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MINUTES OF A PUBLIC HEARING HELD BY THE MAYOR AND COUNCIL
OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING,
MONDAY, APRIL 18, 1988, 7:30 P.M.

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

Julie Andresen
Joe Herzenberg
David Godschalk
Nancy Preston
Arthur Werner
Roosevelt Wilkerson

Council Members Pasquini and Wallace were 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 Tree Ordinance

Roger Waldon, Planning Director, said the proposal was to create a new article in the Development Ordinance regulating and protecting trees, vegetation, and soil within Chapel Hill's Planning Jurisdiction. He said in January the Council called for this public hearing. Mr. Waldon said there were several key concepts to the proposed ordinance: 1) establishment of a new position of Town Forester; 2) requirement that at least one member of each development team developing land in Chapel Hill will have attended a Town-sponsored seminar on tree protection; 3) requirement that a Zoning Compliance Permit must be obtained before disturbing soil or removing trees, except on single-family or two-family lots; 4) requirement that a work permit must be obtained from the Town prior to disturbing or pruning trees in a public right-of-way; 5) requirement of periodic inspection of required buffers; 6) protection of undeveloped woodlands from clearing; 7) preparation of an inventory of rare and specimen trees and with provisions that such trees be given special attention; and 8) that the effective date of the ordinance be October 1, 1988 to allow time to generate the landscape management seminar and arboriculture standards and to hire a Forester.

Mr. Waldon introduced Tom Perry, a consultant who was working with the Town in developing the draft tree ordinance. Mr. Perry commented that he had worked closely with the staff in developing a tree ordinance which would work for Chapel Hill. He said one of the most important aspects was that someone who had been trained in tree protection be on-site at all times during development of a site.

Council Member Godschalk asked if there had been an estimate of the cost to the community of implementing the proposed ordinance. Dr. Perry stated that in his research he found that the cost for

professional staff was approximately \$25,000 to \$35,000 and an additional cost of \$1.80 to \$2.00 per family unit. Council Member Godschalk said that this would result in about \$80,000 in costs for Chapel Hill.

Council Member Andresen asked for clarification of the "landscape management supervisor" which would be required to be on the site of each development. She said she felt it would be difficult to have an individual on each development site whose primary responsibility was landscape management. Dr. Perry stated that he felt this person could easily be one of the construction crew who had been trained to recognize the needs of the soil and trees. He said the important thing was that this person be at the site at all times that development was in progress.

Council Member Andresen asked how this situation would work with Duke Power and OWASA. Dr. Perry responded that Duke Power had an individual on staff who was trained in landscape management and would assume that he would be on site when pruning, laying cables, etc. were taking place. He said he would expect OWASA to also have trained staff on hand. He stated that often there were problems when laying cables, especially cable television lines, and that he would expect that the Town would require the Town Forester to inspect the area prior to the laying of any cables. Dr. Perry said it was also important that the landscape management seminars be also made available to the general public so that individual property owners could also attend and learn good landscape management.

Alan Rimer, representing the Planning Board, said the Board and the Appearance Commission had met in a joint meeting to discuss the proposed ordinance. He said several concerns had been expressed. Mr. Rimer stated that the Board had felt it would be better to listen to the concerns expressed at this public hearing and then have the Council refer the draft back to the Planning Board and Appearance Commission for further review and comments on the proposal. He said the Board had especially felt that the University should not be exempted from the regulations within the proposal. He pointed out that the University had a forester on their staff and therefore it would not be a hardship for this individual to perform the same kind of landscape management duties as the proposal called for of developers. He stated that the Board had felt there should be a certification indicating that a developer had passed the seminar in tree protection. Mr. Rimer said there was also concern over whether or not developers of single-family lots would have to have an individual at each site at all times and if so, the cost of such a requirement. He stated there were questions on how to mark trees for saving, if NCDOT were affected by the proposal and how the proposal addressed the management of public open space. He said the Board recommended that the Council refer this proposal back to the Planning Board and Appearance Commission for further review.

Dr. Roy Lindahl, representing the Appearance Commission, said the Commission endorsed in principle the draft landscape management ordinance. He said the Commission would like to review the proposal again, taking into consideration comments made at this public hearing. He said the Commission would prefer that the draft ordinance be designated as a landscape management ordinance rather than a tree ordinance since the scope of the proposal addressed more than just tree protection. Mr. Lindahl stated that the Commission had reviewed each section and offered the following comments and suggestions: 1) Section 1 was satisfactory; 2) Section 2.3 which provided an exemption to the Office Institutional-3 zoning district (UNC) should be modified to remove the exemption; 3) Section 3 which provided for an up front review of landscape management was endorsed and it was also suggested that a tree survey be required on the site plan at the initial application stage. The provision for full time on site landscape management was commended but also questioned as to its practicality and enforcability. The provision for the developer to post a performance bond for triple the value of the required plantings was felt to be too high and it was suggested that the amount be one and one half times the value; 4) Section 4 was endorsed; 5) Section 5 which dealt with the non compliance fine was felt to be too high and it was suggested that the amount be one and one half times the value. Mr. Lindahl said the Commission felt an economic impact review of the ordinance was necessary prior to adoption of the ordinance and that such a review should study the financial impact on developers, the Town, purchasers of completed developments, and taxpayers. (For a copy of the text, see Clerk's files.)

Council Member Godschalk thanked Mr. Lindahl for the thoughtfulness and depth of the report.

Manager Taylor recommended that the Council adopt the attached resolution referring the proposal back to the Planning Board and Appearance Commission who will make their recommendations available to the staff by June 10, 1988.

Ruth Light, speaking as the Chair of the Research Triangle group of the Sierra Club, said the Club offered its support for a fair and environmentally protective ordinance. She said trees help control flooding and erosion, provide natural buffers to wind and noise and have a moderating effect on the climate. She encouraged the Council to pursue the ordinance.

Larry Touchstone, representing Duke Power Company, said the proposal included some elements of compromise in that there was a requirement for yearly permits instead of permits for each work site and also provisions which recognized emergency conditions but that he felt the ordinance could result in a reduction in the electrical service in Chapel Hill and in costly and inefficient maintenance procedures. He said the service requirements were continually changing and Duke Power needed to be proactive in its endeavors to provide electrical service. He said the Company had

some concerns about the arboriculture standards and that these needed to be stated and presented to the public for review prior to adoption of the ordinance. He said there needed to be recognition that some trees cause power outages and would continue to do so. He said the ordinance should also take into consideration Duke Power's policy of tree trimming. Mr. Touchstone said that it would help if plantings in the rights-of-way did not interfere with existing power lines and if some of the trees currently growing underneath power lines and replacing them with varieties which would not interfere with electrical service. He said he also hoped that the requirement for a landscape management supervisor did not mean that that this individual had to be on site at all times. Mr. Touchstone expressed concern about requirement for a landscape management plan prior to development activities, including utilities as he felt it would only add to the lengthy development process for Town review. He said strict interpretation of the requirement for a work permit before commencing any work within the drip line of any tree on public land could leave Duke Power with no where to go. Mr. Touchstone said a proactive ordinance could be prepared to bring about harmony between trees and utilities and compromise between the desires of the citizens for preservation of the landscape and a reliable supply of electricity.

Council Member Andresen commented that often utilities were installed at different times on a site and as a result, trenches were dug several times and damage occurred to trees and soils. She asked if there were not a way to coordinate the utility installations so that the land was disturbed as little as possible. Mr. Touchstone said Duke Power was willing to work with the Town and other utilities on this.

Virginia Cunningham, representing the Chapel Hill-Carrboro Chapter of the League of Women Voters, said the League wholeheartedly supported the tree ordinance. She said they considered it good that the proposal included regulations to cover soils, woodlands and rare and specimen trees. She said they urged the Council to adopt the proposed tree ordinance. (For copy of text, see Clerk's files.)

Jim Haar, representing the Alliance of Neighborhoods, said that the Alliance was pleased with the proposed tree ordinance. He said he hoped it would be adopted and would not be significantly weakened by changes. He said he also hoped the tree ordinance would not be shelved indefinitely but would be adopted as soon as possible.

Phil Sloane, speaking as a resident, spoke in support of the proposed tree ordinance. He said he believed there was a need for this in Chapel Hill. He said the proposal provided detail on the requirements of the ordinance but also allowed for latitude for judgement in the implementation of the ordinance. He encouraged the Council to expedite the adoption of this ordinance.

Walter Trott, speaking as a citizen, said he was a lover of trees and as such he hoped the Council would adopt the proposed tree ordinance. He stated that several poets had written about the erosion of top soil.

Council Member Andresen thanked Mr. Trott for all his efforts in keeping the community beautiful.

Pete Thorn, representing the Home Builders Association of Durham and Chapel Hill, said the Association felt the general thrust of the proposed ordinance was commendable, but it also felt the ordinance needed further fine tuning before adoption. He listed seven areas of concern ranging from the making it unlawful to cut down dead trees without a zoning compliance permit to having a landscape management supervisor on site at all times that development activity was occurring. He said it was also unfortunate that the Home Builders Association had not been able to participate in the formulation of the ordinance. Mr. Thorn stated that certain impacts of the ordinance did not seem to be addressed, like, the cost of the ordinance to affordable housing, the cost of keeping a landscape management supervisor on site at all times, and the cost of the bonding requirements could prohibit some contractors from working in the area. He said a detailed study of the efficiency of the proposed ordinance should be done prior to adoption of the ordinance. (For copy of text, see Clerk's files.)

John Runkle, an attorney representing the Sierra Club, said he had reviewed the proposal and felt it to be legally acceptable and workable. He said there were some areas that needed further clarification like Section 2.1 and 3.1 with regard to the planting of trees and Section 4.3 and the adequacy of the buffer. He said he hoped the effective date in terms of grandfathering of projects meant that projects only in the last stages of the development process would be grandfathered.

Carol Ann Zinn, representing the Chapel Hill-Carrboro Chamber of Commerce, said the Chamber felt the Town already had the ability to control the protection of trees and soils through the Development Ordinance. She said the Chamber felt the proposed tree ordinance would be too costly and too cumbersome to implement from the Town's perspective, as well as the property owner's. She stated that the Chamber disagreed with the staff conclusion that the potential benefits greatly outweigh the potential disadvantages and that very little evidence had been shown by the staff that a problem existed. Ms. Zinn said that the Chamber believed that more could be done less expensively by more direct cooperative means. (For copy of text, see Clerk's files.)

Doug Ludy, speaking as an arborist and citizen, said the proposal seemed to be a good idea but that it still needed some work. He said he had some concerns that the amount of work proposed would be too much for only one forester. He said arborists should also have been included in the development of this proposal and in the development of the arboriculture specifications.

Council Member Godschalk asked Mr. Ludy if he had any idea of how large a staff the Town would need to administer the ordinance. Mr. Ludy replied that he was not sure but that he felt what was proposed was too much for one person to handle.

Council Member Wilkerson asked Mr. Ludy how long he had been in business as an arborist. Mr. Ludy replied approximately 12 years.

Dan Garner, an attorney representing property owners of a tree farm, said his clients felt the proposal was a good idea but that there were some areas of concern. He said they were concerned specifically with Section 7 as it related to undeveloped woodlands. He stated that he felt the ordinance could be construed as being too intrusive and broad and therefore its constitutionality could be questioned. He also urged that an economic impact study be done on the proposal. He said he felt the constitutional issues would be brought out as a result of such a study.

Derrick Green, speaking as an arborist, spoke in support of a tree ordinance. He commented that he felt the educational requirement was extremely important. He said perspective homeowners should also have access to the information provided in the landscape management seminars. He said the ordinance needed to have teeth if it were to work.

Council Member Herzenberg asked Mr. Green if he felt someone with a high school education could be trained to be the landscape management supervisor. Mr. Green replied that the most important thing was for the individual to be on site at all times that development activities were going on.

Joe Burch, speaking as an arborist, said Chapel Hill needed regulations to protect the trees and soils and that someone was needed on-site at all times. He said he understood that adoption of this ordinance would probably result in the increase in the costs of homes in Chapel Hill but that he felt it was worth it because often homebuyers purchase their homes because of the trees on the site.

Council Member Wilkerson commented that the Council had heard some good things about the proposed ordinance that evening but that he was concerned that it appeared that information on the development of this ordinance had not been disseminated to all facets of the community. He said input was needed from all segments of the community to make it a stronger ordinance.

Council Member Preston said she agreed that the ordinance should be referred to as a landscape ordinance or something like this since its purpose was broader than just tree protection. She asked if consideration had been given to adding into this landscape management approach a tree planting program by the Town as an additional part. She said she knew the ordinance was one where trees were controlled but she said she thought as an

adjunct to this she said thought needed to be given to the Town being responsible for filling in some of the vacant spaces. She commented that the ordinance indicated that its intent was to regulate the installation, removal, long-term management of trees, soils, vegetation and other landscape elements. She asked what constituted other landscape elements. She said this needed to be defined. Ms. Preston said the Town's experience with the Resource Conservation District, where the Town adopted a strong ordinance and then saw how it worked, was perhaps a good approach. She stated that the Town modified it later as it was seen that some things were perhaps too stringent. She said this might be a good approach in this instance as well, to start out with something that is strong and then adjust it as necessary. Ms. Preston said that she would specifically like to have more of the staff's thinking on the exemption of zoning classification OI-3 and why this was recommended.

Roger Waldon responded that this had been discussed and the staff had recommended that OI-3 zoning be exempted from the coverage of the ordinance because it was felt that most of the OI-3 zoning was the central campus of UNC and to a large extent the beauty of the central campus and state of the grounds maintenance on the central campus were testimony to the fact that the University had the resources, facilities, manpower, equipment, etc. to be managing its landscape elements, and that the central campus therefore did not need to be covered by the landscape ordinance. He said that whenever the University was working outside of the OI-3 zone or in the public right-of-way the ordinance would be in effect and therefore the it was not an exemption of the University but just of the central campus area.

Council Member Preston asked if Battle Park were in the OI-3 zone. Mr. Waldon said he would have to look at that. Council Member Preston agreed that the University was a very good steward of their trees and landscape, but that the Council needed to think carefully about this. She said there may be some aspects of it, like the woodlands or some things that might apply when other things would not. She said it might be possible to tailor the ordinance a little bit more. Ms. Preston said she did notice that the specimen trees listed for Orange County included two which were on the campus.

Council Member Andresen suggested that when University property underwent new construction it should be covered by the ordinance.

Council Member Herzenberg commented that he would prefer that the ordinance retain the word "tree" in its title even if it were broadened. He said it was the trees that people loved and got upset about when something happened to them. He suggested that the ordinance be called the Tree and Landscape Management Ordinance.

Dr. Perry commented that an acre foot of topsoil at \$10.00 per yard equated to \$16,130 cost and therefore a procedure that

protected the topsoil would reduce subsequent landscaping costs and thereby save everyone in the community a lot of money. He said developing a program that manages this would be beneficial to the Town. He said his experience indicated that on property with good soil they could landscape for around \$.10 per square foot, while landscaping on poor soil or barren land cost anywhere from \$3.10 to \$10.00 per square foot. Dr. Perry stated that this meant there were economic benefits to the developers as well as the Town for good landscape management.

Council Member Andresen said she thought the ordinance was quite comprehensive and she liked the way it was organized. She said there had been a lot of discussion on the Town's regulations dealing with buffers and that the Town had made some proposed changes with this ordinance, but were not addressing other basic kinds of things about density of plantings in buffers, etc. She asked if this would be dealt with later. Mr. Waldon replied that it was planned that the buffer standards would be reviewed to see if they were accomplishing what was wanted and if the density of the planting requirements were realistic.

Council Member Andresen said she was also concerned with what she felt was the number of utility cuts made on a site and the best way to handle this so that the least amount of damage was done. She said that she felt there might be some way for the Town working with the utilities to establish a better method. Ms. Andresen said she was also reluctant to see the Town establish another layer of bureaucracy but it might be worth the price. She said she was concerned with the on-site coordinator but that this might be necessary.

Council Member Andresen said in relation to the exemption of OI-3 zones from the ordinance, she agreed that the University had done a superb job on the old campus but that it was true that in the new areas there had been so much building that virtually a tree could not exist. She also expressed support for a tree planting program but was not sure this ordinance was the best place to have it. She said the Town did need something, possibly like a citizen committee to help address this need.

Council Member Godschalk asked for information on what other Town's in North Carolina have similar ordinances and what their experience had been in carrying out the ordinances. Mr. Waldon replied that a number of municipalities in North Carolina have some form of tree regulation but there were none that he was aware that was structured as the proposal for Chapel Hill. He said in many ways, Chapel Hill's proposal was more comprehensive than just a tree protection ordinance.

Council Member Godschalk asked what would the ordinance mean to the average citizen with respect to having to get permits and additional bureaucratic requirements. Mr. Waldon said the motivation in exempting the individual single-family and two-family lots from the coverage of the ordinance was to not create

a monstrous bureaucracy where an individual would have to go to the Town to get a permit before they cut a tree in their back yard. He said this concept had been debated and there was some support for the ordinance being applied to all trees. He stated that the ordinance would mean more inconvenience for developments, especially as new land were developed. Mr. Waldon said the net effect for the average citizen should be a more pleasing environment with minimum inconvenience to the average citizen.

Council Member Godschalk asked about the attitude in the ordinance in relation to native species. He expressed concern that more protection was being given to exotic trees than to those native to the area. Mr. Waldon said that the ordinance included a list of rare and specimen trees which would require special attention. Council Member Godschalk also agreed that the Town needed to re-examine its philosophy on buffers and think not in terms of narrow strips of land but rather of areas of native vegetation which do not always conform to a specified strip of land but which may curve in various places in order to protect that vegetation which was already established. Mr. Waldon agreed and indicated that information on entranceways would be presented to the Council soon and it included recommendations that the buffer ordinance was the wrong solution for entranceway treatment.

Council Member Werner said he felt the proposal was good and he was glad it would be referred back to the Planning Board and Appearance Commission and staff to work out some of the details. He said he recognized that with any regulation that was designed for preservation there was some costs and benefits associated. He said he felt the citizens of Chapel Hill were willing to pay the costs to reap the benefits of tree protection. He stated that he hoped adoption of the ordinance did not get stymied by discussions on the exemption of OI-3 zones. Mr. Werner said he felt this proposal was different from the traffic management ordinance and more general development ordinances as applied to the University. He said the University had done a good job of landscape management on the campus and most of what the University does in this area did not affect the Town as a whole. He said he did not think the tree ordinance was the way to express the Town's concerns about other developmental issues on the campus. Mr. Werner also said he agreed with the need to review the buffer ordinance.

Council Member Preston said she agreed that the amount for bonding and fines was a little onerous and could be reduced. She also asked for the circumference of the trunks of trees in relation to the diameter of a trunk. Ms. Preston questioned the definition of a "protected tree" as specified in the Definitions section of the proposed ordinance.

Council Member Andresen asked if tree trimming practices were addressed in the ordinance. Mr. Waldon said they would be part of the arboriculture standards.

Council Member Herzenberg said Section 2, "Permit Required Exception" indicated that routine maintenance was an exception. He stated that routine maintenance might mean the removal of trees. He asked that this be further clarified.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER GODS-CHALK TO ADOPT RESOLUTION 88-4-18/R-1. THE MOTION PASSED UNANIMOUSLY, (7-0).

The resolution, as adopted, reads as follows:

A RESOLUTION REFERRING A DEVELOPMENT ORDINANCE TEXT AMENDMENT TO THE PLANNING BOARD AND TRANSPORTATION BOARD (88-4-18/R-1)

WHEREAS, the Council of the Town of Chapel Hill has considered a draft Tree Ordinance at its Public Hearing on April 18, 1988; and

WHEREAS, the Town's Planning Board and Appearance Commission have requested that the draft ordinance be referred to those boards for further review;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council refers this draft ordinance to the Planning Board and Appearance Commission with the request that these boards make their recommendations by June 10, 1988.

This the 18th day of April, 1988.

Mayor Howes asked the Council if it wanted to postpone the last two items on the agenda since it was currently 9:30 p.m. The consensus of the Council was to continue with the meeting as scheduled.

Public Hearing on Proposed Traffic Management Ordinance

Roger Waldon, Planning Director, said this was a public hearing to consider a draft transportation management ordinance. He stated that this ordinance had its roots in the exploration of the feasibility of creating an adequate public facilities ordinance. He said after studying this issue the staff had suggested to the Council that the classic kind of adequate public facilities ordinance that was used in other communities was not transferable to the Chapel Hill context and therefore the staff proposed going in a different direction. Mr. Waldon said that one of the things which appeared needed to be done in terms of growth management and control of the adequacy of public facilities was to focus on the transportation and road system. He said the proposed traffic management ordinance addresses this problem. He stated that it was not the same as a public facilities ordinance and was not meant to be, but rather the ordinance was aimed at addressing the traffic impact of new development and trying to

make sure the impact is as small as could possibly be. Mr. Waldon said the ordinance had several key concepts: 1) setting a threshold size of development and require that all developments of a size above that threshold be permitted only after a transportation management special use permit was granted; 2) specifying that all applications for a transportation management special use permit must prepare a traffic impact statement and transportation management plan; 3) requiring that the transportation management plan demonstrate that measures will be taken that will reduce the traffic impacts of new development; and 4) specifying that if street intersections in the vicinity of a development are currently at or above capacity, the reduction in future traffic impacts must be greater. He said that the concept was that when new development of the type designated to be managed was proposed that development would have to propose measures that it would take to reduce the number of cars that would go to and from the development. Mr. Waldon said that another key feature was the monitoring of the ongoing compliance of the transportation management measures which were being used. He stated that part of the monitoring would involve the designation of an on-site transportation coordinator who would be responsible for ensuring that the transportation management plan was being implemented. Mr. Waldon said the objective of the ordinance was to reduce the number of cars, especially the number of single occupant automobiles on the Town's streets. He stated that there were a number of measures suggested in the ordinance ranging from ridesharing incentives, and public transit incentives, etc. He stated that the staff had been working with a consultant on developing the traffic management ordinance. Mr. Waldon introduced Mr. Dwight Merriam, the consultant from the firm of Robinson and Cole.

Mr. Merriam stated that Chapel Hill was changing and that with regard to traffic the changes were for the worse. He said that the proposed ordinance came out of an effort to develop an adequate public facilities ordinance. He said as the staff began to focus on those issues within the community's control and while identifying which were the most troubling, it became clear that traffic management or traffic mitigation was a key issue. He said traffic mitigation ordinances, while innovative, were not radical or unusual. He listed several communities including Pleasanton, CA., Alexandria, VA., Hartford, CT., and Walnut Creek, CA., which had traffic management ordinances. He said a traffic mitigation program was a kind of exaction program similar to requiring developers to put in and pave streets. Mr. Merriam said that those adding new impacts to the traffic system should provide some means to offset or mitigate the impact.

Mr. Waldon said that this proposal had been before the Planning Board and Transportation Board who discussed the issues and raised several questions which need to be resolved. He stated that some of the key questions were: 1) what was the most appropriate threshold, to what kind of projects should the ordinance be applied, in terms of size and number of employees; 2) should the focus be on total daily trips or peak-hour trips; 3) should

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this concept be applied to existing development; should it relate to University development; what level of reduction in trips should be required; how can the provisions be enforced; and should the concept be extended to residential development. Mr. Waldon stated that the proposal focused on reduction of total daily trips, while in Chapel Hill the most serious problem was at peak-hours. He said it was possible that the ordinance should be restructured to focus on peak-hour trips. Mr. Waldon stated that the proposal was geared toward new development rather than existing development. He said that in many other communities the ordinance addressed all employers of the community. Mr. Waldon stated that the proposal exempted the OI-3 zones from the coverage of the ordinance. He said the proposal addressed the reduction of trips by stating that in areas where congestion was not currently a problem employers would be required to take measures to reduce the number of automobile trips by 15% and in areas where significant congestion existed the employers should reduce the number of trips by 25%. Mr. Waldon said that the ordinance as drafted did not apply to residential developments but rather focused on places of employment because it was felt that this area was where the traffic management measures would likely to have the most effect. He said the Planning and Transportation Boards would like the Council to refer the comments from this public hearing back to them for further consideration and review.

Alan Rimer, representing the Planning Board, said the Board felt that an important part of the comprehensive planning initiative was addressing the transportation problems. He said the Board also felt that the University should be included under the provisions of the ordinance, especially as they were the largest employer in the Town. Mr. Rimer stated that the Board also had questions as to whether or not the proposal should apply to all developments, although not necessarily residential developments. He said that the Board also felt it might be more appropriate to use peak-hour trip reductions rather than daily reductions as peak-hour traffic was the most congested times. Mr. Rimer said the Board felt the ordinance should require some form of transportation coordination either on-site or in the Town government. He said the Board also felt there were ways to control growth without placing all the burden on traffic management. He said the Board felt there were significant conflicts in the Town's goals and objectives dealing with the safe and efficient movement of traffic and maintaining neighborhood integrity by not having roads which connect through to other areas. Mr. Rimer said the Board believed that there needed to be an equal distribution between existing and new developments. He said the Board felt a model was needed to establish the economic trade-offs of the proposal as well as other facets of the ordinance. He said the Board recommended referral of the ordinance back to the Planning Board and Transportation Board for further review. He stated that a subcommittee had been created of members from both boards to look at this issue and at the transportation aspects of the comprehensive plan.

Council Member Andresen asked for clarification of Mr. Rimer's comments regarding existing development bearing equal responsibility. Mr. Rimer responded that some of the Board felt that existing commercial develop should bear some, if not up to equal, responsibility for managing the demand and that they could do so through ridesharing, etc. He said the State had been the one to build most of Chapel Hill's roads and installed most of the traffic signals, etc., and therefore existing developments had not, in his opinion, already paid for traffic improvements.

Council Member Andresen asked if the Planning Board had any ideas of how to enforce these measures. Mr. Rimer said the packet included information on how to enforce. Council Member Andresen said she appreciated the comment that traffic was not the only approach available to solve the growth problems in Chapel Hill.

Council Member Preston asked for clarification of the economic trade-offs. Mr. Rimer said that the requirements for flexible hours, ridesharing, intersection improvements, etc. all had a cost and some of them were less tangible than others. He said that the cost to an employer for requiring flex time or supplementing individual cars with vans was less definite but could be quantified. He said the idea was to look at all the costs involved and reach the best compromise.

Richard Palmer, representing the Transportation Board, said the Board agreed with the Planning Board's recommendation that the Council not adopt the ordinance as currently framed. He said it was the sense of the Board that alternate procedures to achieve better land use and attendant traffic control and management should be sought. He said the Board was interested in looking at well structured, carefully thought out and costed alternatives which they believe are available. He said the Transportation Board would be working with the Planning Board to achieve this end. Mr. Palmer said there were a couple elements of the proposed ordinance which were unaddressed. He stated that one of the aspects of control of traffic was perceived to be related to the number of employees of a given business. He said the Board felt it was not the number of employees that generated the traffic but rather the number of customers that visit the establishment that generate the traffic. He stated that many of the high traffic generation businesses in town had comparatively few employees. He said the Board was uneasy about trying to legislate how people would be going to work. He said the Board felt there were persuasive means that were understandable, supportable from a business stand point which could be worked out with businesses without legislating how the employees should go to work. (For copy of the Transportation Board's comments, see Clerk's files.)

Council Member Godschalk said he would like to hear what the Transportation Board considered alternatives. Mr. Palmer said the alternatives had been addressed like the public transit system, ridesharing, van-pooling, etc., but that there were limitations to these programs. He said there was a dichotomy in the Town

with respect to the way people would like to see the town laid out and the way to transport people to and from places of work and business. Mr. Palmer stated that a successful transportation system required concentration of peoples but the way Chapel Hill was laid out did not lend itself for concentrations of people at the point of origin for going to work, but does create concentrations of people at the destination points. He commented the one major area of employment was the University.

Council Member Godschalk stated that he felt public sentiment was such that the development patterns would not change drastically over the next ten years and the policy of not running major roads through neighborhoods would also not change. He asked, as such, what alternatives were available. He said it appeared that what would be needed were ways to reduce demand and suppress the demand for travel during peak hours. Mr. Palmer said there were a number of arbitrary measures that could be imposed. He said the Town could make it so expensive to move a car into the Town that individuals would seek other means of transportation. He stated the Town could assist in encouraging people to get out of their cars by the use of park and ride lots. Mr. Palmer said the Transportation Board was skeptical on how much impact this would make. He said the total number of people likely to change their mode of travel in face of the opportunity to use a public transportation system based on park/ride lots was probably not over 10%. He also said if the Town made it very expensive for people to park it would discriminate against people who could not afford this.

Council Member Andresen said she wished some other solutions could be put forward at this time since it appeared clear that the Transportation Board did not think the proposed ordinance was a good manner to deal with the problem. Mr. Palmer said one of the goals of the joint Planning Board/Transportation Board study of the problem was to come up with some alternatives. He said the Transportation Board felt that the heart of major solutions to transportation problems were in land use regulations. He said changes which would encourage more walking in Town from the local build up of available housing close to the major employment core area would require changes in the way the Town wished to develop its core.

Mr. Rimer said the Planning Board also felt there were reasonable alternatives which could be considered but had not had time as a joint group to consolidate the alternatives. He said this would be part of what the joint subcommittee would work on.

Manager Taylor recommended that the Council adopt Resolution-2 referring this item back to the staff, Planning and Transportation Boards with recommendations to be given to the staff by June 10.

Margaret Taylor, representing the Alliance of Neighborhoods, said the Alliance had no particular opinion of the proposed ordinance

except as it relates as a spin off of a public facilities ordinance. She said the Alliance felt the public facilities ordinance was more important and that this proposal did not address all the needs. She said they understood that the reason for abandoning the public facilities ordinance was that water and sewer, two of the principle elements of the ordinance, were not under the Town's control. Ms. Taylor said the Alliance felt a serious effort had not been made to make an arrangement with OWASA in this regard. She stated that the Council was not without influence with OWASA as it helped create OWASA and appoints 5 members of the Board of Directors. Ms. Taylor said the Alliance felt it would be profitable the Town to work out the water and sewer problems and take another look at a public facilities ordinance.

Joe Nassif, speaking as a citizen, said he was pleased to hear that the Planning Board and Transportation Board had reservations about the proposal. He said he had questions about whether or not a traffic origin/destination study had been done and whether or not the areas where a transportation management ordinance was in effect had a similar business environment to Chapel Hill. He said the joint planning agreement with the County and Carrboro essentially set the boundaries for each town. Mr. Nassif said that he did not think there was much if any land left to be built upon for office, institutional, or business developments within the boundary constraints as indicated in the agreement with Durham and the joint planning agreement with Orange County and Carrboro. He said unless land was rezoned, there would not be many new developments for which the proposal would affect. He stated that the largest contributor to traffic in the town was the University. He said when the University students were on vacation traffic was manageable. He pointed out that during those times when classes were not held the businesses continued to function, etc. and traffic was not a problem. Mr. Nassif stated that over 11,500 employees worked at the University and in 1969 at least 60% of them lived over 10 miles from work. He said if the ordinance were adopted as written, the commercial developments and businesses would be the only ones affected and the end result would be negligible. Mr. Nassif warned that it could result in small businesses lying as to numbers of employees. He said the business owners could not make employees ride a specific form of transportation. He also stated that there was a large number of residential traffic out of Chapel Hill to the Research Triangle Park each morning and that this issue was not addressed. He said the proposal seemed to indicate that it was okay to live in Chapel Hill and work outside of Chapel Hill but if one works in Chapel Hill then that was a problem. Mr. Nassif said he was in favor of the principle of reducing traffic impacts on Chapel Hill but he did not feel the proposal accomplished this.

Don Koenigshofer, speaking as part owner of The Courtyard, said he had no control over his tenants with relation to making them use alternative forms of transportation. He said that the proposal seemed to indicate a piecemeal approach to the problem of

growth and traffic management. He stated that customers keep the businesses open and that they were the main traffic creators. He commented that it was already difficult to encourage customers to come downtown to shop. Mr. Koenigshofer asked about the status of the park/ride lots. He said the Town needed to implement this. He concluded that the cost of the tree and traffic ordinances would be passed on to the consumers.

Bill Kalkoff, speaking as Executive Director of the Durham and Chapel Hill Homebuilders Association, said the Association liked the idea that residential development would be exempt from the proposal. He said that once again the Association would have liked to have been involved in the discussions and development of such a proposal. He stated that the Town needed a comprehensive and coordinated program for addressing traffic and transportation infrastructure needs. Mr. Kalkoff said the Association felt that fairness and equity dictate that the cost of improvements that benefit the entire community should be borne by the community as a whole. He stated that the proposed ordinance would place on new developments the individualized burden of solving a Town-wide problem. Mr. Kalkoff said the Association felt that the Town should focus its efforts on raising revenue to make these improvements and possible sources of revenue were payroll or parking taxes. He said they felt the Town would benefit from establishing a dialogue with the private sector, advisory groups and the University to hear their concerns and ideas. He said the Association agreed that traffic was a problem and that transportation planning and improvements were needed, but felt that the proposed ordinance was not the solution. (For copy of text, see Clerk's files.)

Virginia Cunningham, representing the Chapel Hill-Carrboro League of Women Voters, said the League had reviewed the proposal and recommended that the Council not adopt the ordinance as currently written. She said the League was a strong believer of coordinated planning and felt that planning for all aspects of Chapel Hill's traffic and transportation problems should be developed before an ordinance dealing with only one aspect was adopted. Ms. Cunningham stated that the League had questions on the implementation of the ordinance and the amount of paper work and staffing it would require. She said they also felt the University should be included in the ordinance as they were the largest generator of employee traffic in the Town. She urged the Council not to adopt the ordinance at this time. (For copy of text, see Clerk's files.)

Mark Payne, Assistant Corporate Counsel representing Blue Cross/Blue Shield, said Blue Cross/Blue Shield opposed the ordinance as written. He stated that the proposal included a grandfather clause which would exempt existing employers like Blue Cross/Blue Shield, but if the company were to expand its operations then they would come under the ordinance. He stated that the company supported the stated purpose of the ordinance; to mitigate traffic and related impacts of intensive land uses, but

opposed the means proposed, specifically the traffic impact study and the general transportation management plan. Mr. Payne stated that the company did not believe the ordinance could accomplish its attended purposes by exempting the hospital, University and residential development which comprise 54% of the Town's current zoning. He said traffic management was a town-wide problem, not one limited to the remaining 45% of the town. He also said they believed the ordinance duplicated what was already in place. He pointed out that in their recent expansion the Town had required a transportation impact study and some of the other requirements which were part of the proposed ordinance. Mr. Payne said Blue Cross/Blue Shield opposed the ordinance because it opened the door to provide the Town with the opportunity to have input into business decisions which should be reserved to the corporation, like hours of operation, fringe benefits paid to or on behalf of employees by requiring that incentives be paid for car pooling or use of public transportation, and requiring the corporation to transfer land which it owned by dedicating certain portions for use for public transportation or easements for use as walkways or pathways. He said to the extent that the Town could require the company to subsidize public transit and the roadway system beyond the means already provided for in the current tax structure was felt to be inappropriate. He said they estimated the burdens imposed by the ordinance would cost and estimated \$15,000 annually not including whatever additional requirements imposed. Mr. Payne said the 15% to 25% reduction in traffic was predicated upon the employer's control over the employee's personal lives and that this control was not available. He said Blue Cross/Blue Shield was concerned about the current traffic problem in Chapel Hill. He said 5% of their employees car pool or van pool to and from work every day in cars or vans purchased by the corporation and in February the company conducted with Tri-a-Ride a matching survey to try to identify further car pool and van pool opportunities. He said Blue Cross/Blue Shield was prepared to continue and expand its efforts and to take a leadership role in the community by participation on a community based task force to address this issue, but if the ordinance was adopted the company would have to look to other areas for future expansion. He said the company urged the Council not to adopt the ordinance as written.

Carol Ann Zinn, representing the Chapel Hill - Carrboro Chamber of Commerce, said the Chamber shared the concerns raised by the Transportation and Planning Boards about the proposed ordinance. She said the Chamber believed that any ordinance should address questions of equity, effectiveness, and reasonableness. She said their first concern was that the proposal applied only to new nonresidential developments employing 50 or more persons. Ms. Zinn stated that this meant the proposal would exempt transportation use patterns which have been generating the town's rapid growth over the past five years. She said that the proposal would primarily affect the development of the two interchanges of I-40 with 15-501 and NC 86. She pointed out that both of these areas had been zoned primarily for nonresidential development

because of their proximity to major thoroughfares which had the excess capacity to handle increased traffic. Ms. Zinn said the proposal would also affect existing developments that expand their facilities by 5% or more and employ 50 or more people. She said this would result in businesses considering the consequences of having to comply with the ordinance and opting for relocating part of their operations in existing buildings or building new facilities elsewhere. Ms. Zinn said the Chamber believed sufficient mechanisms were already in place to affect traffic patterns of new developments. She stated that they felt one way to determine the potential ramifications of the ordinance was to develop a demonstration program which would explore the problems and costs in setting up a plan for the various nonresidential operations and determine actual vehicle retention statistics which could be achieved by such uses in a year's time. She said that during the demonstration project the Town could also be developing plans to implement other transportation initiatives. (For copy of text, see Clerk's files.)

Council Member Werner said that the proposed ordinance had been patterned after others in other communities but that those communities were not college oriented communities. He said by applying the ordinance only to new areas of office institutional development this meant it primarily affected the areas around the Interstate-40 interchanges. Mr. Werner pointed out that this did not amount to a lot of land, and that the interchanges were the areas where the Town had indicated it wanted park/ride lots. He said this meant these areas were where the Town wanted the most concentration of vehicles. He stated that it appeared to him that the potential traffic reduction as a result of the proposed ordinance by applying it to just new businesses would result in a negligible impact. He stated that the developments which would probably occur in the I-40 interchange areas would be office complexes which would be staffed by 3 to 4 people but with numerous visitors. Mr. Werner commented that the largest employers were the University and hospital. He said he felt that OI-3 zones should be included under the provisions of the ordinance because the University employment affected the entire town and the work at the University was what drew people through Chapel Hill. Mr. Werner also suggested that the Development Ordinance be modified to specify not only a minimum number of parking spaces that had to be provided by a development but it should also state a maximum number of parking spaces. He said with regard to the overall question of public facilities, if the proposal was all the Town felt it could do for traffic impact then a different approach needed to be taken to the entire public facilities question. He said what may be needed was to expand the joint agreements which would subsume OWASA, the schools, etc. He said he felt the proposed ordinance would be very burdensome and would not accomplish anything.

Council Member Andresen said she felt Council Member Werner had raised some excellent points. She said her primary question was what was the potential traffic reduction from the proposed

ordinance. She commented with regard to exempting the OI-3 zones from the proposed ordinance that the Town recognized that the University was a state institution and that the Town's building height restrictions or set back requirements didn't apply to the OI-3 zone and that there were different floor area ratios. She said she felt that to some extent the Town had accepted the philosophy that whatever happened on campus was the University's business, but when one began talking about the 20,000 employees at the University it was a different matter. She said those employees affect the roads and traffic patterns and have a massive impact on the community. Ms. Andresen stated that if the proposed ordinance was not the answer and it could not be applied to the University, then there needed to be a solution that did include the University.

Council Member Preston said from all the comments heard it appeared that the proposal needed more work and she said she liked the idea of incorporating as many people that it would affect in the planning process. She said she did not think this proposal would be ready in June for Council action.

COUNCIL MEMBER PRESTON MOVED, SECONDED BY COUNCIL MEMBER WILKERSON TO ADOPT RESOLUTION 88-4-18/R-2.

Mayor Howes stated that he felt it was proper to refer the proposal back to the Planning and Transportation Boards. He said it appeared clear that a solution had not been reached on this issue and some thought needed to be given. He said discussions needed to be held with the advisory boards and those affected by the ordinance. He asked the staff and Planning and Transportation Boards to consider the process by which these discussions could be held. Mayor Howes said that this problem was something which needed to be addressed as soon as possible.

THE MOTION PASSED UNANIMOUSLY, (7-0).

The resolution, as adopted, reads as follows:

A RESOLUTION REFERRING A DEVELOPMENT ORDINANCE TEXT AMENDMENT TO THE PLANNING BOARD AND TRANSPORTATION BOARD (88-4-18/R-2)

WHEREAS, the Council of the Town of Chapel Hill has considered a draft Transportation Management Ordinance at its Public Hearing on April 18, 1988; and

WHEREAS, the Town's Planning Board and Transportation Board have requested that the draft ordinance be referred to those boards for further review;

NOW THEREFORE BE IT RESOLVED that the Council refers this draft ordinance to the Planning Board and Transportation Board, with the request that these boards make their recommendations by June 10, 1988.

This the 18th day of April, 1988.

Public Hearing on Woodlake Subdivision Lake and Dam Special Use Permit Application

Citizens wishing to speak to this item were sworn in by the Town Clerk.

Manager Taylor requested that Agenda Item #3, "Woodlake Subdivision Lake and Dam Application for Special Use Permit (SUP-126-A-4)," dated April 18, 1988, be entered into the record of this hearing, along with the following:

- Applicant's Statement of Justification
- Applicant's Project Fact Sheet

Council Member Andresen left the meeting at this time, 11:02 p.m.

Roger Waldon, Planning Director, said the application was for a 31-acre lake associated with the Woodlake subdivision. He said the site was located on the west side of 15-501 south between Culbreth Road and Dogwood Acres Drive. He said the Council had originally approved the preliminary plat for the subdivision and lake in 1984, reapproved by the Manager in 1986 and again in 1987 with conditions relating to the Resource Conservation District. Mr. Waldon stated that one of the key issues was that the preliminary plat approval for the subdivision had expired on March 31, 1988. He said the staff felt the interrelationship between the subdivision and the lake was critical. He stated that barring the existence of the subdivision, the staff felt the access and maintenance problems with having a lake and dam in that location were problematic in terms of safety, access, maintenance, ownership, etc. Mr. Waldon said the RCD regulations state that a lake and dam were permitted uses within the RCD with a special use permit. He said the Council had to make four findings in order to grant the SUP and the staff felt the first three of the four findings would be difficult to make without the establishment of the subdivision: 1) that the use or developed was located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare; 2) that it complied with all required regulations and standards of the Development Ordinance; and 3) that it was located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property. He said the staff felt the key problems without the subdivision in place were safety, access, maintenance and ownership.

Council Member Preston stated that the subdivision and lake were originally approved in 1984. She asked if the current proposal was the same plan that was approved in 1984. Mr. Waldon said that it was not the same plan but was very close to it. He

stated that the current plan took into account the regulations relating to the Resource Conservation District which was adopted in 1986 and amended in 1987. Council Member Preston said that in 1984 the Council had found that all of the four findings of fact and granted approval. She asked for clarification of why the staff now felt these findings were in question. Mr. Waldon said the Council, in 1984, had approved the preliminary plat for the subdivision, including the lake and dam. He said when the request for the SUP for the lake and dam had been received, there had been a valid preliminary plat for the subdivision which created the streets and lots. He said in order to have the lake, according to the current regulations, a separate SUP was also required. Mr. Waldon said that what has happened was that the preliminary plat expired, and so the situation was that there was a request for the dam and lake but there was no adjacent subdivision. He said without the subdivision, the access, maintenance, safety, and ownership problems relating to the lake come into play.

Alan Rimer, representing the Planning Board, said the Board had voted to deny the request. He said there were four major concerns, primarily that there was confusion as to why it was being considered if there was no subdivision connected. He said the Board was concerned about the access to the lake, especially in relation to safety. He said if there was no way to get to the dam in order to maintain it then there was a safety problem. Mr. Rimer also said some of the Board felt that if the lake were not maintained after it was built, it could become a problem to adjoining property owners. He stated that there was concern for safety in that the lake by just being there could be an attractive nuisance and that without the accompanying subdivision there would be no way to monitor how the lake was used.

Manager Taylor said that in absence of a preliminary plat for a subdivision his preliminary recommendation was for denial of the Special Use Permit for the lake and dam. He said if a preliminary plat for a subdivision were approved, then the staff recommended approval with conditions.

Bruce Ballentine, speaking as the consulting engineer for the Woodlake project, said the Council approved the original Woodlake preliminary plat and included a lake and dam. He said the current proposed location and size of the lake and dam were the same as in 1984. He said condition #21, which dealt with access easement provided to the dam, condition #22, which dealt with the homeowners association submitting an annual dam inspection report, condition #23 which dealt with compaction testing during construction of the dam, and condition #24, which required sedimentation traps provided in the inlets to the lake were the same now as in 1984. Mr. Ballentine said that in reapproving the preliminary plan last March, the Manager required plan modifications to bring the plat into compliance with the new RCD ordinance. He stated that this was done and revised plan was developed to the mutual satisfaction of the staff and developer except for the

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issue of recreation space. Mr. Ballentine said in the 1984 approved plat the recreation space requirements was considered to have been met by the lake area and surrounding open space. He commented that condition #44 of the preliminary plat approval as revised by the Manager in 1987 stated that in the event that the proposed lake could not be constructed due to RCD restrictions that the area that would have held the lake be dedicated as recreation area. He said while the plat was being modified, the staff ruled that the lake area would not be counted as active recreation space. Mr. Ballentine said that under predevelopment conditions only 8 of the 28 acres was within the RCD and the remaining 20 acres met the requirements of active recreation space in accordance with the ordinance. He said as a lake, the entire 28 acres should be classified as suitable for recreation area through boating and fishing. He stated that the staff had ruled that the only area in Woodlake meeting suitability requirements for recreation space was the 30-acre tract south of Laurel Hill Parkway formerly denoted as future development site B. Mr. Ballentine said this location was not owned by the developer nor in his opinion did it meet all suitability requirements stated in the Development Ordinance. He said it was located on the opposite side of a major thoroughfare from the Woodlake residents. He said various options had been submitted to the staff showing alternate locations for recreation space, as well as options for payment-in-lieu of recreation space. Mr. Ballentine said his firm had prepared detailed road and utility construction drawings for Phase I and submitted to the staff last December, well in advance of the plat expiration deadline in March. He stated that without resolution of the recreation space issue, the plans were not reviewed by the staff and the preliminary plat was allowed to expire. He said that it was the applicant's contention that adequate suitable documentation was submitted to the staff to permit approval of the final plat and to permit construction to begin on Phase I. He said the recent revised RCD ordinance required the SUP to be obtained prior to construction of the lake or dam. He said they were before the Council that evening to present evidence in support of the lake and dam as originally approved by the Council. He introduced John Hannah, the civil engineer in charge of the lake and dam project.

John Hannah, civil engineer and project engineer for Woodlake Dam, said he would like to offer a revised resolution granting approval to the lake and dam. He said the proposed lake had a drainage area of about 888 acres and was in the Fan Branch watershed between Dogwood Acres and Culbreth Road. He stated that preliminary investigations of the site revealed that on-site soils were conducive to lake and dam construction. Mr. Hannah said the proposed dam was 43' high and classified by the Dam Safety Division of North Carolina as a medium size, Class C dam. He stated that all lake and dam construction would be done in accordance with the dam safety code. Mr. Hannah said the proposed lake would benefit the Town and downstream properties in providing a regional stormwater detention facility which would function in accordance with the intent of the Town's draft drainage

ordinance as drafted by the Town's staff and drainage consultant. He suggested that resolution A as included in the Council's packet be amended to include two additional stipulations and that the amended resolution be adopted by the Council. Mr. Hannah stated that the additional conditions related to the maintenance and ownership and access questions by stating that if the Woodlake subdivision were not developed then the responsibilities given to the homeowners association for maintenance and ownership would default to the property owner and that location of access roads for the construction and maintenance of the lake and dam would be approved by the Town Manager prior to issuance of the Zoning Compliance Permit for the lake and dam. (For copy of amended resolution, see Clerk's files.) He said that the staff had indicated that if the subdivision was built the proposed access points were suitable for access and maintenance. Mr. Hannah said that the applicant had contacted persons responsible for existing comparable lakes and discussing the safety problems. He said all of those contacted indicated that safety had not been a significant problem and the only suggestion made was that the lake's underwater shoreline be at a 3 to 1 grade or flatter to insure the safety of waders. He also stated that further information indicated that if liability insurance premiums were any indication of safety issues, then swimming pools and tennis facilities were not as safe as lakes. Mr. Hannah commented that if the subdivision were not developed then the lake would be located on private property and subject to no more use than a private farm pond. He concluded by stating that he would like all application documents and all prior correspondence between the applicant and Town be included as part of the record of this hearing.

Council Member Preston said she would like information on why the lake was considered suitable recreation space when the Council approved the subdivision in 1984 but was not considered suitable now.

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

Council Member Wilkerson also asked that information on why the application had been delayed in processing by the staff as indicated by Mr. Ballentine.

THE MOTION PASSED UNANIMOUSLY, (7-0).

Public Hearing on Proposed Water Quality Critical Area Ordinance

Manager Taylor said that the purposed of the hearing was to receive citizen comments on a proposal to create a new overlay zoning district to help protect the water quality in Jordan Lake. He requested in deference to the lateness of the hour, rather than have a staff presentation, that Agenda Item #4, "Water

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Quality Critical Area District," dated April 18, 1988 be entered into the record of this meeting.

Dan Garner, an attorney representing property owners, said that in looking at the proposed ordinance in comparison with Durham City's and Durham County's ordinance there were points of similarity and disparity. He suggested that the Town consider rather than using the outer boundary of the Corps property as the beginning point of measurement upward for the water quality critical area, start with the normal pool level in the reservoir and go up from that to a ridge line or 1/2 mile distance, whichever was shorter. He said it made more sense to him to start with the broad Corps property and then go a mile or 1/2 mile from that.

COUNCIL MEMBER WERNER MOVED, SECONDED BY COUNCIL MEMBER WILKERSON TO REFER TO THE MANAGER. THE MOTION PASSED UNANIMOUSLY, (7-0).

Executive Session

COUNCIL MEMBER HERZENBERG MOVED, SECONDED BY COUNCIL MEMBER PRESTON TO ADJOURN TO EXECUTIVE SESSION TO DISCUSS LITIGATION AND INTEREST IN REAL PROPERTY. THE MOTION PASSED UNANIMOUSLY, (7-0).

The meeting adjourned to executive session at 11:31 p.m.

A MOTION WAS DULY MADE AND SECONDED TO ADJOURN THE MEETING. THE MOTION PASSED UNANIMOUSLY, (7-0).

The meeting adjourned at 11:36 p.m.