trees and their root systems, before issuance of a Zoning Compliance Permit.
11. That the applicant take appropriate measures to prevent the deposit of wet or dry silt on adjacent paved roadways.
12. That continued validity and effectiveness of this approval is expressly conditioned on the continued compliance with the plans and conditions listed above.
13. If any of the above conditions is held invalid, this approval shall be void.

BE IT FURTHER RESOLVED that the Council hereby approves the application for the Timberlyne Office Park-North Special Use Permit Modification in accordance with the plans and conditions listed above. This action modifies the coverage of the Special Use Permit, limiting it to the 7.3 acres with the Village Company offices, as shown on plans dated September 14, 1987.

This the 14th day of March, 1988.

#### Intergovernmental Working Group

Mayor Howes said this was a proposal to appoint two representatives from the Council to an Intergovernmental Working Group of elected officials from Carrboro, Hillsborough, Chapel Hill and Orange County to examine the question of paying for public improvements necessitated by development. He said he recommended that Council Members Godschalk and Werner be the Town's representatives.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER HERZENBERG TO ADOPT RESOLUTION 88-3-14/R-5 APPOINTING COUNCIL MEMBERS GODSCHALK AND WERNER TO AN INITIAL WORKING GROUP OF ORANGE COUNTY ELECTED OFFICIALS. THE MOTION PASSED UNANIMOUSLY, (8-0).

The resolution, as adopted, reads as follows:

A RESOLUTION APPOINTING TWO MEMBERS OF THE COUNCIL TO AN INITIAL WORKING GROUP OF ORANGE COUNTY ELECTED OFFICIALS (88-3-14/R-5)

WHEREAS, the Governing Boards in Orange County have been discussing the need for a forum for on-going discussion and;

WHEREAS, the Mayors of Chapel Hill and Carrboro and the Chairman of the Orange County Board of Commissioners have been discussing possible structures for this discussion and;

WHEREAS, the Mayors of Chapel Hill, Carrboro and the Chair of the Orange County Board of Commissioners have identified the issue of impact and development fees and taxes, and the issue of alternate revenue sources for public improvements necessitated by development as worthy of immediate discussion and;

WHEREAS the Mayors of Chapel Hill, Carrboro and the Chair of the Board of Commissioners have requested each governing body to appoint two representatives to an initial working group focused on these revenue matters;

NOW THEREFORE BE IT RESOLVED that the Chapel Hill Town Council does hereby appoint Council Member Godschalk and Council Member Werner to represent it on the initial working group.

This the 14th day of March, 1988.

#### Triangle Housing Investment Fund

Mayor Howes this proposal would authorize the expenditure of \$2200 in Town funds, as the Town's part in funding the organizational work on a grant from the Z. Smith Reynolds Foundation to initiate a Triangle Investment Fund. He said this was a joint effort by the cities of Raleigh, Durham and Chapel Hill.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER WALLACE TO ADOPT RESOLUTION 88-3-14/R-6.

Council Member Andresen asked for what would the expenditure be used? Mr. Waldon replied that the funds would be used to help hire a consultant to do the legal work in setting up the Fund and to be a liaison with the participating Mayors.

THE MOTION PASSED UNANIMOUSLY, (8-0).

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The resolution, as adopted, reads as follows:

A RESOLUTION ENDORSING TRIANGLE HOUSING INVESTMENT FUND  
(88-3-14/R-6)

WHEREAS the Town of Chapel Hill has a shortage of housing available to low and moderate income individuals and families; and

WHEREAS the City of Raleigh has invited the Town of Chapel Hill to be a partner in creation of a new Triangle Housing Investment Fund; and

WHEREAS a regional housing investment fund, if successful, could materially aid efforts to increase the supply of moderately priced housing in Chapel Hill;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that it endorses and supports the application of the City of Raleigh to the Z. Smith Reynolds Foundation, requesting a grant of \$ 75,000 to aid in creation and start-up of a Triangle Housing Investment Fund.

BE IT FURTHER RESOLVED that the Council authorizes the expenditure of \$2,200 as its share of costs to be shared by the Town of Chapel Hill, the City of Durham, and the City of Raleigh, for the purpose of undertaking necessary organizational work leading to the creation of a Triangle Housing Investment Fund.

BE IT FURTHER RESOLVED that the Council authorizes the Mayor of Chapel Hill to work on its behalf with the Mayors of Durham and Raleigh to oversee such start-up activities.

This the 14th day of March, 1988.

### Interim Budget Report

Manager Taylor said that the memorandum represented his interim budget report for fiscal year 1988-89. He said there were two major issues to be discussed in the upcoming fiscal year: how to finance the debt from the bond referendum passed in November, 1986 and the increasing landfill costs. He said with regard to financing the debt from the bond sales, the options appeared to be either through tax increases or by requesting the Local Government Commission to release some of the funds from the 1/2 cent sales tax revenues. He also said he needed guidance from the Council with regard to new projects they had authorized, like the resource management ordinance and storm water management ordinances as to how to fund these programs.

Council Member Godschalk asked the Manager what he would recommend with regard to payment of debt on the bond sales. Manager Taylor responded that he recommended use of the 1/2 cent sales tax revenues.

Council Member Preston complimented the Manager and Finance Director for proposing, once again, a balanced budget while maintaining current Town services without a tax increase.

Council Member Wallace said he was pleased that the staff could provide budget information this early in the year.

Manager Taylor stated that it was important for the staff and Council to try to keep to the proposed budget schedule, with adoption of the budget proposed for late May.

Council Member Andresen asked if the Manager felt there would be a problem with getting the exemption from the Local Government Commission to use the 1/2 cent sales tax revenues. Manager Taylor commented that the Town of Carrboro had been getting the exemption for several years and that he did not foresee any problems.

#### Duke Power Easement for Bypass Tie-In

Manager Taylor said this proposal represented the lesser of two evils in that the power line had to be built, but building it along the Town's easement would require less destruction of trees and vegetation than building it along NC 54. He said the staff had indicated that Duke Power should adhere to the concerns expressed by the Parks and Recreation Commission and Greenways Commission as much as possible.

COUNCIL MEMBER WALLACE MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT RESOLUTION 88-3-14/R-7.

Council Member Godschalk asked if there had been consideration given to the Parks and Recreation Commission's suggestion about underground distribution lines. Manager Taylor responded that that option was technically feasible but represented a much greater cost of about \$200,000.

Council Member Godschalk asked about using transmission towers instead of poles for the distribution line. Manager Taylor replied that the use of transmission towers would mean long spans, additional towers and the lines would hang down lower.

THE MOTION PASSED UNANIMOUSLY, (8-0).

Council Member Andresen asked if the staff would oversee the operation. Manager Taylor replied that it was not the normal procedure.

Council Member Godschalk stated that the neighbors needed to be made aware of what would take place and when it would take place. Dave Maner, representing Duke Power, said the Company would be sensitive to the issues raised.

The resolution, as adopted, reads as follows:

A RESOLUTION AUTHORIZING THE TOWN MANAGER ON BEHALF OF THE TOWN TO EXECUTE DUKE POWER DEEDS OF EASEMENT FOR INSTALLATION OF AN OVERHEAD ELECTRIC DISTRIBUTION LINE FROM THE GREY SUBSTATION TO THE VICINITY OF SMITH LEVEL ROAD AND N. C. 54 BYPASS (88-3-14/R-7)

WHEREAS, the Duke Power Company has requested dedication of an easement on Town property for the installation of an overhead electric distribution line; and

WHEREAS, said electric line has been demonstrated to be necessary for effective and efficient electric service provided by the Duke Power Company to the Towns of Chapel Hill and Carrboro; and

WHEREAS, the Town has determined that the location of said electric line as proposed will create the least visual and ecological damage as compared to alternative routes studied;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby authorizes the Town Manager to execute, on behalf of the Town, the necessary documents granting the Duke Power Company a twenty (20) foot wide easement on Town property immediately adjacent to and north of an existing Duke Power Company transmission line easement south of N.C. 54 Bypass between 15-501 South and Smith Level Road for the installation of an overhead electric power distribution line.

This the 14th day of March, 1988.

Rosemary Square Monthly Status Report

Manager Taylor presented the report and said that at present, the Fraser Company had not submitted additional documents to the Securities Exchange Commission but were planning to do so this week. Mr. Taylor also said letters to downtown property owners concerning utility installation had not yet been sent by Fraser Company.

Consent Agenda

Manager Taylor asked that item #c be removed from the consent agenda.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER WALLACE TO ADOPT RESOLUTION 88-3-14/R-8 MINUS ITEM #C. THE MOTION PASSED UNANIMOUSLY, (8-0).

The resolutions, as adopted, read as follows:

A RESOLUTION APPROVING VARIOUS RESOLUTIONS (88-3-14/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:

- a. Receiving Mat and Seal Petitions (R-9).
- b. Estes - Airport Improvements (R-10).
- d. Teen Center Lease Intent (R-13).
- e. Foushee Parking Lease Intent (R-14).
- f. Right-of-Way Closure (R-15).
- g. Library Grant Request (R-16).

This the 14th day of March, 1988.

Mat and Seal Petitions

The resolution, as adopted, reads as follows:

A RESOLUTION ACCEPTING TEN (10) MAT AND SEAL STREET IMPROVEMENT PETITIONS FOR PROCESSING IN ACCORDANCE WITH THE APPROPRIATE STATE STATUTES (88-3-14/R-9)

WHEREAS the Council of the Town of Chapel Hill has received ten (10) petitions for the placement of mat and seal surface treatment on town-maintained gravel streets in Chapel Hill,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that it formally accepts mat and seal petitions for the following streets:

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Maple Drive (Mt. Bolus to end)  
 Buttons Road (Laurel Hill to end)  
 Hoot Owl Lane (Meadowbrook to end)  
 Spring Dell Lane (Sourwood to end)  
 Bartram Drive (Sourwood to end)  
 Shadylawn Extension (Eastwood to end)  
 Fern Lane (Laurel Hill Road to end)  
 Iris Lane (Fern Lane to end of maintenance)  
 Ledge Lane (Country Club Road to end)  
 Cameron Court (Cameron Avenue to end)

and directs the Town Manager to proceed with processing said petitions in accordance with the appropriate State Statute(s).

This the 14th day of March, 1988.

Estes-Airport Road Improvements Municipal Agreement With NCDOT

The resolution, as adopted, reads as follows:

A RESOLUTION CONCERNING MUNICIPAL AGREEMENT BETWEEN THE TOWN AND THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR FUNDING OF INTERSECTION IMPROVEMENTS AT ESTES DRIVE AND N.C. 86 (AIRPORT ROAD) (88-3-14/R-10)

WHEREAS, the North Carolina Department of Transportation and the Town of Chapel Hill propose to make certain street and highway improvements consisting of the widening of SR 1750 (Estes Drive) in Chapel Hill to include the extension of the existing left turn lanes on both approaches of SR 1750 for a right turn on the east approach of SR 1750; and,

WHEREAS, the Department of Transportation and the Town propose to enter into an agreement for construction of the aforementioned highway improvement whereby the Town agrees to acquire the right of way and adjust utilities, award the construction contract, and supervise project construction; and,

WHEREAS, said agreement provides for the Town to be responsible for the engineering and supervision of construction of the entire project; and,

WHEREAS, said agreement further provides for the Department of Transportation to reimburse the Town to a maximum extent of \$24,000.00 for the actual costs of the project.

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NOW, THEREFORE BE IT RESOLVED that said project, is hereby formally approved by the Town Council of the Municipality of Chapel Hill and that the Mayor and Clerk of this Municipality are hereby empowered to sign and execute the Agreement with the Department of Transportation.

This the 14th day of March, 1988.

Teen Center Lease - Notice of Intent

The resolution, as adopted, reads as follows:

A RESOLUTION AUTHORIZING PUBLICATION OF A NOTICE OF INTENT TO LEASE A PORTION OF THE POST OFFICE/COURT BUILDING TO TEEN CENTER, INC. (88-3-14/R-13)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council authorizes the Manager to publish a notice of the Council's intent to enter into a lease with Teen Center, Incorporated for approximately 2,400 square feet in the basement of the Post Office/Court Building at 179 E. Franklin Street for the operation of a Teen Center, said lease including substantially the terms and conditions as presented by the Town Manager in his report on this matter on March 14, 1988, a copy of which shall be kept with the records of this meeting.

This the 14th day of March, 1988.

Foushee Parking Lease - Notice of Intent

The resolution, as adopted, reads as follows:

A RESOLUTION AUTHORIZING THE PUBLICATION OF A NOTICE OF INTENT TO LEASE LAND KNOWN AS LOT 6, TAX MAP 85, BLOCK K (88-3-14/R-14)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council authorizes the Manager to publish a notice of the Council's intent to enter into a lease with Foushee Realty, Incorporated for the land known as Lot 6, Tax Map 85, Block K, for its use as a parking lot, said lease being substantially as described by the Manager in his report on this matter on March 14, 1988, a copy of which shall be kept with the records of this meeting.

This the 14th day of March, 1988.



Louise Street Right-of-Way Closing

The resolution, as adopted, reads as follows:

A RESOLUTION CLOSING AN UNUSED RIGHT-OF-WAY BETWEEN EAST FRANKLIN STREET AND ROOSEVELT DRIVE (88-3-14/R-15)

WHEREAS, the present right-of-way is presently unnecessary for access to the properties abutting it; and

WHEREAS, the Council on January 11, 1988 adopted a resolution of intent to consider closing this right-of-way between E. Franklin Street and Roosevelt Drive, and a public hearing thereon was held on February 8, 1988; and

WHEREAS, the closing of the right-of-way between E. Franklin Street and Roosevelt Drive would not be contrary to the public interest; and no individual owning property in the vicinity of the right-of-way would be deprived of reasonable means of ingress and egress to his or her property by the closing of said right-of-way;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby adopts this order pursuant to North Carolina G.S. 160A-299, permanently closing the right-of-way between East Franklin Street and Roosevelt Drive, subject to the reservation of blanket easement for public utilities and public storm drainage facilities, and an easement for entranceway purposes measured sixty feet deep along the Franklin Street frontage which shall be shown on a plat to be provided by the party requesting the right-of-way closure and approved by the Chapel Hill Engineering Department.

This the 14th day of March, 1988.

Library Construction Grant Application

The resolution, as adopted, reads as follows:

A RESOLUTION AUTHORIZING APPLICATION FOR PUBLIC LIBRARY CONSTRUCTION GRANT FUNDS (88-3-14/R-16)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Manager is hereby authorized to submit, on behalf of the Town, a Library Service and Construction Act/State Construction grant application for \$125,000 to be used in addition to the November, 1986 voter approved general obligation bonds for construction of a new public library.

This the 14th day of March, 1988.

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Partin Hills - Waiver of Accelerated Payments for Street Assessments and Initiation of Foreclosure Proceedings for Unpaid Street and Sewer Assessments

Manager Taylor stated that Henry C. and Barbara Edmiston had paid their assessment that afternoon and therefore their names needed to be removed from Resolution-12 and added to Resolution-11, waiving the acceleration of street assessment payments.

COUNCIL MEMBER HERZENBERG MOVED, SECONDED BY COUNCIL MEMBER ANDRESEN TO ADOPT RESOLUTION 88-3-14/R-11 AS AMENDED. THE MOTION PASSED UNANIMOUSLY, (8-0).

The resolution, as adopted, reads as follows:

A RESOLUTION WAIVING ACCELERATION OF STREET ASSESSMENT PAYMENTS FOR CERTAIN PROPERTY OWNERS OF THE PARTIN HILLS AREA (88-3-14/R-11)

WHEREAS, the Town Council of the Town of Chapel Hill adopted an assessment roll on July 6, 1987 for street paving and curb and gutter for various properties in the Partin Hills neighborhood; and

WHEREAS, owners of the assessed properties were granted the option of paying the assessments in full or in 10 annual installment payments as permitted by G.S. 160A-232 with the first installment due on September 1, 1987; and

WHEREAS, certain property owners identified below did not make the installment payment by the due date of September 1, 1987, but have since made all payments due.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby waives the acceleration of payments for the property owners listed below, allowing the remaining installments on the assessments to be reinstated so that they shall fall due as if there had been no default.

<u>Property Owner</u>	<u>Location of Property</u>
Ray Allen and Catherine Butler 13-G Emily Road	Map 28, Block 25F, Martha Lane
Ray Allen and Catherine Butler 13-G Emily Road	Map 28, Block 25F, Emily Road

Linda Farrow  
104 Partin Street

Map 25, Lot 33

Kenneth Mann  
1 Emily Road

Map 25, Lot 22A

SBA, Receiver for Vanguard Investment  
Co., Inc., c/o McCracken & Associates  
453-B Carlisle Drive  
Herndon, Virginia

Map 25, Block 36

SBA, Receiver for Vanguard Investment  
Co., Inc., c/o McCracken & Associates  
453-B Carlisle Drive  
Herndon, Virginia

Map 25, Block 36-B

SBA, Receiver for Vanguard Investment  
Co., Inc., c/o McCracken & Associates  
453-B Carlisle Drive  
Herndon, Virginia

Map 25, Block 36-A

Henry C. and Barbara Edmiston  
P. O. Box 2507

Map 42, Block E, Lot 14  
2026 Markham Court

This the 14th day of March, 1988.

COUNCIL MEMBER WALLACE MOVED, SECONDED BY COUNCIL MEMBER GODS-  
CHALK TO ADOPT RESOLUTION 88-3-14/R-12 AS AMENDED. THE MOTION  
PASSED UNANIMOUSLY, (8-0).

The resolution, as adopted, reads as follows:

A RESOLUTION AUTHORIZING THE INITIATION OF FORECLOSURE PROCEED-  
INGS FOR STREET AND SEWER ASSESSMENT (88-3-14/R-12)

WHEREAS, the Town Council of the Town of Chapel Hill has adopted  
special assessments in past years for street paving and sewer  
improvements to various property owners as permitted by G.S.  
160A-216; and

WHEREAS; property owners were granted an option of paying these  
assessments in full or in 10 annual installment payments plus  
interest as permitted by G.S. 160A-232; and

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WHEREAS, certain property owners have failed to make the required assessment payments either in full or in installments when due, and have received numerous notices from the Town informing them of the delinquent status of the assessments, including a recent notice of the Town's intentions to initiate foreclosure proceedings for these assessments on March 14; and

WHEREAS, the assessments listed below remain unpaid as of February 29, 1988.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby authorizes the Town Manager and Town Attorney to initiate foreclosure proceedings as permitted by G.S. 160A-233 against the following property owners:

<u>Property Owners</u>	<u>Location of Property</u>
Esther W. and George Tate, Jr. 342 W. Rosemary Street	Map 25, Lot 30 (corner lot with 2 assessments) Partin Street and Kingston Drive
Esther W. and George Tate, Jr. 342 W. Rosemary Street	Map 28, Lot 37D Martha Lane
Sun Development Corporation 7615 Fayetteville Road Raleigh, N. C. 27603	Map 89, Block D, Lot 13 819 Pittsboro Street
George Tate, Jr. 342 W. Rosemary Street	Map 91, Block A, Lot 31 (paving) 101 Creel Street
George Tate, Jr. 342 W. Rosemary Street	Map 91, Block A, Lot 31 (sewer) 101 Creel Street

This the 14th day of March, 1988.

Board/Commission - Nominations to Vacant Seat on Planning Board

Council Member Preston nominated all the applicants.

Board/Commission - Nominations to Vacant Seat on Appearance Commission

Council Member Preston nominated all the applicants.

Executive Session

COUNCIL MEMBER WILKERSON MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADJOURN TO EXECUTIVE SESSION TO DISCUSS LITIGATION AND INTEREST IN REAL PROPERTY. THE MOTION PASSED UNANIMOUSLY, (8-0).

The meeting adjourned to executive session at 11:20 p.m.

Council Member Andresen left the meeting at this point.

The Council authorized the Town Attorney to ask the Clerk of Court to enter a confession of judgement in favor of the Town in the case of the Town of Chapel Hill v. Gaskin.

COUNCIL MEMBER GODSCHALK MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADJOURN THE MEETING. THE MOTION PASSED UNANIMOUSLY, (8-0).

The meeting adjourned at 11:26 p.m.

