

**ATTACHMENT 5**

**Historical Documents Provided By Residents**

Roemary

To: Mayor and Town Council Members  
From: Citizens For Airport Planning  
Date: September 13, 1993  
Re: Proposed resolutions on Horace Williams Airport

It has come to our attention that the Town Council is considering two resolutions regarding the operation of Horace Williams Airport. We have serious reservations about both, as they are now written. Our first concerns relate to the proposed Memorandum of Understanding with the University.

### Part I of the Resolution

The idea for the Memorandum of Understanding grew out of a recent series of negotiation sessions in which all the stakeholders met to discuss the future of the airport. The purpose of this memorandum was to merely restate clearly and in one place all the restrictions that the University has previously agreed to impose on the airport in order to limit non-university traffic. These restrictions were originally communicated to the Town through official University documents such as letters from Chancellors and University Position Statements.

We have noted that in restating these existing restrictions for the purposes of this memorandum, there have been changes made to the original wording. These wording changes are of critical importance because they change the meaning and the intent of the original restrictions, making them weaker. The effect would be to actually allow increased traffic. The original documents are included in this packet and the relevant parts are highlighted in blue.

Here are the three statements in this memorandum that concern us most, because they are significantly different in wording and meaning from the originals. These statements are followed by the exact wording used in the original documents.

**This memorandum states:**

“Air Taxi services are not allowed *to be based at* the airport.”

“All other commercial operations are also prohibited from being *based at* the airport.”

“A maximum of 12 aircraft associated with the Chapel Hill Flying Club may be based at the airport.”

**The original wording states:**

“ Since the Carolina Flying Service ceased operation in December of 1988, *commercial operations have not been sanctioned at the Horace Williams Airport.*” (Letter from Chancellor Paul Hardin to Mayor Jonathan Howes, Aug. 31, 1989)

“In order to address community concerns about potential safety, noise, and potential traffic increase issues, use restrictions currently in force at HWA will continue. In addition, the following new restrictions were effective August 1, 1989: *No commercial operations will be permitted.*”  
(University Position Statement on the Operation of Horace Williams Airport , August 4, 1989 from Chancellor Paul Hardin)

“*No commercial operations have been sanctioned at the Airport since Carolina Flying Service ceased operations in December, 1988.*”  
(Memorandum from David Taylor Town manager to Mayor and Council September 12, 1989)

“Restrict the Chapel Hill Flying Club to twelve aircraft.” (University Position Statement from Chancellor Paul Hardin, Aug. 4, 1989)

Please note that when the University intended a restriction to apply merely to based aircraft as opposed to all aircraft, they clearly stated that. For example, note that on page 2 of this packet the University wrote “no helicopters *based at the airport.*”

The original wording to these restrictions was clear and unambiguous. There is a big difference between “no commercial operations at the airport” and no commercial operations from aircraft based at the airport. The latter allows aircraft based at nearby airports to run air taxi services through or from Horace Williams, thus encouraging additional traffic.

We would like the Council to insist that this memorandum maintain the original wording put forth in previous University documents. Otherwise it would be of no value, since it would merely serve to weaken restrictions on the airport that the University and Town have already agreed upon.

## **Part II of the Resolution**

The second resolution you are considering tonight is a draft proposal for establishing an Airport Advisory Group of airport stakeholders. This resolution calls for two representatives from each of the following stakeholder groups:

The Town of Chapel Hill  
The University  
Citizens for Airport Planning  
The Chapel Hill Flying Club  
The Friends of HW Airport

Please note that the rules of representation agreed upon by the negotiators and the stakeholders were that the Chapel Hill Flying Club and Friends of HW airport were considered to represent the same group -- the user group. In the negotiating sessions they were allowed only one representative each at the negotiating table. We therefore request that the Council ask that the composition of the Airport Advisory Group reflect this agreed upon balance.





THE UNIVERSITY OF NORTH CAROLINA  
AT  
CHAPEL HILL  
27599-9100

PAUL HARDIN  
CHANCELLOR

103 SOUTH BUILDING  
CAMPUS BOX NO. 9100  
(919) 962-1365

August 4, 1989

Mayor Howes and Council Members:

The purpose of this letter is to document the University's recent decision concerning the repair and repaving of the Horace Williams Airport runway. We recognize that this matter is of interest to a number of community and institutional constituencies.

My staff and I have carefully analyzed the various options to runway repair and future operations. A considerable amount of time and attention has been spent discussing issues and ideas. The University does not take lightly the concerns expressed by some citizens, some town council members, members of the Chapel Hill-Carrboro Board of Education, and others. Their various suggestions have been taken seriously and studied with care.

The University has received a significant amount of mail on this subject--about equally divided between supporters and opponents of airport operations. We have followed with interest the comments reported in the news media.

After much deliberation, the University has recently decided to authorize the initiation of the capital improvement project, approved by the appropriate State offices, to repair and repave the airport runway. In conjunction with this I have authorized the staff to consider several, recommended, new changes to airport operations. Among these are:

1. Investigate petitioning the FAA to permit the airport to be listed as a private airport
2. Examine the feasibility of closing the airport at night
3. Increase transient tie-down fees
4. Monitor, with the assistance of the North Carolina Department of Transportation, activity levels at the airport, both during the day and at night

Mayor Howes and Council Members  
August 4, 1989  
Page 2

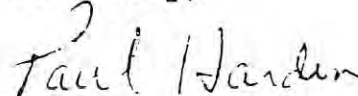
Current restrictions (limit of fifty based aircraft; use by small aircraft only; no jets, gliders, balloons, ultralights, or experimental aircraft; no helicopters based at airport; business operations during daylight hours only; no practice landings or take-offs) will continue in force.

We feel it imperative to make these needed repairs, and to initiate them before the advent of cold weather. The University must provide an adequate base of operations for its medical air transportation services (AHEC). This necessitates starting the project in the late summer.

The Town and University have put in place several important mechanisms to improve the coordination of plans and developments. In this case, the runway repair and airport operations, we felt it our duty to protect and improve the condition of the airport, while being sensitive to local concerns. We do not believe the projected repairs and repaving will encourage further flight activity.

Thank you for your interest in this matter, your patience with our long deliberations, and the continued support of Town/Gown dialogue concerning matters affecting us all.

Sincerely,

  
Paul Hardin

PH/pbh

POSITION STATEMENT  
Operation of Horace Williams Airport  
August 4, 1989

I. Background

The Horace Williams Airport is a restricted facility,<sup>1</sup> open to the public, and operated by the University of North Carolina at Chapel Hill since 1938. The airport has, over its fifty-one years, served the needs of the University and its faculty, staff, students, the military services, state agencies, local businesses, and as a general purpose facility for recreational flying.

Since 1968, the airport's primary purpose has been to serve as a base for the School of Medicine's air transport operations serving the North Carolina AHEC program. This program transports health care professionals, including medical students on service rotation, throughout the state.

The North Carolina AHEC program provides vital services to the people of the state. Its specialized patient care and health care educational programs have been replicated throughout the world. Convenient access to a nearby airport is essential to the continuance of these programs--by faculty and staff having other full-time duties on campus.

Recognizing other, legitimate uses of the airport, and being sensitive to its stewardship, the University developed a number of restrictions to provide a safe, protected, and limited environment. These voluntary restrictions on non-AHEC uses of the Airport include:

1. limit of 50 based aircraft
2. use by small aircraft only
3. no jets, helicopters, balloons may be based at HWA
4. business operations during daylight hours only
5. no practice landings or takeoffs

II. Current Situation

The Orange County Commissioners, in 1988, initiated a study of the feasibility for locating and operating a new airport to serve the county's needs. During the past nineteen years the University has reiterated its willingness to

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<sup>1</sup>Listed in the U.S. Government Airport/Facility Directory and the AOPA Airport Directory as "closed to pure jet powered aircraft, those over 12,500 pounds, gliders, balloons, miniature aircraft, and ultralights; no practice approaches or landings."

curtail (or abandon) flight activity at Horace Williams, if a reasonable alternative were developed. That willingness is still valid.

In May of 1989, the Orange County study was terminated after a number of county residents expressed objections. This cancellation has resulted in renewed focus on the future of the Horace Williams Airport (HWA).

For important safety considerations, there is need to repair and repave the runway. The University sought and received the appropriate state approvals for accomplishing this project. Engineering and design work has been in progress for the past three years.

The University feels steps taken to restrict or reduce flight activity have been successful. There has been only moderate change in the past ten years. In part, as a result of the University's curtailment of activities, the airport's only commercial operator ceased business operations in December, 1988.

### III. University Plans

With the cancellation of the County study for an alternative airport, the University has evaluated the operation of the Horace Williams Airport. Of first priority to the University is the provision of a suitable and adequate base for the AHEC air transport operations. The conclusion reached is that, because of its commitment to the citizens of North Carolina who depend upon the AHEC's Medical Air Operations, the University will continue to operate Horace Williams Airport. To reduce operations to only AHEC activities would serve to eliminate the source of revenue that covers airport operations. This would require AHEC to absorb a significant increase in the cost of air transportation. To reduce the services provided to rural North Carolina in order to overcome the lost revenue is not an acceptable approach to the problem.

In addition, the airport serves as a research, consulting, and public service base for University faculty, staff, and students. Use by official government and business visitors is an essential activity of a major research university. A less significant use of the facility is its base for recreational flying, although a significant number of the flying club members are also members of the University community.

Alternatives for HWA operations have been discussed. To move the AHEC air operations to RDU would significantly impair its ability to meet AHEC patient care and educational responsibilities. While the already lengthy days required



of physicians and other AHEC personnel would be further and marginally expanded, there are other important reasons for not operating from RDU. Operating costs would rise by more than \$100,000, and uncertain operating hours, due to priority landing and takeoff policies at large commercial carrier airports would serve to curtail service to the rest of North Carolina.

In the short run, the University will, for overall safety reasons, continue with its plans to repair, repave, and restripe the runway. In the interest of safety, 500 feet of runway sub-base overrun area will be paved. A new landing threshold will be established to allow aircraft to approach the facility from the east at higher altitudes. This provides a higher degree of safety, and will somewhat reduce noise levels. The repaving will begin in September, 1989. Any additional delay will not permit the project to be completed by winter. The already deteriorated runway is highly susceptible to damage from frost conditions, and any additional damage will significantly increase the repair costs. These repairs are being completed with no intention of increased activity, and no change in the type of aircraft permitted.

In order to address community concerns about potential safety, noise, and potential traffic increase issues, use restrictions currently in force at the HWA will continue. In addition, the following new restrictions were effective August 1, 1989:

1. No commercial operations will be permitted (aircraft repairs will be allowed on site on an as needed basis by licensed mechanics)
2. Restrict the Chapel Hill Flying Club to twelve aircraft

In addition to the use restrictions the University will:

1. Petition the FAA to permit the airport to be listed as a private airport
2. Examine the feasibility of closing the airport from 11:00 p.m. to 6:00 a.m. except for AHEC aircraft. The feasibility of such a step will depend upon equipment costs and FAA approval.
3. Increase tie-down fees to reflect the convenience of the airport. Horace Williams tie-down fees are already much higher than those at Raleigh-Durham, Person County, and Burlington airports.
4. Mark the runway so as to move the east-to-west landing threshold several hundred feet to the west
5. Monitor, with the assistance of the Aviation Division, North Carolina Department of Transportation, noise level and volume of traffic levels,

for the purpose of determining more accurately HWA activity levels

We believe these measures are reasonable so as to ensure the continued safety record of air operations at Horace Williams Airport, while permitting the economical operation of a facility that is critical to the rural health needs of the state. We also believe that the measures we have installed will not foster increased air traffic particularly when those measures are tied to the absence of a control tower, maintenance facilities, food services, high performance fuel, after dark fuel services, and restroom facilities.

The University has requested assistance by the Aviation Division, North Carolina Department of Transportation for: (a) a study (using acoustical monitoring equipment) of day and night flight activity; and (b) determination of the source of airport operation statistics used in the County study.

The University will periodically review the effectiveness of all restrictions in use at Horace Williams Airport.



THE UNIVERSITY OF NORTH CAROLINA  
AT  
CHAPEL HILL  
27599-9100

PAUL HARDIN  
CHANCELLOR

103 SOUTH BUILDING  
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(919) 962-1365

August 31, 1989

The Honorable Jonathan Howes, Mayor  
Town of Chapel Hill  
306 North Columbia Street  
Chapel Hill, NC 27514

Dear Jon:

I have your letter of August 29, suggesting topics for consideration at a forthcoming discussion between Town and University officials concerning the Horace Williams Airport. We look forward to bbeing with you and your colleagues.

Prior to that discussion, I offer the following thoughts and information:

1. The University, at an early August meeting with CAP members, expressed its willingness to report to the community on issues we have proposed in our Position Paper. I affirm the position that the University does not have plans to expand operations of the Horace Williams Airport. I also reiterate the University's intention to continue efforts to minimize transient use of this facility and to take reasonable steps toward continuing and improving Horace Williams Airport's strong safety record.
2. Since our earlier meeting, a number of steps have been initiated by the University:
  1. To discourage transient activity, the overnight tie-down fees have been increased (making them the highest in the area).
  2. Equipment necessary to count aircraft activity was installed on August 24, 1989. NC DOT is taking steps to make this information available to us as soon as possible.
  3. Discussions with NC DOT and the FAA, relative to a possible designation of the Horace Williams Air-



port as a "private" facility, have taken place. The legal issues of such a change are also being investigated. The FAA recently sent to the University the forms necessary for making such a request. We are still evaluating this matter.

4. The staff has discussed with the manufacturer of the runway lights modifications and additional equipment necessary to allow AHEC to be able to turn on the runway lights while approaching the airport. The pilots of AHEC and other users of the airport are not in favor of this step, however.
5. Restrictions on recreational and training activity between the hours of 9:00 pm and 6:00 am, recently have been re-enforced to all airport users. We will be communicating this to all the pilots operating from Horace Williams Airport, and will continue to monitor this situation.
6. Since the Carolina Flying Service ceased operation in December of 1988, commercial operations have not been sanctioned at the Horace Williams Airport. Concerns have been expressed to officers of the Chapel Hill Flying Club; they have reviewed their own procedures with their members.
7. The University is considering plans to station a uniformed campus police officer on the airfield during home football games. The authority and responsibility of such an officer are being investigated, with assistance from the State Attorney General's office.

Regarding the "phasing out" of non-University use, I believe our position has been clearly stated. It continues to be our intention to take reasonable steps to control use of the Horace Williams Airport.

My staff and I continue to evaluate carefully the level of operation of this facility. We are sensitive to the concerns of the town, local citizens, members of the Board of Education, general aviation users, and University medical air transportation services. We encourage efforts to investigate alternative facilities.

I look forward to the opportunity to continue our discussions of this matter. Our official and personal relationships

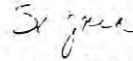
The Honorable Jonathan Howes

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August 31, 1989

are important as we work together for strong, safe, and pleasant communities in which to live and work.

Sincerely,



Paul Hardin

PH/pbh

## MEMORANDUM

TO: Mayor and Council

FROM: David R. Taylor, Town Manager

SUBJECT: Public hearing on improvements planned by the University at Horace Williams Airport and on operational changes under consideration by the University

DATE: September 12, 1989

On August 28, the Council scheduled this public hearing for comment on physical alterations planned by the University and operational changes under consideration by the University.

The University's plans are described in a letter of August 4, 1989 to the Mayor and Council from Chancellor Paul Hardin (attachment.)

#### Background

##### 1. Recent discussions and actions of the Council

On May 22nd, the Council discussed a staff report on the status of Horace Williams Airport. Representatives of the University earlier this year informally indicated plans to pave an additional 500 feet of runway for a total length of 4,000 feet.

On July 10, the Council adopted a resolution of intent to hold a public hearing on any requested improvements or changes in operation at the Airport.

By letter dated August 4th, Chancellor Hardin outlined the University's plans to initiate a capital improvement project, approved by the appropriate State offices, to repair, repave and restripe the Airport runway; to pave 500 feet of runway sub-base overrun area; and to consider several operational changes.

On August 28th, the Council scheduled this public hearing to receive comments on the planned extension of the runway and the operational changes under consideration by the University. The Council also requested discussions with University representatives.

In a letter dated August 31, the Chancellor expressed the University's interest in further discussions with Town representatives. (copy of letter attached; additional information below).

- \* restrictions on recreational and training activity between 9 pm and 6 am have been re-enforced to all airport users.
- \* equipment for counting aircraft activity was installed on August 24, and
- \* no commercial operations have been sanctioned at the Airport since Carolina Flying Service ceased operations in December, 1988.

Regarding phase-out of non-University use of the Airport, the Chancellor reaffirmed the University's intention to take reasonable steps to control use of the Airport.

The Chancellor also reiterated the University's commitment to safety and intention to minimize transient use, and encouraged efforts to investigate alternative facilities.

In April, 1981, Chancellor Fordham stated in a letter to the Town that the University was willing to phase out non-University use of Horace Williams Airport by not later than July 1, 1989, subject to certain conditions; and to close the airport if there is an acceptable alternative airport facility.

The conditions included good faith efforts to find an alternative and the University's right to reconsider the statements if an acceptable alternative airport were not available by July 1, 1989. The letter also stated the University did not consider itself responsible to subsidize or provide an alternative airport.

(The information above summarizes and paraphrases portions of correspondence from the University. Please see the attached copies of the Chancellors' letters of April 17, 1981, August 4, 1989 and August 31, 1989 for additional information.)

### 3. State law

North Carolina General Statute Sec. 160A-392 provides in part that:

"All the provisions of this Part (Part 3 in Article 19, planning and zoning authority of cities and towns) are hereby made applicable to the erection, construction and use of buildings by the State of North Carolina and its political subdivisions." (emphasis and parenthetical reference added).

Because the runway is not a building, we believe this statute exempts the University from any requirement to request Town approval for construction work or use, by the University or other State agencies, of the Horace Williams Airport runway.

A copy of this statute is attached.



THE UNIVERSITY OF NORTH CAROLINA  
AT  
CHAPEL HILL

Received 10-18  
- Council  
Manager  
Attorney

Office of Business and Finance

CB# 1000, 300 South Building  
University of North Carolina at Chapel Hill  
Chapel Hill, N.C. 27599-1000

October 16, 1990

The Honorable Jonathan B. Howes  
Mayor, Town of Chapel Hill  
306 North Columbia Street  
Chapel Hill, NC 27516

Dear Mayor Howes:

The purposes of this letter are to describe the current status of operations at the Horace Williams Airport, and to state the University's position on the issues of private use designation, turning off lights at night, and the concerns about encouraging increased traffic.

1. Runway repair and repaving
  - a. Construction work (repair, repaving, and re-striping) has been completed.
  - b. The airport was reopened for operations Friday afternoon, May 25.
2. General levels of activity
  - a. The use of the airport facility continued to exhibit a downward trend this past fiscal year. Part of this was because of the two extended periods of construction (repair in November and December of 1989, and the repaving for four weeks this May).
  - b. Currently forty-three aircraft are based at the facility, with no waiting lists (a very unusual situation for Horace Williams Airport).
  - c. Both sales of fuel and recorded visits by transient aircraft were down this past fiscal year (1990) as compared to last year (1989). Preliminary figures for the current year indicate that the two measures are virtually unchanged (1991).



<u>Date</u>	<u>Gasoline Sales</u>	<u>Transient Landings</u>
July, 1989	Down 2,200 gallons	Down 63
August	Down 3,573 gallons	Down 69
September	Down 2,795 gallons	Down 16
October	Down 69 gallons	Down 15
November	Down 3,653 gallons	Down 118
December	Down 4,621 gallons	Down 189
January, 1990	Up 487 gallons	Down 65
February	Up 2,356 gallons	Down 104
March	Up 2,792 gallons <sup>1</sup>	Down 25
April	Up 2,657 gallons	Down 47
May	Down 7,742 gallons	Down 242
June	Up 791 gallons	Down 5
Totals FY/TD	Down 15,570 gallons	Down 958

## Note:

<sup>1</sup>In early 1990 AHEC started making almost all of its fuel purchases at the Horace Williams Airport. This activity masks a transient decline.

The long standing University limitations on activities continue (no jet airplanes; small craft only; no gliders, balloons, ultralights; no services available after dark; no practice landings and takeoffs; etc.). The airport's sound activated counting equipment has been installed, and is operating properly. Activity levels will be monitored on a regular basis, using the new automatic counting devices.

The proposal to have the Horace Williams Airport designated as a "private use" facility has been carefully and intensively explored. After a meeting between the University, the Atlanta Airports District Office of FAA, and North Carolina DOT representatives in Atlanta, the FAA was asked to respond in writing to several key questions.

The first FAA response, dated May 22, 1990 was evaluated, and a number of additional questions were raised. Several telephone exchanges followed. A second response, dated July 10, 1990, was received, correcting some earlier information. Meanwhile, requests have come from AHEC and others to consider an additional, improved navigational service from RDU, called RNAV (Radio Navigational System).

In addition, between letters from FAA Atlanta, the University received an inquiry from the FAA Washington office concerning the possible installation of an ASOS (Automated Surface Observing System)--a local weather reporting service.

We consider both the RNAV and ASOS services to offer significant safety improvements at the Horace Williams Airport, without generating additional activity.

The uncertainty about current and future FAA services (availability, costs, procedure to request changes, etc.) has complicated the matter of a "private use" designation.

The University has carefully evaluated the suggestion to turn off the airport lights in order to discourage night use of the airport. If the runway lights are extinguished, all other lights must also be turned off, including the navigation beacon.

Factors related to this proposal are as follows:

1. Electrical connections have been made so that airport lights (runway, beacon, Runway End Identification Lights [REIL], taxiway, windsock, Visual Approach Slope Indicator [VASI]) can be turned on under radio control.
2. Practically all airport users, including the AHEC pilots, recommend against this practice.
3. The FAA and the NC DOT recommend against this practice.
4. The University has developed another alternative-- which is to have a stronger statement placed in the general airport directories, limiting normal airport use in the period of 12:00 midnight to 6:00 a.m.

Based upon the University's experience with actual activity levels at the Horace Williams Airport, its commitment to the AHEC program, its continued support of airport restrictions and the need to maintain adequate safety precautions, we have reached the following conclusions:

1. The University does not plan to request a change in the airport designation to "private use".
  - a. The private use designation causes the University to self-impose the burden of policing that designation. Any additional costs of operating the airport must be borne by the general revenues of the University, an unacceptable use of its resources during a time of financial strain.
  - b. The current level of airport activity is already reduced when compared to the 1989 level.



- c. The private use designation makes the acquisition of a federally financed automated local weather service unlikely, if not impossible, to obtain.
  - d. The uncertainty of messages from the FAA concerning the availability of free navigation and control services causes the University to assume the burden if it becomes necessary to contest any FAA action to terminate such services.
2. The University will request the inclusion of more definitive language about restricted nighttime activities in distributed federal and general aviation material. This would be done in lieu of turning off all the facility lighting between midnight and 6 a.m.
    - a. Experienced airport users feel this step would be duly noted by transient pilots who would avoid using the facility at night.
    - b. Nighttime activity at the airport has been recorded as marginal (less than four recorded takeoffs per month). See Appendix A.
    - c. Turning the runway lights off requires that all lighting be terminated (runway, REIL, VASI, etc.) thereby creating a more dangerous operating environment.


The University wishes to restate its position concerning the operation of the airport:

1. Current restrictions on flight activity will continue as before;
2. No action will be initiated that would lead to greater use of the facility;
3. No action will be initiated that would reduce the safety of existing operations. Instead, it will pursue federally financed weather devices and navigational services; and
4. Consideration will be given to changing or eliminating airport activity, should a reasonable alternative be developed.

While the conclusions do not provide for the specific response desired by some of our citizens, we believe that our actions over the past year provide substantial evidence as to

University efforts to limit traffic volumes and to refrain from encouraging increased airport usage or larger aircraft.

Sincerely,

  
Charles C. Antle, Jr.  
Associate Vice Chancellor  
for Business

cc: Chancellor Paul Hardin  
Chairman Moses Carey  
Mayor Eleanor Kinnaird  
Mr. John Payne  
Vice Chancellor Ben Tuchi  
Mr. Rut Tufts

APPENDIX A

Airport Activity Recorded

<u>Time of Day</u>	<u>Test Period<sup>1</sup></u>	<u>Test Period<sup>2</sup></u>	<u>Test Period<sup>3</sup></u>
Midnight - 6 am	3	1	0
6:01 am - 12 noon	96	177	66
12:01 pm - 6 pm	158	220	110
6:01 pm - 11:59 pm	<u>70</u>	<u>68</u>	<u>28<sup>4</sup></u>
Total	327	466	152

Notes:

<sup>1</sup>Test Period 1 = August 23 - Sept. 5, 1989

<sup>2</sup>Test Period 2 = Sept. 25- Oct. 9, 1989

<sup>3</sup>Test Period 3 = Apr. 4 - Apr. 10, 1990

<sup>4</sup>During 6:01 - 11:59 pm, test period 3, 20 of 28 takeoffs (71%) occurred between 6 pm and 7 pm (daylight hour)

<sup>5</sup>Avg. day activity still ranging between 29 - 34.

APPENDIX B

Airport Activity Recorded

<u>Time of Day</u>	<u>Test Period<sup>1</sup></u>	<u>Test Period<sup>2</sup></u>	<u>Test Period<sup>3</sup></u>
Midnight - 6 am	1	0	3
6:01 am - 12 noon	56	57	68
12:01 pm - 6 pm	65	49	60
6:01 pm - 11:59 pm	<u>42</u>	<u>21</u>	<u>21<sup>4</sup></u>
Total	164	127	152

Notes:

- <sup>1</sup>Test Period 1 = May 31 - June 7, 1990
- <sup>2</sup>Test Period 2 = June 14 - June 20, 1989
- <sup>3</sup>Test Period 3 = June 26 - July 2, 1990
- <sup>4</sup>Avg. day activity ranged between 18 - 23

## **FOUR POINT CAP PROPOSAL CALLS FOR COMMUNITY SAFEGUARDS AT HORACE WILLIAMS AIRPORT**

Citizens for Airport Planning commends the University of North Carolina and the Town of Chapel Hill for initiating the consultative process, which has gone far to reduce past misunderstandings and to enhance communications. We are also deeply appreciative of what the University has already done as a "good neighbor" -- including restrictions on tie-downs, touch-and-go landings, jet fuel availability, air taxi operations, and financial disincentives for transients' use of the Airport.

The consultative process is nearing completion. We see no imminent decision to close or relocate Horace Williams Airport. Even with such decisions, the airport will be operating for some years to come. To give our growing community and its schools protection against possible safety hazards and bothersome airplane noise, Citizens for Airport Planning (CAP) believes four objectives need to be met. We list those below.

We wish to stress one other point. These consultative sessions were convened to discuss the airport. We urge that the discussion remain focussed on the airport. Certainly, planning for future use of the Horace Williams tract is important for the University and the community. However, we strongly hope that the assembled group will press on to reach consensus about the airport itself, and its future.

It would be a shame to lose the opportunity to define those airport operations as closely as possible. Questions of airport operations and regulation should be considered separate from, and prior to, discussions about the rest of the Horace Williams tract. That property is very large, subject to many possible uses, none of which is imminent. We think it is sensible to resolve airport issues now, as planned, and not tie airport decisions to a host of potentialities that might evolve, some day, regarding the other acreage.

Here is CAP's proposal for Horace Williams Airport:

### **1. TRAFFIC AT HORACE WILLIAMS SHOULD NOT INCREASE -- AND SHOULD BE PROGRESSIVELY REDUCED.**

- Use of HWA should be restricted to AHEC and other University business, with other current users given necessary time and assistance in relocating their operations; tie-downs should be reduced to their actual current number and phased out whenever they are vacated;

- Any enhancements considered for pilot safety should also be evaluated for their consequences for community safety; if they might encourage increased operations, they should not be adopted;
- Enhancements aimed at community safety and noise control -- such as changing the flight pattern to that normally used at airports -- should be investigated;
- Enhancements that would increase commercial or other non-University traffic -- such as taxiways, hangers, jet fuel tanks and repair services -- should be banned; and
- The University should change the public designation of the Airport to a private designation, as requested by the Town of Chapel Hill in October, 1989.

## **2. BINDING AGREEMENTS TO RESTRICT THE AIRPORT'S USE SHOULD BE MADE BY THE UNIVERSITY'S BOARD OF TRUSTEES AND THE TOWN OF CHAPEL HILL.**

- Current limits and future prospects now depend entirely on administrative policies that, as shown in the past, can change with new University programs and leadership;
- Development in the towns and the county, as well as the University's own planning for the best use of the larger Horace Williams tract, require a declared and stable commitment.

## **3. AIRPORT MANAGEMENT SHOULD BE STRENGTHENED, WITH SPECIAL ATTENTION TO THE ISSUE OF LATE NIGHT FLIGHTS.**

- The University should provide reliable information on the number of operations through quarterly reports filed with the Town of Chapel Hill;
- The current ban on night flying should be enforced, providing for HWA-based pilots to inform management of planned late arrivals;
- University staff or Town police should check out reasons for late night landings by persons whose planes are not based at HWA.

**4. A CONTINUING MONITORING AND ADVISORY GROUP SHOULD BE SANCTIONED. UNC, THE TOWN OF CHAPEL HILL, THE AIRPORT USERS, AND NEIGHBORS SHOULD PARTICIPATE.**

- This body should be sponsored by the University and Town government;
- It should be empowered to review any changes proposed in the Airport's facilities and operations;
- It's mission should be to serve as an efficient replacement for the past pattern of "crisis response," with its attendant misunderstandings.



# CITIZENS FOR AIRPORT PLANNING

## SUMMARY OF STATEMENT TO BE PRESENTED TO THE CHAPEL HILL TOWN COUNCIL AT ITS MEETING OF NOVEMBER 22, 1993.

The Council is to consider adoption of a Memorandum of Understanding, jointly with the University of North Carolina at Chapel Hill (UNC), dealing with the operation of Horace Williams Airport (HWA).

### Citizens for Airport Planning recommends AGAINST adoption.

1. The main outcome of the 1992-93 "Preliminary Dialogue Process", partly financed by the Town, was UNC's commitment to continue its policy of not encouraging increased traffic ("no greater use") at HWA and to institutionalize its interaction with interested parties. The Memorandum of Understanding is part of the latter stipulation.
2. During the preparation of the Memorandum, as a matter of "reinterpretation", UNC has substantially weakened the policies it communicated to the Town in 1989 and 1990, with respect to use of HWA for commercial purposes. Now, by allowing commercial use by operators based elsewhere, this changed policy actually increases the number of takeoffs and landings per service. The "reinterpretation" also opens the door to more recreational flying.
3. Responding to a direct question from Citizens for Airport Planning, UNC has stated that it will not deny access to a violator of its policies, since that would constitute "discrimination". This casts doubt on its willingness to enforce its policies.
4. Over the last 4 years, we have learned that UNC, under persistent pressure from commercial and recreational interests - to which the Council has been immune - will not act to control uses of HWA that would
  - a. reduce revenues from gasoline sales that help pay HWA's costs, or
  - b. require active or more costly management of HWA, as long demonstrated by UNC's non-enforcement of night flying restrictions.
5. Citizens for Airport Planning urges the Town Council not to accept, endorse, or adopt the proposed Memorandum of Understanding, for the following reasons:
  - a. The document is at best symbolic, in that UNC has repeatedly stated that it retains its right to alter HWA policies at any time.
  - b. Adoption would symbolize the Town's acquiescence in an airport control policy weaker than previously pledged to the Town and its citizens - a step backward, indeed. Also, adoption would in effect co-opt the Town into tacit approval of whatever "reinterpretations" UNC chooses to make in the future.
  - c. Adoption by the Council would be a contradiction of its own, duly enacted policy by its resolution of October 1989.



**MEMORANDUM OF UNDERSTANDING  
ON THE VOLUNTARY RESTRICTIONS GOVERNING  
OPERATION OF THE HORACE WILLIAMS AIRPORT**

This Memorandum of Understanding sets forth all voluntary restrictions made by The University of North Carolina at Chapel Hill related to the operation of the University's Horace Williams Airport.

This Memorandum of Understanding is made by and between The University of North Carolina at Chapel Hill and the Town of Chapel Hill. The University, as owner of the Horace Williams Airport, has over the years placed certain voluntary restrictions on airport operations to address the concerns of airport neighbors and other members of the local community. The Town of Chapel Hill, as the community in which the airport is located, has supported the University's efforts to adopt reasonable voluntary restrictions on airport operations. The Town is a party to this understanding on behalf of airport neighbors, users, and other interested citizens of Chapel Hill.

The voluntary restrictions are as follows:

- \* Jet aircraft are prohibited from using the airport.
- \* Balloons, gliders, and experimental aircraft are prohibited from using the airport.
- \* Miniature and "ultra-light" aircraft are prohibited from using the airport.
- \* Aircraft weighing more than 12,500 lbs. are prohibited from using the airport.
- \* Helicopters may not be based at the airport.
- \* Air taxi services may not be based at the airport. Although the University cannot prohibit air taxi operators from making stops at the airport, the University encourages such operators to honor the intent of the restriction by voluntarily limiting their use of the airport to University related purposes.
- \* All other commercial operations are also prohibited from being based at the airport.
- \* Commercial aircraft mechanics, although not permitted to operate a business on-site, are permitted to perform all regular and emergency repairs necessary for the safe operation of aircraft.
- \* Normal operations of the airport are conducted between 6:00 a.m. and 9:00 p.m.

- 11
- \* Recreation and training flights are prohibited from 9:00 p.m. to 6:00 a.m.
  - \* A maximum of 50 aircraft may be based at the airport including a maximum of 12 aircraft associated with the Chapel Hill Flying Club.
  - \* Practice takeoffs and landings (touch and go) are not allowed at the airport.
  - \* A monitoring system will be operated to record the number of takeoffs at the airport, with quarterly traffic reports to be provided by the University to the Town of Chapel Hill.

The initiative to develop this Memorandum of Understanding arose from the Preliminary Dialogue Group process. This recently concluded process sought to bring about consensus among the myriad parties with an interest in the future of air traffic operations in Orange County. The consensus that emerged from this process included a proposal to record in a single document all voluntary restrictions under which the airport is operated. The proposed document is this Memorandum of Understanding.

The above voluntary restrictions are all of the voluntary restrictions governing airport operations. Because the restrictions are voluntary and the University is obligated to operate the airport on a self supporting basis, the Chancellor of the University reserves the right to make changes as he/she deems appropriate. Before any changes in the restrictions are implemented, the Chancellor will take into account the opinions of the Advisory Group and will consult with the Mayor of the Town of Chapel Hill. The following signatures, on this \_\_\_\_\_ day of \_\_\_\_\_, 1993 indicate that the University and the Town of Chapel Hill understand that the above voluntary restrictions have been placed on airport operations.

\_\_\_\_\_  
Mayor Kenneth S. Broun  
Town of Chapel Hill

\_\_\_\_\_  
Paul Hardin, Chancellor  
The University of North Carolina  
at Chapel Hill



## Horace Williams Airport Fact Sheet

### **Brief Chronology:**

- 1940s Grass airport built and used for flight training of naval pilots during World War II
- 1958 Estes Hills School opens (airport is still a dirt strip with only a few flights each day)
- 1960 Chapel Hill Board of Alderman make the airport a non-conforming use
- 1960s University assurances that the airport would be phased out encouraged residential zoning of neighborhoods and building of schools
- 1963 Phillips Junior High School opens (airport still dirt strip)
- 1965 Chapel Hill High School opens.(airport still a dirt strip)  
Chancellor Sharp writes that continued use of the airport is "undesirable and ...hazardous"
- 1968 Beginning of AHEC program
- 1969 University announces plans to pave the runway
- 1970 UNC Faculty Council Committee states that the airport should eventually be closed and, until then, it should be limited
- 1971 UNC paves the runway (3500 feet)
- 1980 School Board takes unanimous position that airport should be closed and, until that time, its use should be limited
- 1989 UNC paves runway and extends it to 4000 feet (a length that could more comfortably accommodate turbo prop jets)  
University says that to address community concerns for noise, safety and growth, it will continue to enforce its self-imposed restrictions and, in addition, the University pledges to prohibit all air taxi and other commercial operations at HWA
- 1989 School Board takes another unanimous position that the airport should be closed and until that time should be restricted to essential University operations.
- 1989 Chapel Hill Town Council passes a unanimous resolution which recognizes the poor location of the airport but requests that pending relocation the University take steps to control growth by designating Horace Williams a private airport, enforcing a ban on flying by

non-University aircraft between 9pm and 6am, and limiting air operations other than those for University purposes

1992 UNC and the Town hire Center for Environmental Negotiations to see if an alternative to Horace Williams can be found. All stakeholders try to find a solution to the airport problem. No alternative site is found.

Crashes: 1995

7

Since 1980 there have been 6 fatal crashes at or near Horace Williams resulting in 13 deaths. Twelve of the 13 fatalities involved pilots or passengers of transient aircraft --- those based elsewhere. One fatality involved a member of the Flying Club who was legally drunk. ~~The latest~~ One crash was 1/4 mile from Seawell School and even closer to the nearest house.

#### Negotiation sessions:

In 1992, in connection with the prospective development of the whole Horace Williams tract, the University and the Town of Chapel Hill hired a team of negotiators from the University of Virginia to explore with stakeholders a solution to the airport problem and to find an alternative site. The stakeholders included representatives from the Towns of Chapel Hill, and Carrboro, Orange County, citizens groups, users, AHEC, and the University. They participated in 4 sessions to try to find common ground to point toward a solution of the airport problem. No consensus was reached and no alternative site was identified. However, the University pledged to continue to discourage an increase in air traffic by continuing its self-imposed restrictions. In addition, these University restrictions were to be incorporated in a Memorandum of Understanding. An advisory committee of stakeholders (Town, University, Users, Citizens) was to be formed to discuss potential impacts of any future policy changes or enhancements of the airport.

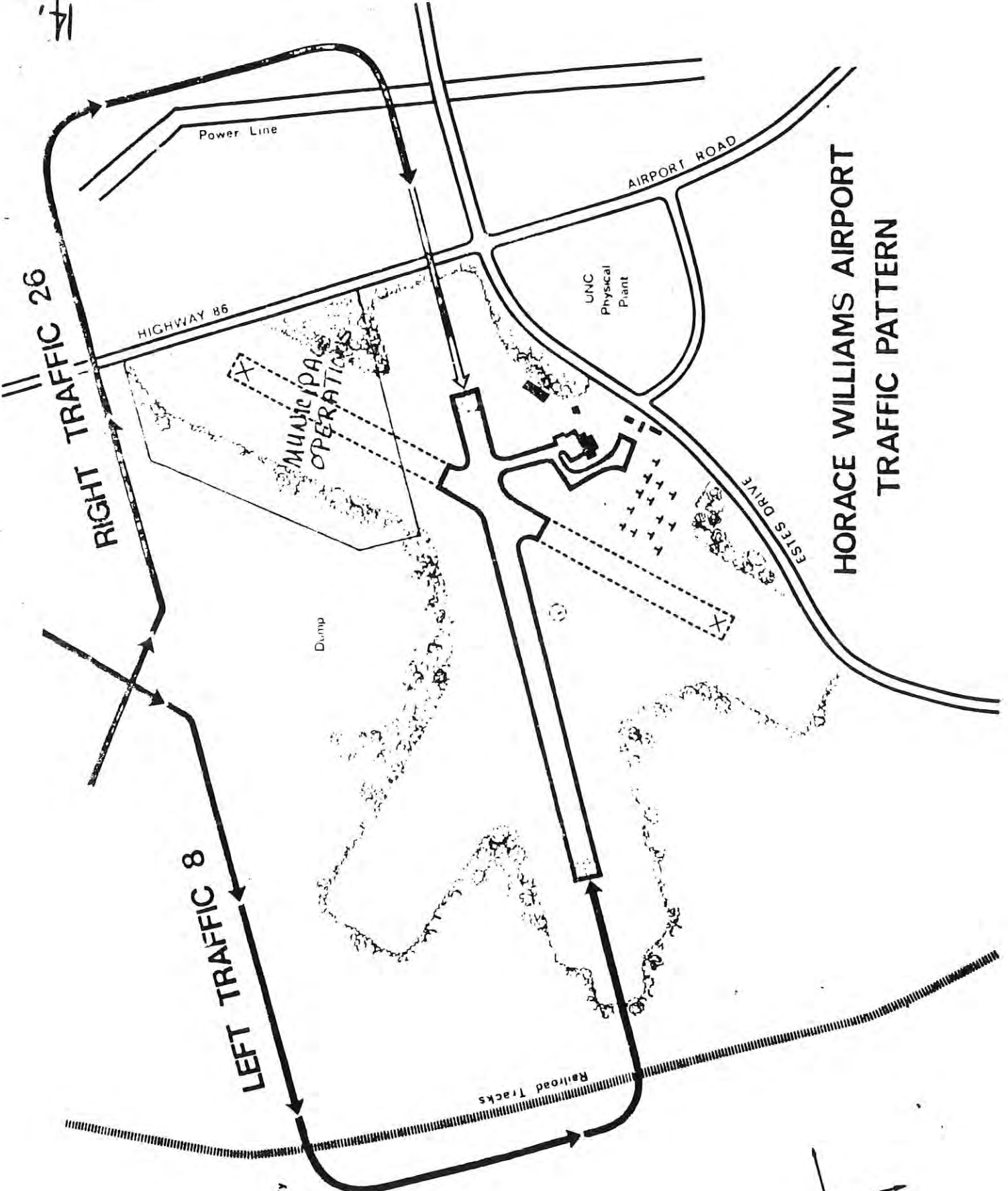
#### Where we are now:

The University, in the process of developing the Memorandum of Understanding, proposes to change the prior wording of the restrictions so as to make them weaker and less limited than in prior official University documents. In addition, neighbors have reported a dramatic increase in middle-of-the-night flying. The runway lights are turned on all night even

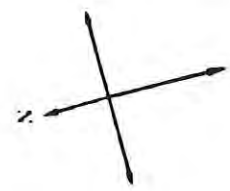
middle-of-the-night flying. The runway lights are turned on all night, and there is no one staffing the airport office after sundown. There is a lack of identification of who is doing the flying or the purposes for which the flying is being done.

Mayor Broun has scheduled a meeting with Chancellor Hardin to request the stronger, more restrictive language from pledges made in previous official University documents.





**HORACE WILLIAMS AIRPORT  
TRAFFIC PATTERN**



REV. OCTOBER 1, 1975

OPERATING  
POLICIES  
AND  
PROCEDURES



HORACE WILLIAMS AIRPORT  
OWNED AND OPERATED BY  
THE UNIVERSITY OF NORTH CAROLINA  
AT  
CHAPEL HILL

---

INSTITUTE FOR ENVIRONMENTAL NEGOTIATION  
Campbell Hall, University of Virginia, Charlottesville 22903

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Telephone / 804-924-1970

Fax / 804-924-0231

**Report on the**

**PRELIMINARY DIALOGUE  
GROUP PROCESS**

**Concerning**

**Horace Williams Airport**

**April 1993**

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## I. EXECUTIVE SUMMARY

### Background

In May 1992, the Manager's Committee on the Airport recommended that the Coordination and Consultation Committee (CCC) endorse a facilitated process as the next step in addressing questions regarding the relocation of operations from Horace Williams Airport. The Institute for Environmental Negotiation was asked to meet with representatives of the various stakeholders groups, to convene a Preliminary Dialogue Group to discuss the issues surrounding the airport and, with the group, to clarify the information base about the airport and to examine a range of options which might be pursued in the future.

Three meetings of the Preliminary Dialogue Group were held. Prior to and between each meeting there was substantial communication and several trips to Chapel Hill to meet and have discussions with various participants. Part II of this Report lists the membership of the Preliminary Dialogue Group and contains summaries of Group meetings held on October 21, November 18, 1992 and February 13, 1993. Part III (Appendix) contains copies of the data compiled during the Preliminary Dialogue Group process.

The goal of the Preliminary Dialogue Group process was not to develop a final resolution to the questions surrounding Horace Williams Airport but rather to explore a range of options to the degree necessary to be able to identify the most likely productive path(s) for future activity. The Preliminary Dialogue process was conceived as a feasibility study of various strategies more than as an effort aimed at conclusive dispute resolution.

During the Preliminary Dialogue Group process, certain principles were followed:

- Attention was directed to interests, as well as positions, in order to identify ways that the participants might agree on some issues even while disagreeing on others.
- Effort was made to identify and examine options which might not have been fully explored in earlier discussions.
- Emphasis was placed on the merits of the various options as a way of improving understanding among the participants and as a way of explaining and justifying each potential course of action to others who were not participants in these discussions.

The following are the findings and recommendations which the Institute sees emerging from the Preliminary Dialogue Group process.

## **Findings and Recommendations**

A key element in the Preliminary Dialogue Group process was the formulation of a series of alternative choices called "context maps" that were distributed to the participants and which served as a basis for evaluation of alternatives by the parties. (Item A in the Part III: Appendix contains a copy of these options. Part II contains a summary of the meetings where these alternative contexts were discussed.)

The following analysis reflects participant reactions to these alternatives as well as what was learned about participant positions and interests through discussion and information exchange. Also emerging from this process are a number of recommended next steps.

### **1) Conflict Analysis**

At first examination, the dispute regarding the airport appeared to be one pitting neighbors concerned with safety, noise and similar impacts against the University which owns and operates the Horace Williams Airport. Closing the airport and finding an alternative airport location would seemingly solve the problem defined in this way. But, the unsuccessful effort by Orange County in 1989 to site a new airport was evidence that at least some parties thought the problem was only being shifted from one site to another under that type of approach. A renewal now of a publicly led airport relocation effort, even in a modified form, continues to be opposed by some groups and looked at with concern by others because of the potential the issue has for intergovernmental divisiveness.

Based on this initial perspective, the Preliminary Dialogue Group process was drawn up, at least in part, as a feasibility test of whether there was, now, sufficient concern about the existing airport to develop a strong coalition capable of siting a new airport. Following the Preliminary Dialogue Group process, it would be clearer whether the most suitable option would be (a) to maintain the current location, (b) to move the airport to a new location, or (c) to shift to an invented option that would have maintained AHEC's mission without siting a new public airport within close proximity to the UNC campus.

The Preliminary Dialogue Group process was marked by the unusually prominent role that the University of North Carolina at Chapel Hill played in all the potential options and outcomes, no matter which of the above approaches was examined. Multi-party dialogues are commonly marked by differences in decision-power among the participants, but the structure of this particular issue put the University in an unusual and sometimes uncomfortable situation where internal matters and external matters were intermingled. In light of this, participants in the Group process expressed particular appreciation to the University for its willingness to participate in these dialogues at this time.



## **2) Initial Exploratory Efforts**

After the initial interviews aimed at exploring stakeholder's interests, it appeared to Institute staff that there might be some "win-win" potential in the relaxation of the University-backed AHEC criteria requiring 15 minute proximity to the Medical School. The Institute spent much of its time in stakeholder explorations trying to determine whether there might be some flexibility in the AHEC criteria, or in the University's evaluation of AHEC's criteria. A key element of mediated negotiations is an effort to expand potential options while suspending, for a time, judgement on their political or instrumental practicality. The Preliminary Dialogue process was seen as a preliminary step to a next stage which would benefit from a clearer and more rigorous understanding of options than existed at the point of initial intervention.

The Preliminary Dialogue interventions did stimulate a level of self-review by AHEC, an internal dialogue between AHEC and other offices of the University, and substantial information to the Dialogue Group provided by AHEC. Indeed, even outlying AHEC centers entered into the dialogue by supporting the AHEC air operations with letters to the Institute.

In the end, the University administration concluded that the AHEC criteria were necessary and reasonable and that a new alternative airport was the only option which would allow discontinuing flight operations at Horace Williams. As one of the University's representative's noted at the final session, AHEC and the University are not opponents but are part of one organization. This representative also emphasized that the development of University priorities was principally an internal matter and would be conducted by the University .

University representatives were also somewhat critical of the emphasis placed on the "no new airport" option that, in effect, probed the AHEC and University positions, more than those of the opponents to a new airport. The Institute acknowledged that its efforts had been proportionately "unbalanced " in the sense that little effort was expended as part of this Preliminary Dialogue on developing a siting process that might eventually reduce public opposition to a new airport. It should also be noted that members of the group uniformly praised the University for assisting in paying for the process and for establishing a climate where candid discussion could take place. Some felt that this itself symbolized an important step in a more consultative relationship between the university and its supporters and neighbors.

## **3) Discussion of Positions**

The University's initial position coming into the dialogue was that only an alternative airport within a defined time and distance was an acceptable substitute for operations at Horace Williams Airport. The University also took the position that they preferred to close Horace Williams because they felt that more productive uses could be made of the existing airport site and surrounding tract. Those more productive uses were of an unspecified nature, but included the



potential for campus housing, a research park etc. The University also noted its intention to begin planning for the tract in the immediate future.

The position of several of the other parties involved in the dialogue was that Horace Williams airport should be phased out over some time period and some alternative for AHEC operations should be identified that would obviate the need for government advocacy and eventual management of a general aviation airport, particularly within Orange County. The SCRAP citizen's organization believes that a general aviation airport would change the character of the county by encouraging types of growth that would be inimical to the rural character they favor. They also believe that the a general aviation airport could become a financial drain on the county. They also feel that site impacts would be detrimental to property owners and neighbors. SCRAP can be expected to continue their opposition to an alternative airport in Orange County. Some parts of neighboring Chatham County would meet the 15 minute commute criteria but there was limited dialogue on that issue since Chatham County was not represented on the group.

Those parties who opposed a new airport urged an internal University assessment of the AHEC program that might lead to more flexible criteria and a modified university position. These parties participated in the dialogue, at least in part, because they believed that discussion could lead to a consensus to meet AHEC's interests and needs without mandating an alternative general aviation airport. In their vision, the "next steps" would be to phase out the airport and implement an alternative AHEC delivery system.

For the University to attain its desired goal of a new general aviation airport required Orange County or, another adjacent county to evaluate the desirability of an airport given its comprehensive plan for development, evaluate the economic viability of a general aviation airport from a financial standpoint and lead a siting process. All three of these considerations were controversial.

The Town of Chapel Hill and the other local government representatives did not aggressively challenge the Orange County reluctance or opposition to lead an effort for a new airport within their jurisdiction.

The parties who favored either a general aviation airport at the Horace Williams site or in the vicinity were willing to follow the University's lead; either the existing site or a new site would meet their needs. However, these parties would have preferred to have some of the University's self-imposed restrictions on Horace Williams Airport relaxed. They maintained that some improvements at the airport would improve safety even if these changes made the airport a more attractive home base or destination.

At the conclusion of the Preliminary Dialogue process neither the University's position nor that of the parties who favor an alternative delivery system for AHEC services achieved consensual support. What was achieved, however, was an acceptance that the Horace Williams airport would continue to operate within the foreseeable future and that some more stable and joint

consultative process should be established between the University and the Town of Chapel Hill on the management and operation of Horace Williams airport. This consultative process might include representation from CAP, the airport users and/or other groups within the community.

Another product of the Preliminary Dialogue process was a clearer understanding by all of the parties of the institutional, legal and physical aspects that affect airport operations and any potential future change in the airport or the larger Horace Williams tract. Key factors include:

- The University owns the entire tract including the portion upon which the Horace Williams airport sits. The airport site is one they prefer to develop for other uses if an alternative airport can be sited that meets their needs.
- This University owned tract also includes acreage which could be developed for other uses even if the airport continued to operate.
- The University has the authority to choose among potential competing uses for the airport site and the rest of the tract, although local government zoning approvals of one sort or another are needed.
- The University currently maintains and operates the Horace Williams Airport under a combination of rules which it has voluntarily adopted in response to local concerns. The University could revise those rules to make them more or less restrictive of operations. The University can also close the HWA without permission from state or federal aviation authorities.
- The University's announced interest in having an alternative to Horace Williams Airport influences and may increase the potential viability of a private airport in the vicinity as a means to accommodate activities currently housed at Horace Williams.

#### 4) **Conclusion: No Overall Consensus, but Mutual Accommodation**

As we have noted, no consensus was reached within the Preliminary Dialogue Group process regarding a substitute for Horace Williams Airport. But, there were mutual accommodations reached among some of the parties that are worth noting. The realization of these accommodations may be the single most important "next steps" for the community to take. These mutual accommodations include:

- a) Agreement that the University will continue and reiterate the self-imposed rules that govern the operations of Horace Williams Airport. The following are believed to be the existing rules
  - no jet airplanes will land or depart from the airport
  - no helicopters will be based at the airport
  - no air taxi service will be operated from the airport

- no other commercial operations will be based at the airport
- no mechanic will be generally available for aircraft service at the airport
- aircraft are permitted to use the airport for normal operations only during the hours of 6 AM to 9 PM
- recreation and training flights are prohibited from 9 PM to 6 AM
- no more than 50 aircraft would be based at HWA (a maximum of 12 associated with the Flying Club)
- no balloons, gliders or experimental aircraft are allowed
- no miniature aircraft or "ultra-light" aircraft are permitted
- no aircraft weighing more than 12,500 lbs will use HWA
- no practice landings and takeoffs will be allowed
- a monitoring system to report on takeoffs and landings at the airport with quarterly reports to be provided the Town of Chapel Hill.

There is some debate whether there is agreement to prohibit turbo-prop planes from being based at Horace Williams and how effectively the monitoring is being carried out.

- b) Agreement that the Manager's Committee on the Airport, which includes the University, will develop a Memorandum of Understanding to establish a representative body that would provide a continuing basis for information sharing, consultation and consensus building on the Horace Williams Airport. This group would provide a process by which existing rules can be reviewed, clarified or revised and a process for seeking community input on any proposed changes to facilities, operations or safety issues at Horace Williams Airport. Whatever form this proposed consultative process might take, it would be for the limited function of airport operations and will not include any commitment to transfer any decision authority to that body.
- c) Acknowledgement that the desire for a general aviation airport in the Chapel Hill vicinity continues to be a goal for the University and of several other members of the group as well. It would be appropriate for those who advocate an airport to undertake, perhaps collaboratively with citizen groups who are not opposed to the airport concept, to develop a plan and framework for future action. A group of this type should set out precisely the legal, financial, and procedural steps that would make a general aviation airport financially feasible. This would include any regulations or standards that would have to be met to obtain federal or state funding. Such an advocacy organization might also study informally the locations where an alternative airport might be sited with the greatest net benefit to the community. This need not be an unduly technical task. There may be individual sites in the region which might be capable of gaining political support and which might not provoke a strongly negative public reaction.

5) **Recommended Next Steps**

- a) We recommend that the Manager's Committee on the Airport give their highest priority to acting upon the proposed Memorandum of Understanding between the University and the town of Chapel Hill dealing with the continuation of the University's limitations on airport activity and establishment of an Advisory Committee.
- b) We recommend that the University, although its stated preference is for a public general aviation airport, continue to entertain any airport development opportunities that might be presented for its consideration. In fact, the University may wish to take the lead in organizing an effort to find an alternative to Horace Williams Airport.
- c) SCRAP leadership continues to oppose any county-led general aviation airport effort in Orange County. The elected officials in that county do not favor such an effort either. This is partly the shadow of the last effort to site an airport, and partly the result of the perception that there are more pressing, if still politically difficult, choices they must make. We recommend, however, that Orange County continue to be involved in future discussions regarding alternatives to Horace Williams Airport.
- d) We do not recommend a continuation of the Preliminary Dialogue Group in its current form. Although the Institute feels that the group performed effectively and participants earned each other's respect, it would seem better to consolidate the outcomes of this process before moving as a group to further dialogue.



## **II. THE PRELIMINARY DIALOGUE GROUP PROCESS**

### **Events Leading to the Preliminary Dialogue Group Process**

Two years ago, the Coordination & Consultation Committee (CCC), responding to University goals to relocate operations from the Horace Williams Airport, appointed the Managers Committee on the Airport to investigate the issues associated with the airport. The Managers Committee, composed of representatives from Chapel Hill, Orange County, Carrboro and the University of North Carolina, was charged with an examination of options for a process that could result in the relocation of air traffic operations from Horace Williams Airport.

The product of the research and analysis carried out by the Managers Committee was a May 1992 Report, General Aviation in Orange County and the Horace Williams Airport: A Process for Charting Their Future, which presented information on the history of the issue, stakeholder profiles, and pertinent facts regarding operations and jurisdictional conditions. Based upon the conclusions of the Managers Committee's research, the report recommended professional third party mediation as a means to clarify stakeholder interests, establish a shared data base and explore new alternatives and processes. The difficulty of resolving the airport issue was underscored by the Committee's recommendation for a continued search for a best way to proceed.

The Managers Committee contacted the Institute for Environmental Negotiation at the University of Virginia for consultation on the techniques of mediation. The Institute developed a proposal for the Preliminary Dialogue Group as an appropriate way to move forward. Upon acceptance by the local governments involved, the University and the Town of Chapel Hill agreed to fund the process and work began in the Summer of 1992. The first group meeting was held in October 1992.

### **Membership of the Preliminary Dialogue Group**

The membership of the Preliminary Dialogue Group was chosen to provide representation of the many interests involved in the Horace Williams Airport issue. The composition of the Group was established as follows:

**University of North Carolina at Chapel Hill**  
Wayne Jones, Vice Chancellor for Business and Finance  
Gordon H. Rutherford, Director of Facilities Planning & Design

**Area Health Education Centers, School of Medicine**  
John Payne, Deputy Director for Administration  
Ernie Kraybill, Professor of Pediatrics

**Town of Chapel Hill**

Julie Andreson, City Council Member  
Joe Capowski, City Council Member  
Cal Horton, Town Manager

**Town of Carrboro**

Bob Morgan, Town Manager

**Orange County**

Verla C. Insko, County Commissioner  
Alice M. Gordon, County Commissioner  
John Link, County Manager

**Citizens for Airport Planning (CAP)**

Diane Bloom  
Morris Schaefer

**Stop the County Regional Airport Plan (SCRAP)**

Madeline Levine  
Les Brown

**Friends of Horace Williams Airport**

John A. Shearer

**Chapel Hill Flying Club**

David Strevel

**Meetings of the Preliminary Dialogue Group**

Once the Preliminary Dialogue Group membership was established, a series of three sessions was planned. Each of these meetings focused on somewhat different themes related to identification of interests and concerns, establishment of a shared data base, and finally, an exploration of potential outcomes and areas of agreement/disagreement. As part of each meeting, any observers were provided an opportunity to speak, to raise questions or to provide additional perspectives. All meetings were announced in the local news media.

**Meeting 1:** The first meeting served as an introductory session where members of the Preliminary Dialogue Group stated their interests, concerns and goals for the Horace Williams Airport. The Institute for Environmental Negotiation introduced the concepts of mediation and facilitation and explained how the dialogue process would proceed. Discussion focused on areas where factual information needed elaboration and research. Different perspectives on the question of safety were explored.

**Meeting 2:** The following meeting provided an opportunity to present the research that occurred in the interim. In particular, AHEC representatives presented statistics and background data on the program's operations and mission. UNC provided information on airport operations and driving distance. Maps showing zoning and property acquisitions were also discussed.



**Meeting 3:** Participants expressed their reactions to seven different options (context maps) which had been set out the meeting before. Based on their reactions, attention focused on establishing a more stable agreement and an Advisory Committee for operations at Horace Williams Airport. Groups interested in establishing a new airport were encouraged to pursue that option.

Copies of the summaries of these three meetings are attached.

TO: Mayor and Council

FROM:

SUBJECT: Historical Overview of the Horace Williams Airport Issue

DATE: November 9, 1992

Consultants from the Institute for Environmental Negotiation from Charlottesville, Virginia are in the process of meeting with representatives of all the stakeholders of Horace Williams Airport including The Chapel Hill Town Council, the Orange County Board of Commissioners, the Carrboro Board of Aldermen, The University, AHEC Medical Air Operations, the Chapel Hill Flying Club, Friends of Horace Williams Airport, and Citizens for Airport Planning. The objective of this effort is to attempt to find some common ground which can point toward a resolution of this long-standing community dispute.

Since the Airport has not been an issue considered by the Chapel Hill Town Council since 1989, this packet is intended to provide you with some significant historical background information including statements of the Council's previous positions on the Airport. Below is an index of the documents and articles attached and a statement of the significance of each.

## **I. Background on Horace Williams Airport**

1. Long-time Chapel Hill resident, **Dorothy Jenner's speech** at the 1989 Town Council public hearing. It provides an overview of the background and history of the airport.

2. **The Faculty Council Committee's 1970 position** on Horace Williams Airport. It states that the Airport should be closed and, until that time, it should be limited.

## **II. Statements indicating the University's intent to close Horace Williams Airport or limit its operations**

3. A **May 7, 1965 letter from Chancellor Sharp** to Mr. Joe Augustine, Director of the Chapel Hill Merchants Association. Even as early as 1965, the Chancellor wrote that the continued use of the airport was "undesirable and hazardous," and advised the Airport Development Commission to make plans to relocate it.

4. A **February 8, 1968 letter from Grey Culbreth (former chairman of the Chapel Hill School Board)** to J.A. Williams reporting on a discussion in 1965 about the purchase of a potential school site, at that time part of the

University's Horace Williams tract. The Chancellor indicated that the University would eventually close the airport. Based on that conversation, the school board assumed "eventual abandonment" and decided to build Chapel Hill High School under the flight path.

5. **An April 17, 1981 letter to Mayor Nassif from Chancellor C. Fordham** states the University position to close the Airport by 1989 if a suitable alternative is found. It states a University willingness to phase out all non-university use of Horace Williams Airport by not later than July 1, 1989.

6. **A March 8, 1982 letter from Vice Chancellor Temple to Mr. Richard Whitted, Chairman of the Orange County Board of Commissioners.** It restates the University's willingness to phase out all non-University use of the Airport by 1989. (This would have been a significant reduction since University use of the Airport was estimated to be about 10% of the total flights at that time).

### **III. The Position of the Chapel Hill-Carrboro School Board on the Airport**

7. A 1980 article from the Chapel Hill Newspaper. It states the **School Board's position** that Horace Williams Airport should be phased out by no later than 1990 and that the Airport's operations should be limited until the phase-out.

8. **A September 23, 1980 letter from Phyllis Sockwell, Chairman of the Chapel Hill-Carrboro Board of Education** informing Mayor Joe Nassif that the School Board passed a unanimous resolution to urge the University to pursue plans to close the airport as soon as possible, but no later than 1990, and to restrict the Airport until that time.

### **IV. An attempt in 1980 to pass a resolution that would have limited Horace Williams to a University-only airport in exchange for Town permission to build a hangar for the five University planes**

9. A letter from attorney and law professor **Ronald Link to the Chapel Hill Town Council** urging the Council to amend the zoning ordinance to make Horace Williams a University-only airport, phasing out commercial and recreational traffic.

10. A **November 11, 1980 Newspaper article recounting a two hour, emotional, Chapel Hill Town Council Meeting.** The Council approved a University request for a Hangar at the airport, but asked for nothing in return. The Council had considered a resolution requiring rezoning of the airport and limitations on its use. By one vote, the Council failed to make Horace Williams a "University-only" airport with five planes. The article states that this resolution would have made "the airport inaccessible to all flights except those directly related to University business or functions such as attending football games or professional conferences." A second resolution which would have limited the Airport to existing uses also failed.

11. **Another newspaper account of the same incident.** The article discusses how the University came to the town to negotiate for its hangar and was prepared to accept restrictions on the airport in exchange. It is interesting to note John Payne's, (director of AHEC) surprise that the Town did not impose limitations on the airport in exchange for the hangar. He said, "We were very happy that the issue was finally decided. We were surprised that the other restrictions were not passed."

12. **Another newspaper account of this Town Council meeting.**It reports that the Council failed to limit the use of the airport but, instead, agreed that the airport should be closed and relocated. The result is that Chapel Hill still has an airport and it has steadily grown in use since that time.

## **V. Recent issues**

13. **A newspaper account of the issues involved in a debate over the airport in 1989.** In April, 1989, it became public knowledge that the University had conversed with the Town Manager the previous December and received the Manager's administrative approval to rebuild the runway, extending it from 3500 feet to 4000 feet and to install a Jet-A fuel tank. The Manager made an administrative decision that these were maintenance issues. But certain council members, the Chapel Hill-Carrboro School Board, the Alliance of Neighborhoods, and Citizens for Airport Planning were concerned about the details of this project and its implications for the future of the Airport. The University did pave the runway, but withdrew plans for the fuel tank. During the summer of 1989, various discussions involving pilots, citizen groups, the Town Council, and the University took place.

14. A resolution passed unanimously by the Town Council on October 13, 1989. In response to local concerns, the Town Council held a Public Hearing on September 12, 1989. Representatives from the School Board, the Flying Club, the Alliance of Neighborhoods, Citizens for Airport Planning, Pilots who used the Airport, and the University spoke. Subsequent to the public hearing, the University extended the runway. The Council then took a position on the Airport asking the University to: Designate Horace Williams a private airport, enforce a ban on flying by non-University aircraft between 9 PM and 6 AM, and be continuously monitored as to the volume, aircraft type and purposes of aircraft operations and provide a status report to the Towns of Chapel Hill and Carrboro.

15. An April 4, 1989 newspaper article explaining the value of a private designation for Horace Williams Airport. Private designation would have limited transient traffic (planes not based at the airport) without affecting any other present users of the airport. Since pilots of transient aircraft have been implicated in twelve of the thirteen fatalities at or near the airport, this would have been important to the community. The University debated the possibility of the private designation for a year and finally decided not to designate Horace Williams as private.

16. Generally, the counting of take-offs and landings at Horace Williams Airport has been lax. However, in 1979-81, the airport manager periodically did count take-offs and landings. Again, in 1989, DOT installed acoustical monitors to count air traffic for a limited time. These two pieces of information suggest that operations at the airport doubled from 1980 to 1989 in spite of the fact that there were no major enhancements to the airport in that period.



1

My name is Dorothy Jenner and I have lived in Chapel Hill for many years, 26 of them near Horace Williams Airport. This has caused me to pay close attention to the many controversies over Horace Williams.

There is a long history of community concern about this airport, simply because its flight path crosses directly over schools and homes. Tonight I want to object to a view I've heard expressed recently, namely, that the citizens shouldn't complain about the airport because, "the airport was there first." I guess some people think this simple position is valid, but I think it's not constructive and not very well informed.

The Horace Williams Airport started as a dirt strip during the World War II years, when it was used for wartime training purposes. At that time it seemed way out in the country. For a long time, the airport got little use and little notice. Even when the Chapel Hill Flying Club incorporated itself in 1961, as an organization through which a handful of students could learn to fly, the airport did not seem a busy or hazardous place. This perception was still predominant and, pretty accurate in 1963, when Phillips Junior High was built besides Estes Hills School. This was a full five years before the AHEC flights began. At this time, the runway was a grass strip. So I don't think it's fair to blame these schools for being near what used to be a little-used grass strip.

But it was in the 1960s that things began to change. When the Board of Aldermen zoned Chapel Hill, they made Horace Williams a nonconforming use. Even though the zoning ordinance has been revised many times, the airport designation has never changed. It's nonconforming because an airport shouldn't be located in the middle of town, and because there has long been an expectation that it would relocate.

In 1965, the school board was seeking sites for a new elementary school and a new high school. There is correspondence in the public record to show that the school board had dealings with the University on this subject. The sites for Seawell Elementary School, which is on the flight path, and the high school, which is very close to the flight path, were pointed out to the University. The school board asked the University for its airport plans. Chancellor Sharpe replied that while there was no definite plan to abandon the airport, the University would eventually cease its operation there. The town, relying on the same belief that the airport was temporary, approved subdivisions near Horace Williams.

Then came an unpleasant surprise. In 1969, the University announced it wanted to pave the runway to 5,000 feet. There was serious talk of jet traffic. The town erupted. The runway extension plans had to come before town officials because a nonconforming use couldn't be enhanced without town approval. Mayor Lee and Alderman Nassif finally went to Governor Scott who ended the controversy by mandating the runway length at 3500 feet. We thought it was to be frozen at 3500 feet.

I'd like to stress that the UNC Faculty Council entered the debate, did an exhaustive study and issued a report. Guess what they recommended? 1) Find a better site, because this is a poor one; and 2) eliminate non-University uses.

The next airport uproar occurred in 1980, when the University applied for a special use permit to build a new hangar for AHEC planes. There was tremendous public pressure to put restrictions on the airport and make it for University use only. Chancellor Fordham did freeze the tie-downs at 50 and eliminated practice take-offs and landings, and we neighbors were grateful for that.

Following this controversy, Chancellor Fordham issued a policy statement that stated: "The University administration and its Trustees hereby indicate a willingness to phase out



all non-University uses of Horace Williams Airport by not later than July 1, 1989." And he renewed the assurances made by his predecessors that the airport would close when an acceptable alternative became available.

Over the last 20 years, Horace Williams Airport has grown more than citizens and school official were lead to expect. Frankly, I see this runway extension as an open door to more growth, unless the University can be very thorough and consistent in developing and enforcing restrictions.

Ann Glassman  
2000 N. Lakeshore Dr.  
942-3657

2

REPORT OF THE FACULTY COUNCIL COMMITTEE ON THE HORACE WILLIAMS AIRPORT

July 17, 1970

*In accordance with the charge of the Faculty Council on May 1, 1970, which created this ad hoc Committee, this report and its accompanying documents are submitted to summarize our findings about the use and operation of the University's Horace Williams Airport, to identify the important issues in the current controversy, and to make realistic recommendations for University action. It draws on information from a faculty hearing conducted by the Committee on June 22 and meetings with University and Town Officials, with Raleigh-Durham Airport officials, and with Horace Williams flight personnel. It is based on surveys and studies conducted by Committee members and on correspondence with FAA officials and with managers of University operated airports in other parts of the country. The full summaries of these investigations appear in the five attached subcommittee reports.*

I. Information about the Horace Williams Airport (HWA).

A. Use.

1. Information assembled in our pilot questionnaire and from airport records indicates that the dominant use of HWA is recreational and not directly University connected. Nevertheless, our investigation indicates that HWA is a base for significant University services, especially in Medical School extension activities throughout the state.

2. The three planes of the North Carolina Medical Foundation currently serve most of the University-related travel from HWA. They have made approximately 900 trips and flown a total of approximately 900,000 passenger miles during the last 30 months, increasing from about 165,000 miles in 1968 to 442,000 miles in 1969. Most of these trips are in connection with Medical School service and teaching programs in community medicine, but an increasing number of other University travel needs and service opportunities are being met by the use of these planes. Additional Medical Foundation aircraft are expected to be acquired.

3. The principal users of HWA are the 33 (as of July 1, 1970) regularly based aircraft, some of which are owned by University faculty members. Transient aircraft account for a small amount of both the use (normally 1 to 5 operations per day) and business (in 1969, only 9.4% of gross receipts and 346 customers). Some of the transient aircraft include the Army Air National Guard on weekends (a noisy L-20 "Beaver" aircraft and a L-19 "Bird Dog"), some private aircraft making practice landings, and football weekend and holiday visitors.

4. Flight instruction is given by the Chapel Hill Flying Club and by Tarheel Aviation. Their training flights account for the bulk of weekday take off and landing operations. Flight instruction activities have increased considerably in recent years. While operations by both groups seem to be responsible and in accordance with accepted practices, they have been the source of increasing annoyance expressed by a number of citizens.

5. No Air Force or Naval ROTC flight training is now being given at HWA; about four cadets and 15 midshipmen receive training at another airport. Future numbers are not known. ROTC flight training location is selected on a bid basis and HWA, if paved, would be a desirable location.

#### B. Condition.

1. The airport has two grass and dirt runways running northeast-southwest (04-22) of about 4000 feet and east-west (08-26) of about 4900 feet. Another runway (13-31) of 3000 feet is no longer used. On runway 04-22 runway lights have been installed. Both runways are unusable under bad weather conditions. Operations on soft runways have created ruts on some portions of the runways, causing irritation to pilots and some discomfort to passengers but not preventing normal operations.

2. Passenger safety is not considered a critical factor at present but would be improved with a paved runway, especially at times when field conditions are marginal. Paving would permit flight operations under all weather conditions and eliminate damage to propellers and other parts of the aircraft from loose gravel.

#### C. Operations.

1. Current traffic patterns are away from built up areas, meaning that traffic using the east-west runway (22) usually approaches and departs north and traffic using the northeast-southwest runway (26) usually approaches and departs northwest. Less residential area is now being flown over on operations than prior to April 1969, when the traffic pattern was usually left-hand.

2. On weekends most of the operations are for recreational purposes. On week days the two flying lesson programs account for most of the traffic. The University usage is primarily by Medical School personnel, with operations clustering at the beginning and ending of the day.

#### D. Regulations.

1. Control of airport use as a private or non-public field is a function of regulations which can be imposed by the University as to number, type and weight of aircraft permitted to be based there, as well as permitted uses. Restrictions are filed with the National Flight Data Center which maintains airmen's directories. Without regulations the only current restrictions on use are the number of tiedowns, the services offered, and the length and condition of runways.

2. A control tower, which would be operated by the FAA, at their expense, requires considerably more traffic load justification than HWA could expect to provide in the foreseeable future.

3. Deviations from the prescribed traffic pattern and minimum elevation requirements (1000 feet over congested areas) are under the jurisdiction of Flight Service Station (at RDU) and the General Aviation District Office; penalties can range from a reprimand to fines and suspensions of licenses.

4. The FAA makes some inspections of runways and other facilities of private airfields, and the Airport Manager is required to keep the General Aviation District Office informed on field and aircraft conditions. However, FAA regulations pertaining to municipal airports do not apply to HWA.

5. The FAA has no regulations concerning noise control. Private noise abatement lawsuits are usually successful only if a substantial change in airport operations has taken place.

E. Other fields; other universities; noise; paving.

1. The situation for private aircraft operations in the Raleigh-Durham-Chapel Hill area is not an optimistic one. Space for general aviation at Raleigh-Durham Airport (RDU) is inadequate at present and no hanger or tie-down space is available. Furthermore, RDU has indicated it intends to phase out non-commercial operations in the next ten years. Any nearby airport such as HWA will be under great pressure to accommodate displaced aircraft. Raleigh Municipal Airport is considered a hazardous field and could be reclaimed at any time by its owners for industrial uses. Skypark Airport north of Durham will be inundated upon completion of a dam in the Neuse River complex.

2. Other universities have met their airport needs in a variety of ways; for example, using municipal fields (Indiana, South Carolina); operating unrestricted public airports (Illinois, Ohio State, Ohio University, Purdue); and operating private fields "limited to research flights and transients on University business only" (Princeton's Forrestal field).

3. Recent tests of sound levels conducted for the Committee at selected points in nearby residential areas and schools indicated an average measurement of 60-65 decibels created by each of three selected small aircraft. This level is deemed equivalent to the sound levels of a nearby freeway (auto traffic), a large store, or an accounting office. It is noted that a freight train at 100 feet creates about 70 decibels, and a jet take-off at 200 feet creates 120 decibels. The annoyance factor is an individual matter and complaints have been made about the noise by surrounding residents for several years. A citizens group concerned with the annoyance of flight operations and safety was formed three years ago.



4. The Committee was informed in June by the Chancellor that the University Board of Trustees at its May meeting had approved the paving of 3500 feet of one runway at HWA.

## II. Some of the Important Issues in the Current Controversy about HWA.

### A. Proponents' proposals.

The users of HWA, particularly the persons responsible for the aircraft for the Medical School programs and other University business, have expressed serious concern about the use and condition of HWA. They maintain that HWA should remain open and be improved by runway paving and other improvements for safer operations and more reliable use conditions. They assert that the lack of any other convenient airport at the present time or in the near future makes it necessary to use and improve HWA in order to accomplish University needs and objectives. They point out that many other communities of similar size in North Carolina have airfields with paved runways permitting all-weather operations.

### B. Opponents' objections.

A substantial number of persons, including some nearby residents, oppose the continued or increased use of HWA, the planned runway improvements, the noise created by aircraft operations at HWA, or other aspects of the airport. The grounds that have been given for their concern have been documented in an attached report and include these: incompatibility with surrounding residential land use and public investments, annoyance and hazard to three nearby public schools, the rapid increases in recent use and probability of further increases after paving, possibilities and pressures for future development of HWA without controls imposed for the public interest, further investment in airport improvements as a hindrance to an alternate site, other higher priority University uses for the HWA land, and safety and noise factors adversely affecting the community.

### C. Alternate site.

Both proponents and opponents to HWA have proposed that plans be developed for either another site for a University airport (so HWA could be converted to some other use) or for a site for an additional airport to accommodate general aviation for the Durham-Chapel Hill area. No sites have been selected, although the Research Triangle Regional Planning Commission has identified an airport facility area on the flood plain of the New Hope Reservoir project. It was reported to the Committee that the Raleigh-Durham Airport Authority and the Research Triangle Planning Commission are ready to cooperate with planning for the development of a new site. It was estimated that a new airport could not be ready in less than three years. The University has not yet made any commitment, although various citizens and groups have urged it to take action. Financing and ownership of a new facility would require further study.



#### D. Long range use.

While events have tended to narrow Committee deliberations to consideration of ways of minimizing the current conflict between airport operations and surrounding land uses, the broader longer range considerations about future use and disposition of the Horace Williams property in overall University development is still an important issue.

#### E. University-Town relations.

A concern about which this Committee has become acutely aware is the friction and distrust this controversy has generated between the University and the community. As a public institution, the University has a responsibility to keep the public informed of its plans for development, particularly where these plans directly affect the community, and to take the initiative in maintaining communications and working out relationships with Town government and the County. Where a decision affects a public service, as in this case a transportation service which is made available to non-University users, there is an additional responsibility to consider all interests affected by the decision. The University's planning and procedural approach on this matter is perhaps as important an issue as the substantive aspects of the controversy.

### III. Recommendations for University Action.

The Committee unanimously agrees that all of the following recommendations should be given priority consideration and should be implemented as fully and expeditiously by the University Administration and Board of Trustees as time and resources reasonably permit:

#### A. Development policy.

As a matter of general policy, in programming for University capital improvements, the Administration should bring into its decision-making process modern public investment planning methods and avoid an ad hoc approach to development problems. It should approach decisions on the use of the Horace Williams property in terms of a series of analyses: (a) University objectives with respect to changing functions, growth trends, space criteria, external constraints, etc., (b) alternative approaches for meeting development requirements and their costs and benefits, and (c) effectuation contingencies for, and timing of, any improvements.

#### B. Planning and Procedure.

As a matter of procedure, the University Administration should make use of effective devices for seeking the advice and consultation of appropriate governmental entities, University faculty and students, and community groups on development decisions that affect the community before they come before the Board of Trustees, or before final decisions are made. This applies particularly to the Horace Williams Airport. The University should actively seek ways to relate its actions with Town and County development plans, recognizing that the Town and County governments can assist in the achievement of mutual objectives through their zoning, planning and ordinance-making powers.

C. Airport policy.

It should be the declared policy of the University that HWA is a non-public aviation facility. The primary function should be as a base for essential University services. Nevertheless, pending the development of a new general public aviation facility in the area, the University should permit temporary use privileges to aircraft based at HWA as of July 1, 1970. No new tie-downs or other accommodations for aircraft should be permitted, except for aircraft owned or operated by the University or by the Medical Foundation for University purposes. Recognizing both the value of convenient flight training programs and the adverse impact on the community caused by flying school operations, all flight training operations should be phased out as soon as current obligations are completed and such operations transferred with University support to another location.

D. Specific actions recommended.

1. That development of plans for a new general aviation facility to serve this community's needs be actively encouraged and supported by the University by public statement and an indication of readiness to seek or contribute resources. In the interest of University and community development, as well as resolution of the current issues identified by this Committee, this support should commence immediately.

2. That restrictions on the use and function of HWA be developed and adopted by the University Board of Trustees as soon as possible in consideration of the interests of town officials and residents, aircraft owners and operators, FAA officials and other appropriate persons, as described in this report, and for these purposes:

- a) to establish reliable controls over the extent and type of operations,
- b) to restrict the primary use to University-related functions,
- c) to limit operations to aircraft with the least objectionable sound levels, and
- d) to allow temporary continuation of current non-University uses based on completion of current obligations and equitable consideration to present owners of aircraft based at HWA, pending the transfer of these uses to another aviation facility as soon as available.

The following restrictions should be considered in order to achieve these objectives and are herewith stated in the form of proposed University Board of Trustees' regulations:

*(1) HWA is a non-public facility and available for use only by aircraft owned or operated by, or on behalf of, the University. Regular use by transient aircraft not on University business or for service purposes at Hi-Co Avionics is prohibited. Hi-Co and aircraft owners based at HWA on*

July 1, 1970, may continue to use HWA until another suitable air facility is available, provided that there is no increase in non-University aircraft over the number based at HWA on July 1, 1970.

(2) Use of HWA is prohibited to (a) jet propulsion aircraft, (b) aircraft (including helicopters) which create more than 100 decibels measured sound level at 100 feet, and (c) aircraft of 12,500 pounds or less, maximum certificated takeoff weight. (NOTE: this is the Federal Aviation Regulations definition of small aircraft.)

(3) Normal operations shall be conducted only between the hours of 8 a.m. and 11 p.m.

(4) All commercial, military-connected, and other flight training operations are prohibited, except for necessary training to maintain University aircraft services; provided that contracts for flying lessons which are in effect on July 1 1970, and so certified in a letter to the Chancellor, shall not be impaired and obligations under those contracts may be completed at HWA; and provided further, that HWA may be used for necessary transportation to and from other locations where flight training operations are conducted.

(5) A right-hand traffic pattern shall be routinely observed by all aircraft using runways 22 and 26; a normal left-hand traffic pattern shall be routinely observed by all aircraft using runways 04 and 08.

(6) No person shall engage in the sale of any products or services, except with the written permission of the Chancellor and under such terms and conditions as he may prescribe.

3. That improved surfacing of one runway at HWA be accomplished, provided that the following conditions are met:

- a) restrictions in accordance with this report are adopted by the University Board of Trustees,
- b) thorough consideration is given to improving the runways without paving by correcting drainage and providing continuous surface maintenance, and in the interest of community relations, with engineering reports and conclusions released to the public,
- c) selection of the most appropriate type of improved surface, based on anticipated uses under the aforementioned restrictions and, in the interest of community relations, with the reasons for the selection of the surface type released to the public,
- d) the improved runway surface shall not exceed 3500 feet in length, and
- e) the cost of the improvement shall not be borne, at least directly, by any special interest group or private party nor shall any conditions be attached relating to long-term use of the property as an airport.

4. That the University Administration appoint a full-time airport manager for HWA with the following qualifications: possesses a business and management background; is knowledgeable about flying, airport operations, and Federal regulations pertaining to aviation; and has demonstrated ability to handle University and community relations.

5. That FAA elevation requirements over the community be enforced by all available means, including University administrative follow-up on reports received from observers.

6. That an airport commission be created to be composed of faculty, Town representatives and other persons representing diverse viewpoints to provide continuous guidance and information regarding HWA.



THE UNIVERSITY OF NORTH CAROLINA  
AT  
CHAPEL HILL

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OFFICE OF THE CHANCELLOR

May 7, 1968

Mr. J. E. Augustine  
Airport Development Commission  
P. O. Box 127  
Chapel Hill, North Carolina

Re: The Horace Williams Airport

Dear Mr. Augustine:

Thank you for your letter of April 23, 1968, concerning the use of the University airport.

Since receiving your letter, we have reviewed the situation with regard to the University property on which the airport is located, and have secured an estimate from the Federal Aviation Agency in Charlotte, North Carolina, of the cost of paving one runway and providing lighting for nighttime use of this runway. The FAA engineer estimates that it costs approximately \$160,132 to construct a runway 4000 by 75 feet and to provide lighting. The University would be required to provide one-half of the cost, assuming that the FAA approved the project. There is no possibility of presenting a firm request for the FAA 1968 program. The earliest presentation that the University could make would be for the 1967 program.

In considering the use of the airport property in relation to the future expansion of the University, we believe that the following points are pertinent:

1. The University must make a more intensive use of its land. It is certain that the University will continue to grow rapidly and that the expansion after 1970 will require extensive land areas. At any time a major research facility, a student housing area, or, possibly, a new campus area may be needed.
2. In the event that the University should apply for and receive FAA support for airport improvements, the University would be required to agree that the airport would be used as an airport for a minimum of 20 years. The University would be expected to pay one-half the cost. The University does not have money for this purpose and it is unlikely that the State would make an appropriation for a University airport.



3. The development of the areas surrounding the airport for school, recreation, and residential purposes tends to make undesirable and even hazardous the continued use of the airport.

For these and other reasons the University does not feel that it can continue the use of the airport indefinitely as a "designated landing area" and would not be interested in leasing it to another agency. While there are no immediate plans for closing the airport, we believe that the Airport Development Commission would be well advised to make plans for an airport in another location which would qualify for FAA support, and which could be established for long-term use.

The suggestion that the University is obligated to retain the use of this airport because of a donation of federal funds for its construction in 1941 is not based on fact. The University has no obligation to any federal or State authority to retain the use of this property for an airport. Dr. Horace Williams devised the greater portion of the land to the University in fee simple with no conditions attached as to its use.

Sincerely yours,

Paul F. Sharp

PFS:ap

cc: President William Friday  
Mr. J. A. Branch



THE UNIVERSITY OF NORTH CAROLINA  
AT  
Chapel Hill, North Carolina 27514

RECEIVED  
FEB 8 '68  
OFFICE OF THE  
BUSINESS MANAGER

GREY CULBRETH  
DIRECTOR OF UTILITIES  
TELEPHONE 933-1114

UTILITIES DIVISION  
ELECTRIC - WATER - TELEPHONE  
134 E. FRANKLIN ST.  
P. O. BOX 340

February 8, 1968

MEMORANDUM

TO: Mr. J. A. Williams, Acting Business Manager  
FROM: Grey Culbreth, Director of Utilities  
SUBJECT: University Airport

In early 1967, I met with Chancellor Paul Sharpe and Mr. E. W. Tenney to discuss the possible purchase of a school site from the University. I was chairman of the Chapel Hill School Board at the time and Mr. Tenney was chairman of a site acquisition committee for our board.

The discussion was primarily concerned with our offer to purchase a part of the University's Airport property on which to locate a new high school. In the course of the conversation, Mr. Sharpe was asked about the future of the airport as an operating facility. My recollection of his answer is quite definite on these points:

- a. There was no definite plan to abandon the airport.
- b. The University would eventually cease its operation there.

We had asked him about the University's intention because we were concerned about the safety factor involved in airport activity in proximity to the school and the expected heavy buildup in residential development.

We cannot support this with a written statement. To my certain knowledge, however, the school board has assumed eventual abandonment based on this conversation and the subsequent non-expansion of the facility by the University.

I have not been able to contact Mr. Tenney today to secure his permission to quote him at this time.

*Grey Culbreth*  
Grey Culbreth

GC:j



THE UNIVERSITY OF NORTH CAROLINA  
AT  
CHAPEL HILL  
27514

5

OFFICE OF THE CHANCELLOR

103 SOUTH BUILDING 005A  
(919) 933-1363

April 17, 1981

The Honorable Joseph L. Nassif  
Mayor, Town of Chapel Hill  
306 N. Columbia Street  
Chapel Hill, NC 27514

Dear Mr. Mayor:

We are aware, as you are, of the continuing discussion about the operation of the Horace Williams Airport by the University.

In order to provide a public statement of the University's position and to respond as affirmatively as possible to those who are deeply concerned about the airport, we offer the following: (1) The University administration and its Trustees hereby indicate the University's willingness to phase out all non-university use of Horace Williams Airport by not later than July 1, 1989, subject to the conditions stated below. (2) We further agree to close the airport in its entirety, including University operations, not later than July 1, 1989, provided that an acceptable alternative airport facility has been provided within reasonable proximity to Chapel Hill. (3) We agree to accelerating the phasing out and closing of Horace Williams Airport if an acceptable airport facility is provided within reasonable proximity to Chapel Hill earlier than July 1, 1989 date, and it satisfactorily meets the needs of the University's aircraft.


It must be understood that in making these statements, the University is doing so on the assumption that good faith efforts will be made to bring into being an alternate airport facility and that in fact a facility will be provided. The University administration and its Board of Trustees reserve the right to reconsider all these statements should an acceptable alternate airport facility not be a reality on or before July 1, 1989.

I should make it clear, Mr. Mayor, that the University does not consider it is our responsibility to provide or subsidize an alternative airport facility to the Horace Williams Airport. We do however, stand ready to cooperate and work with the Towns of Chapel Hill and Carrboro, with Orange County or any other appropriately constituted group in seeking a solution to this problem. I hope that it is clear from this letter that the University administration and its Trustees are willing to modify the use of the airport as indicated when an acceptable alternative facility is a reality.

The Honorable Joseph L. Nassif  
Mayor, Town of Chapel Hill  
April 17, 1981  
Page 2

We appreciate the opportunity to work with you, and I'm sure you know that this letter is provided in the spirit of cooperation with the Town of Chapel Hill and the citizens of this area. We hope that the issue can ultimately be resolved to the satisfaction of all.

Sincerely yours,

  
Christopher C. Fordham, III

c: Mr. Hargrove Bowles, Jr.  
Chairman, Board of Trustees  
  
Vice-Chancellor John L. Temple

cc



THE UNIVERSITY OF NORTH CAROLINA  
AT  
CHAPEL HILL

Office of the  
Vice Chancellor for Business and Finance

The University of North Carolina at Chapel Hill  
211 South Building 105 A  
Chapel Hill, N.C. 27514

March 8, 1982

Mr. Richard Whitted, Chairman  
Orange County Board of Commissioners

Dear Mr. Whitted:

On April 17, 1981, Chancellor Fordham wrote a letter to Mayor Nassif of Chapel Hill outlining the University's position on the future operation of the Horace Williams Airport. The University's position remains as outlined in this letter, which states in part that

B:11 ✓ →

- 1) the University administration and its Trustees hereby indicate the University's willingness to phase out all non-University use of Horace Williams Airport by not later than July 1, 1989;
- 2) to close the airport in its entirety, including University operations, not later than July 1, 1989, provided that an acceptable alternative airport facility has been provided within reasonable proximity to Chapel Hill; and
- 3) to accelerate the phasing out and closing of Horace Williams Airport if an acceptable airport facility is provided within reasonable proximity to Chapel Hill earlier than July 1, 1989, and if it satisfactorily meets the needs of the University's aircraft.

This letter went on to pledge the cooperation of the University in the development of an alternative airport facility for the community, although it was made clear that the University does not consider it as its responsibility to provide or subsidize such an alternative facility.

In defining an airport that would satisfactorily meet the needs of the University air operations, we would include the following.

- 1) adequate physical facilities including a paved runway of not less than the same dimensions of Horace Williams Airport, berths, taxiway, ramp, fuel availability, qualified mechanic, security area, hangar, etc.;



Mr. Richard Whitted  
Page Two  
March 8, 1982

- 2) adequate safety provisions including runway lights, rotating beacon, instrument approach provisions, etc.;
- 3) adequate proximity to the University; and
- 4) adequate assurance of the continued operation and the financial soundness of any new airport.

We would point out that the assurance of the continued operation and the financial soundness of any new airport facility is of particular importance. Such assurance must be attained without a commitment of the University to move to such a facility. The University cannot place itself in a position of being the first to move to a new airport and, in fact, the University would need to seek the funding that would be required to make such a move.

The University is encouraged by the proposal for the new Midway Airport as representing the first indication of a move to establish an acceptable alternative airport facility for southern Orange County. This facility has the potential for meeting the needs of the University; and therefore, the University would recommend careful consideration of this proposal.

Sincerely,



John L. Temple  
Vice Chancellor



**SOCKWELL:** 'With all good intentions, school boards, in the past, built buildings where they are with the understanding the airport would go.'

# School Board Wants Restrictions, Eventual Phase-Out Of Airport

By **PAT MILLER**  
Staff Writer

In its first public discussion of the issue in five years, the city school board Monday night reiterated its long-held belief that the Horace Williams Airport should be phased out.

The board set 1990 as the date by which it would like to see the airport closed. In the meantime, its use should be made as restrictive as possible, the board agreed.

A resolution describing the board's stand will be sent to the Chapel Hill Town Council before a public hearing Monday.

The subject of that hearing will be a proposed amendment to the town zoning ordinance that would allow the University, which owns the airport, to construct a hangar

for maintenance service for five medical aircraft. As part of a compromise between the University and town, that zoning ordinance also will likely prohibit further expansion of the facility.

University officials have said the hangar will not expand the airport's operations and that no such expansion is planned for the future.

**MONDAY'S** public hearing was originally scheduled for last week, but school board chairman Phyllis Sockwell asked town officials to postpone it so her board could discuss the issue. The schools have been a "critical point in all discussions for a number of years," she said this morning.

Whenever past school boards have been confronted with  
**(Continued on page 6A)**

# School Board

(Continued from page 1A)

the airport issue, their position has "first and foremost been that it be phased out as it was going to be," Sockwell said.

"With all good intentions, school boards, in the past, built buildings where they are with the understanding the airport would go," Sockwell said during Monday's discussion. She explained this morning that the board was told the airport was going to close when Estes Hills Elementary School and Phillips Junior High were built in its flight path in 1958 and 1962 respectively.

The airport's flight path also includes Carrboro Elementary School, Seawell Elementary School and Chapel Hill High School.

**AT SOCKWELL'S** suggestion, the board drew up a list of restrictions it would like to see placed on the 38-year-old facility in addition to recommending it be closed. She said she was afraid a simple "no airport" stand by the board would "deal it out" of any role in helping determine how the airport is used.

Restrictions the board would like to see, according to the resolution it is sending the Town Council, include that:

- Only small aircraft be allowed to use the facility;
- A maximum of 50 airplanes be based there;
- Flight patterns be planned to avoid school property;
- Town noise ordinances govern planes flying over schools;
- Federal Aviation Administration altitude regulations be followed when planes are flying over school property;
- All flying lessons be phased out by 1983 and the number of planes based there be reduced accordingly at that time;
- Use by transient planes be restricted except in emergency cases;
- Any modifications to runways require council approval and not increase the "size, scope or purpose" of the airport;
- Use of the facility be restricted to the University.

The school board's primary concern is the safety of students and staff and protection of school property, according to Verla Insko, who made the motion containing most of the above restrictions.

**THE STAND** the board took on the airport issue Monday is similar to the one it took in 1975 when it last discussed the issue, but it is more specific. Then, the board adopted a resolution expressing concern about the "inherent danger" in which the facility placed the schools. The phasing out of recreational flights and training flights was also recommended, but no specific dates were given. Sockwell and Ed Caldwell were the only current members on the board at that time.

The advantage now is that the council is planning to adopt an ordinance governing the airport, which should clarify the issue, Sockwell said. In the past, it has operated as a non-conforming use — a use not permitted by the zoning ordinance but allowed because it was there before the regulation.

Although unanimously approving the list of restrictions Monday, board members made it clear their number one priority on the issue is seeing the airport closed.

Edith Elliott, although supporting the restrictions, questioned whether the board was taking too weak a position. "In light of the fact planes come so close to schools . . . our position can't be anything other than that we don't want it, period," she said.

"I know where I stand as far as a plane falling on one of those buildings goes," Ed Caldwell said. "Sooner or later it's going to happen, you can count on it."

Caldwell said, in his opinion, it would be the "best safety for the children" for the airport to be moved somewhere else.

But if the airport cannot be moved, flying lessons have got to stop, Caldwell said.

If the airport is to remain, its use should be restricted to the University, board members said. Barbara Thornton said the "whole concept of community use" should be taken away from the facility and the housing of private planes there phased out.

Richard Fahrer, the airport's manager, told the board some of the restrictions it has proposed are already in effect. Those include the maximum of 50 planes and the facility's limitation to small aircraft. Others, such as the one dealing with FAA altitude regulations and the town's noise ordinance, may also be in effect, he said.

September 23, 1980

8

The Honorable Joe Nassif  
Mayor, Town of Chapel Hill  
306 N. Columbia Street  
Chapel Hill, North Carolina 27514

Dear Joe:

The primary concerns of the Chapel Hill-Carrboro Board of Education in relation to the Horace Williams Airport are for the safety of students and staff and the noise factor related to its operation. Other major concerns are for the well-being of persons using our facilities when schools are not in session (i.e., recreation programs, Community Schools programs, etc.) and protecting the public investment in our buildings and grounds.

The activities at Horace Williams Airport have been of great concern to Boards of Education for many years as evidenced by agenda items appearing for discussion/action by the Boards many times. Some school locations were chosen on indications that Horace Williams Airport would be closed.

With this historical background and the concern for safety the school board unanimously passed the following motion at its board meeting on September 22, 1980:

"That the University of North Carolina pursue plans to close Horace Williams Airport as soon as is feasible but no later than 1990 and until the airport is closed that the following restrictions be included in the Chapel Hill zoning ordinance.

1. Restrict airport use to small aircraft as defined in the University operations and policies guidelines for Horace Williams Airport
2. A maximum of 50 aircraft based at the airport
3. Flight patterns for all aircraft be planned to avoid all five school properties (Estes Hills, Phillips, Seawell, CHHS, Carrboro) in that area
4. Use current town noise level ordinance as guide to regulate noise levels over school property
5. Use FFA altitude ordinance to enforce altitude levels of planes over school property

6. Phase out all flying lessons by 1983, at which time the maximum number of tie-downs would be reduced accordingly.
  - . Until phase out date, restrict flying lessons to UNC faculty, staff and full-time students
7. Restrict airport use by all aircraft to those used for University related purposes, except for emergency use
8. Modifications to runways and other facilities are to be approved by the town council and are not to increase the size, scope and purpose of airport operations."

The Board of Education will have representatives at the Public Hearing on September 29, 1980, to state our position. Let us know if we can offer further assistance or clarification in this matter.

Sincerely,



Phyllis K. Sockwell  
Chairman  
Chapel Hill-Carrboro  
Board of Education

PKS:ef

cc: Mr. Gene Shipman  
Dr. Christopher Fordham  
Mr. Jonn Temple  
Dr. Charles Rivers  
Members of the Board of Education



620 Beech Tree Court  
Chapel Hill, N.C. 27514  
November 5, 1980

The Town Council  
Town Hall, Airport Road  
Chapel Hill, N.C. 27514

Dear Members of the Council:

Citizens for Airport Planning strongly urge you to make Horace Williams Airport a University airport.

We find the interests of the Town and the University coincide on this issue. The University has stated at the Public Hearing and the Planning Board meeting that its interest in Horace Williams Airport centers on the AHEC program and University business. The Board of Education, the Planning Board in their discussion, residents and parents have expressed their concern over the fact that the airport lies near schools and residences. Phillips Junior High, with 700 students, lies just 800 yards down the flight path from the airport runway. Some residential development is already even closer and will soon surround the entire Horace Williams tract.

This amendment to the ordinance which you are considering does not fairly reflect the views of any group, except perhaps those using Horace Williams for recreational purposes.

We ask the Town Council to accommodate the concerns of the Planning Board, the Board of Education and community members. We ask the Town Council to help plan a phase-out by 1985 of all recreational and commercial activity at Horace Williams Airport. This phase-out can be accomplished in a number of ways: by an amendment to the proposed ordinance; by defining a University-only airport as a valid accessory use to a permitted general University use; or by allowing private airports as special uses under prescribed conditions. The FAA indicates that an "open" airport can be deactivated to a "closed" airport without any problem.

We suggest that the Town Council refer the consideration of this ordinance to the Planning Board so the Board can investigate fully the valid alternative ways in which the wishes of the School Board and the neighborhood residents, the parents, and the interests of the University in preserving AHEC and University business uses, may be accommodated.

At the Planning Board meeting it appeared that a majority of the Board wished to phase-out recreational and commercial activity at Horace Williams Airport, but no Town attorney was present to advise the Board on valid legal alternatives. Our research indicates that the airport could, through the several approaches outlined above, be legally limited to University uses. The practical needs of the School Board and community members should not be dismissed without thorough research into the legal alternatives.

Very truly yours,

Ronald C. Link

for

Citizens for Airport Planning

5-4 Margin

# Council Gives Yes Vote To Hangar

By SCOTT VERNER  
Staff Writer

After nearly two hours of convoluted procedure and shirt-sleeve bargaining Monday, the Chapel Hill Town Council rejected action that would have restricted Horace Williams Airport while making it a permitted use.

Instead, the council, by a 5-4 vote, passed a surprise zoning ordinance amendment developed by council member Joe Straley. The action will allow UNC to build a hangar for the aircraft used in its Area Health Education Centers program, leaving the airport as a non-conforming use.

The council also passed a resolution calling for town, county, regional, state and University officials to work with interested citizens and professionals to develop a new airport in Orange County as an alternative to Horace Williams Airport.

The airport for years has existed as a non-conforming use, which means the town's zoning ordinance does not recognize it and therefore cannot legally restrict it. Under the council's

action, the airport remains unrecognized but medical aircraft hangars are allowed in any University A zone.

Surprised local pilots were pleased although somewhat confused, at it council's action and equally surprised airport opponents were outraged. The pilots, who have asked to be included in the airport study commission, were relieved that two proposed zoning ordinance amendments, both versions

(Continued on page 8A)

(Continued from page 1A)

of a University proposal, did not pass after council member Jonathan Howes amended it to call for a study eliminated all flight training at the airport, and one would have made airport inaccessible to all flights except those directly related to University business or functions such as attending football games or professional conferences.

**MEMBERS OF A citizens' group** advocating the closing of the airport, however, were indignant. "We were very upset with the Town Council, because we felt there was sentiment on the council to vote for restrictions on the airport," citizens' group spokesman Julie Andresen said after the vote. "To come so close and have the Town Council fail us, which I think they did, is upsetting."

Andresen did not hold out any hope that the airport study commission would be able to bring an alternative airport to fruition, thus allowing the University to close Horace Williams. "The committee they are going to set up is a nice idea, but I question how effective it will be," she said.

Straley's amendment was shunted aside several times by procedural maneuvering before failing 6-3 on first consideration. After that failure Straley proposed action on a Planning Board recommendation that called for closing the airport as soon as another airport becomes available within 15 miles of Chapel Hill.

At one point when Straley was advocating action on that recommendation, members of the audience interrupted him with catcalls after he said that, although the airport needs to be

relocated, Chapel Hill should be grateful to the University for operating an airport that benefits the community. "I don't think we ought to go out with our sleeves rolled up, saying the University has done us dirt all these years," Straley said.

The council passed that motion after council member Jonathan Howes amended it to call for a study commission to develop a new airport that ultimately would replace the present facility.

**ONLY AFTER a 18-minute break,** when council members gathered in the hallway and muttered in small groups in the municipal building meeting room itself, and after the failure of three motions based on the University proposal, was the council able finally to vote favorably on Straley's main amendment.

Council member Marilyn Baulton, who voted against the motion on first consideration, proposed the Straley amendment on its second, successful effort. But evidently the majority of the council felt the proposal was a second choice — a way of allowing the University to build its hangar without further delay while postponing the larger question of how to deal with the zoning of the airport.

The council defeated no fewer than three separate attempts to pass the University's proposed amendment in one form or another. Several council members tried to secure passage of the proposal by rearranging, adding and deleting amendments in consecutive efforts to make it more attractive to other council members. But each of those attempts fell apart

of its own weight after the amendments became lengthy, convoluted and even self-contradictory.

The basic University proposal would have made the airport a permitted use, restricting it closely in terms of its present activity and facilities. Each of the three unsuccessful proposals, which differed only in who would be allowed to use the airport, failed by a 5-4 vote, with different council members dissenting in each case.

Straley said he could not support the University proposal because it was essentially the same as the wording now contained in the proposed new zoning ordinance in the chapter dealing with airport zoning. The council has not discussed that chapter in its continuing review of the proposed ordinance, and Straley said he cannot support it the way it is written. Passage of the University proposal, he said, would lock the council into approving the proposed ordinance chapter later.

The citizens' group represents several neighborhoods near the airport as well as the Chapel Hill-Carrboro Board of Education, several parent-teacher associations and other local school groups. The group charges that the airport is a safety hazard and a noise nuisance to the residential area and to the schools located near the airport's flight patterns.

The pilots, represented by the Chapel Hill Flying Club, Carolina Flying Service and the Chapel Hill Pilots' Association, maintain that the airport's safety record is perfect, that student pilots in general have a good safety record and that noise generated at or near the airport is insignificant compared with highway traffic noise and other noise surrounding the area.

# Council's vote to allow hangar stirs reaction

By LEE DUNBAR  
Staff Writer

The Chapel Hill Town Council's decision Monday night to allow the construction of a hangar at Horace Williams Airport has caused reactions of confusion, anger and a general feeling among people on all sides of the issue that the airport issue has not yet been resolved.

The controversy began when the Area Health Educational Center wanted a hangar to house five of its twin-engine Aztec airplanes. AHEC is a division of the University Medical Foundation.

This July the University submitted a modification of the Town Ordinance Zoning Laws so it could receive a building permit. Neighborhood groups and school organizations located near the airport filed petitions against the proposals, contending that a hangar would increase the aviaional activity and that it would create larger safety and noise hazards.

This past Monday, council member Joe Straley offered a plan which would allow the construction of the hangar without restricting any other activities at the airport. The council passed this amendment 5-4.

Very few people have said they were pleased with the decision and the way the Town Council handled the situation.

"We don't know what position we're in," said Dan Boone, owner of Carolina Flying Services. "The meeting was totally irrational. The Town Council was just not prepared with facts.

The mayor said that they could only zone the land as University, then restrict the usage. But then to restrict to the University is to restrict it to one person and that's illegal."

Chuck Antle, associate vice chancellor of business and finance, said the University was pleased the hangar would be built. "From the standpoint of the University, the decision is very positive because AHEC needs the hangar. But the University also realizes the concerns of the neighborhood around the airport."

Julie Ann Driessen, a member of the Citizens for Airport Planning, said the decision was sad and ironic. "We were devastated," she said. "This was the first time in 15 years that the Town Council has had a chance to do something to limit commercial and recreational aviation. The council seemed to be supportive, but then certain members decided to change, such as (Joe) Straley, (Joe) Hertzberg, and (Marilyn) Boulton."

John Payne, the director of AHEC, was pleased with the decision. "We were very happy that the issue was finally decided. We were surprised that the other restrictions were not passed."

Gordon Rutherford, director of the Planning Office, said, "We can live with it. Obviously, it lets us do what we wanted to do in the first place. We're going to try to work with the Town Council to satisfy the other folks."

Everyone involved agreed the matter was not resolved.

"Anything could happen now," Driessen said. "The University came to town with the interest to go along with the restrictions and the Town Council chose to do nothing."

Antle said, "The matter is definitely not resolved. It will be brought up again."

The solution that all the parties involved are offering is a new airport, located away from town.

Driessen said that her group would back plans for a new airport. "We certainly encourage it. But the people who should really be fighting for it are the pilots who will be using it."

"I would like to see the town sponsor a municipal airport," Boone said. "I don't think that building the airport is a problem. The site has already been selected."



# Panel Hears Comments On Airport

Herald Orange Bureau

CHAPEL HILL — The Chapel Hill Town Council held a public hearing on a proposal to allow sharply limited airports in university zoning areas.

The proposal is a compromise on a request by the University of North Carolina to amend the town zoning ordinance so that Horace Williams Airport would conform to the zoned use.

UNC wants to build a hangar at the airport, which is off Estes Drive at Airport Road. The zoning ordinance does not allow new construction that does not conform to the zoned use.

The proposed amendment would codify several

UNC policies restricting the airport, including limiting it to less than 50 small planes and that landing patterns be approved by the Town Council.

The argument among those who spoke was often about whether the airport should be moved or closed or allowed to expand rather than discussion of the proposed amendment. Four people spoke against the airport saying it presented a safety hazard and a noise problem for nearby neighborhoods and schools. Eight people spoke in favor of the airport and many called for relaxing the restrictions on the airport.

The amendment will be before the council for action at its Oct. 13th meeting.

# Chapel Hill Council OKs Hangar For Airport

By ALISON HOWARD  
Herald Orange Bureau

CHAPEL HILL — After nearly two hours of what one member described as "arguing between the 40-yard lines," the Chapel Hill Town Council voted 5-4 Monday to allow construction of an eighth hangar at Horace Williams Airport.

The council agreed, however, that the airport does not belong inside the city limits and resolved to discuss closing and relocating it.

The new hangar will house five medical aircraft owned, like the airport itself, by the University of North Carolina. The council defeated a motion that would have eliminated all non-university activities at the airport, including pilot training and most private aviation.

"That's not phasing out, that's wiping out," said council member R.D. Smith. Horace Williams is home base for 30 pri-

vate planes, six planes belonging to the Carolina Flying Service and eight belonging to the Chapel Hill Flying Club.

The defeated motion would have amended the town zoning ordinance to give the council control over the airport, which is regarded as a hazard by some nearby residents and the Chapel Hill-Carrboro school board.

Guy B. Phillips Junior High School is about 800 yards from the runway, and residential development may come closer, according to a group called Citizens for Airport Planning.

The council had to vote twice on the successful motion to allow the hangar, defeating it once 6-3 before approving it 5-4. Council members Marilyn Boulton and James Wallace switched sides, joining Joe Straley, Joe Herzenberg and Beverly Kawalec. Wallace made the proposal to restrict the airport to university use.

The council's action Monday leaves the airport as a non-conforming use subject to town restrictions on rebuilding—expansion only. But the council will deal with the airport zoning issue again when it considers a new zoning ordinance proposed for Chapel Hill.

Mayor Joe Nassif said university officials have told him they would be willing to move their aircraft as soon as another airport is available. A private development group has secured building permits for an airport in Bingham Township west of Carrboro where no zoning ordinance yet applies.

But Orange County officials are preparing to extend zoning to the township and the site for the proposed airport classified in the draft ordinance for agricultural and residential use. As a non-conforming use, that airport could run into the same troubles that face Horace Williams.



# Airport plans stand, UNC official says

## Says paving project still alive

By MARK SCHULTZ  
The Chapel Hill Herald

CHAPEL HILL — UNC still plans to pave an additional 500 feet of Horace Williams Airport runway, despite neighborhood fears that the project is a prelude to airport expansion, Charles C. Antle, associate vice chancellor for business, said Tuesday.

The \$360,000 project calls for repaving the existing 3,500-foot runway plus another 500 feet of gravel runway, Antle said. Paved in 1970 so that the airport could be used under varied weather conditions, the single runway was originally planned to be 4,000 feet, he said.

"Only 3,500 feet was paved and I'm not sure why," he said.

Although University of North Carolina at Chapel Hill officials will be discussing long-range plans for the airport property, Antle said that analysis would not affect the more immediate paving project.

"That [analysis] is a much bigger issue than the 500 feet," Antle said. "That really doesn't have anything to do with paving the runway, or extending it 500 feet."

Last week Wayne Jones, associate vice chancellor for finance, said UNC was not considering increasing the number or type of planes using the airport off Estes Drive. He confirmed that UNC officials had dropped plans to install Jet-A fuel tanks at the airport, a proposal that had also raised residents' expansion fears.

Antle restated Jones' assertion that the tanks had been suggested as a way for the self-supporting airport to gener-

"Only 3,500 feet was paved, and I'm not sure why."

— Charles C. Antle  
UNC Associate  
Vice Chancellor  
for Business

ate revenue, and he agreed that UNC dropped the plans after deciding it could wait until more university planes used that fuel.

Officials had estimated UNC could make \$60,000 to \$70,000 a year in gasoline sales, Antle said. The overall Horace Williams budget is between \$300,000 and \$350,000, he said.

Despite dropping the tanks, UNC intends to move ahead with the paving project, Antle said. Officials still do not know, however, whether they will have to participate in a public hearing in order to get town approval for the 500 additional feet, he said.

Antle said he doubts whether UNC would begin paving before knowing whether it could pave the additional footage, he said.

UNC officials had indicated they would be willing to close the airport if a suitable site could be found for a new county airport. The campus land-use plan, approved last year, suggests the Horace Williams land — if vacated by the airport — could be used as a satellite campus or for low-cost housing for university employees.

The Orange County Board of Commissioners last week, however, decided there is no suitable site for a county airport.

I, Peter M J Richardson, Town Clerk of Chapel Hill, North Carolina, hereby certify that the attached resolution (89-10-10/R-6a) was adopted by the Chapel Hill Town Council at its meeting on October 10, 1989.

This the 13th day of October, 1989.

  
Peter M. J. Richardson

10/13/89.  
Date



Resolution 89-10-10/R-6a, amended  
Council Member Andresen

A RESOLUTION CONCERNING THE NEED TO MINIMIZE SAFETY RISKS ASSOCIATED WITH HORACE WILLIAMS AIRPORT (89-10-10/R-6a)

WHEREAS, the location of and aircraft operations associated with Horace Williams Airport have been of concern to the Town for many years; and

WHEREAS, the Chancellor and other representatives of the University of North Carolina at Chapel Hill have participated in several discussions with representatives of the Council and with interested citizens; and

WHEREAS, in his letters of August 4 and 31, 1989 to the Mayor and Council, the Chancellor has described in detail the consideration and implementation of measures to limit activities and enhance safety of the Airport; and

WHEREAS, the Council desires with the University to build upon the progress achieved to date in addressing concerns related to the Airport; and

WHEREAS, all but one of the accidents associated with Horace Williams Airport in recent years have involved flights by transient aircraft, whose use of Horace Williams Airport should be eliminated at the earliest feasible time; and

WHEREAS, increasing commercial operations at RDU and the consequent limitation of general aviation at RDU are likely to increase demand for use of other airfields in the region, including Horace Williams Airport; and

WHEREAS, the Chancellor has affirmed the position that the University does not have plans to expand operations at Horace Williams Airport and the University's intention to continue efforts to minimize transient use of the facility;

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

1. The Council affirms its desire that, pending its relocation, Horace Williams Airport
  - be designated as "private," to eliminate its use by transient aircraft;
  - be closed to non-University operations between the hours of 9 p.m. and 6 a.m.; and
  - be continuously monitored as to the volume, aircraft type and purposes of aircraft operations;

2. The Council requests that the University provide a status report to the Towns of Chapel Hill and Carrboro before the end of the 1989 calendar year regarding the matters identified as under consideration in the Chancellor's letters of August 4th and 31st, 1989 to the Mayor and Council.
3. The Council requests the University provide information to the Chapel Hill Town Council and Carrboro Board of Aldermen annually regarding:
  - \* The level and types of aircraft activity at the Airport.
  - \* A review of significant Airport regulations important in limiting safety risks associated with aircraft operation around the airport, including limits on types and levels of activity such as those identified in the Chancellor's letters of August 4th and 31st, 1989.
  - \* Planned or potential measures to further increase safety and/or reduce activity levels, and the University's plans in general for the Airport.

The Council requests the opportunity for the Town and other interested parties to receive information on proposed procedural changes and to offer comments.

  - \* An assessment of the effectiveness of previous changes in the regulation of Airport-related activities.
4. The Council requests the University to continue to enhance the safety of air operations associated with the Airport, with the goal of making safety improvements whenever practical.
5. The Council affirms its desire that air operations at Horace Williams Airport, other than those for public purposes, be carefully limited until they are relocated.
6. The Council welcomes and requests the opportunity from time to time to have discussions among representatives of the University, the Town, and other interested entities including community organizations, in the spirit of cooperation and good faith efforts to address matters of interest to the University and the University.

BE IT FURTHER RESOLVED that the Council expresses its appreciation to Chancellor Hardin and the University administration for their diligent work to respond to concerns of citizens, to better control activities at the Airport and to make the Airport operations safer.

This the 10th day of October, 1989.



# Group pushes for airport to become private

By JESSICA YATES

Staff Writer

Citizens for Airport Planning and other Orange County residents are putting more pressure on the University to declare Horace Williams Airport a private airport months after their concerns prompted the Chapel Hill Town Council to pass a resolution requesting a private airport.

Diane Bloom, a representative of the community group, asked the council at its March 26 meeting for a follow-up on the resolution passed in October. The group wants a notation designating Horace Williams Airport as a private airport to appear on aerial maps.

The notation would signal air traffic not based in the airport, planes not affiliated with the University or planes not doing business in the area to land at another airport. Bloom said about 20 percent of the airport's traffic is transient.

Bloom said the University had been misinformed on the implications of a

private designation of the University-owned airport. Walter Bauer, program manager of the airport's district office of the Federal Aviation Administration (FAA), had affirmed that a list of authorized users would be unnecessary, contrary to a previous statement made by Ben Tuchi, vice chancellor of business and finance, she said.

The town council has been supportive of the community's concerns about the airport, Bloom said.

"The mayor (Jonathan Howes) had already sent a letter to the chancellor (Paul Hardin). We're waiting to see how the mayor's letter is answered." The letter asks for the airport's status report that the town council requested from the University in October.

Council member Art Werner, also a committee member of the Coordination and Consultation Committee (CCC), may address the issue of the airport's private designation at the CCC meeting at 3:30 p.m. Monday in Carboro Town Hall, she said.

Werner said the issue of private designation was not on the agenda for the meeting, but it may be discussed. "I think that if private designation would reduce the number of flights in there, it may be beneficial." The method of implementing the designation would determine its effectiveness, he said.

Safety concerns and noise problems are the citizen group's greatest concerns, Bloom said. The group thinks a 500-foot expansion of a runway at Horace Williams will result in more planes using the airport, she said. The expansion will be completed this spring. Extending the runway to 4,000 feet will make the airport a more attractive place for turboprop jets to land, Bloom said.

"Turboprops represent a lot more noise, almost twice as loud as Barons." Barons are planes that are based at the airport and are affiliated with the Area Health Education Center.

Bloom said transient planes had been responsible for 12 of the 13 deaths that

have occurred in plane accidents at the airport in the past eight years. "They were unfamiliar with the airport and unfamiliar with atypical flight paths, and there's a lot of tall trees surrounding the airport," she said. Many of the turboprop jets landing at the airport as a result of the runway extension would be transient planes, she said.

Charles Antle, UNC associate vice chancellor for business and finance, said the University had not dismissed the possibility of a private-use designation for Horace Williams Airport. But determining what the designation would mean has been difficult, he said. "Right now, we're trying to get a meeting with the FAA officials in Atlanta."

The University is concerned with the impact a private designation would have on the instrument flight services Raleigh-Durham International Airport (RDU) now provides for free under FAA rules for public airports. With these services, planes landing at Ho-

race Williams Airport can be tracked on RDU radar during severe weather if assist in landing.

"We just found out last Thursday that designating Horace Williams (Airport) as a private use airport might have some significant changes in getting these services," Antle said. He said there was a possibility that as a private airport, the radar service would not be available to planes flying into the airport, or that a fee charged for the services.

Antle said he was not sure how the University could enforce a private designation. "We're just not sure what we can do if it's designated private and somebody lands anyway."

Antle said the University was very concerned with the public's concerns about the airport. UNC already has placed a lot of restrictions on air traffic at Horace Williams Airport, he said. "Traffic hasn't significantly increased over the past 10 years."



# TOWN OF CHAPEL HILL

16

306 NORTH COLUMBIA STREET  
CHAPEL HILL, NORTH CAROLINA 27514

OFFICE OF THE MAYOR

Telephone (919) 929-1111

May 6, 1981

Memo to: Joe Straley

From: Rosemary Waldorf

Re: Use of Horace Williams Airport

The attached information was provided by Glen Jaspers, manager of Horace Williams, and Chuck Antle, Associate Vice Chancellor for Business at UNC. Mr. Antle emphasized that he is quite willing to discuss this subject with you in person. His phone number is 933-3795.

Mr. Antle and Mr. Jaspers could not break down usage figures in as detailed a manner as you requested, for several reasons:

1. Only two full-time and one part-time employees work at HWA, and the airport is not staffed 24 hours a day.
2. HWA does not require flight plans of their users. The FAA does not require a flight plan unless a pilot will be using an instrument landing approach.
3. Users of Horace Williams Airport keep their own figures. Here I am referring to the Chapel Hill Flying Club, Carolina Flying Service, AHEC, and owners/operators of permanently based planes. The FAA requires pilots to keep a log of usage for each aircraft, but these logs are generally kept inside the planes. On Mr. Jaspers' memo dated 5-6-81, I have added footnotes that indicate where the usage figures came from and whether they are estimates or actual counts.
4. The airport manager keeps the figures on transients. The University defines transients to include anyone who does not keep a plane based at HWA. In other words, consultants or visiting faculty coming to UNC are counted as transients, as are alumni who fly in for football weekends and trustees who fly in for meetings.

Below is some information about the persons and groups who keep aircraft based at HWA. UNC limits the number of permanently based planes to 50. This includes 5 AHEC planes, 1 forest service plane, 6 (formerly 8) Chapel Hill Flying Club planes, 6 Carolina Flying Service planes, and 30 aircraft owned by individuals or companies (of these 30, 14 have direct UNC affiliation and 16 have no direct UNC affiliation).

Straley memo  
May 6, 1981

Chapel Hill Flying Club -- This group allows its planes to be used only by persons who are members of the club. Their use of aircraft is almost entirely recreational. Mr. Antle said the club recently sold two of its planes, and is trying to sell two more.

Carolina Flying Service -- Dan Boone owns and operates Carolina Flying Service. (He also does maintenance on planes based at HWA and, as I understand it, on an as-needed basis to transient aircraft.) He uses his planes to transport people for a fee, and also rents them to other pilots for their own recreational, business, commercial or other purposes.

These 12 planes -- the ones owned by the Chapel Hill Flying Club and the Carolina Flying Service -- are the planes used for flight instruction at Horace Williams. Four people are currently teaching flying lessons out of HWA. 35 people are currently receiving flight instruction out of HWA, down from a record high of 160 three years ago.

Williams Aviation -- This is a business run by Chuck Williams. He owns two twin-engine planes, which he does not lease, but uses to provide air-taxi service. He provides no flight instruction. He does most of the maintenance work for the Chapel Hill Flying Club.

North Carolina Medical Foundation (NCMF) -- This is the AHEC operation, which I think you are familiar with. The usage figures given for NCMF are exact counts.

The University keeps two waiting lists for persons who wish to base planes at HWA. One list is for UNC affiliates and the other is for persons not affiliated with UNC. UNC affiliates always have priority when spots come open.

One more point: The figures indicate that use of planes owned by the Flying Club is dropping off. Mr. Antle speculated that this is due to the high cost of flying, the tight economy, club members' interest in Midway Airport, and the possibility that the flight training market in Chapel Hill has already been saturated.

**PRESS RELEASE**

**SEPTEMBER 12, 1989**

**CITIZENS FOR AIRPORT PLANNING**

**COUNTS INDICATE AIR TRAFFIC AT HORACE WILLIAMS AIRPORT HAS NEARLY DOUBLED IN 10 YEARS**

Sample counts of airplane traffic at Horace Williams Airport indicate that total traffic has almost doubled since 1980. The count data also show that for the sample counting period, University AHEC flights accounted for only 13 percent of total operations.

From August 24 through September 4, a mechanical acoustical monitor installed by the N.C. Department of Transportation Aviation Division recorded the number of takeoffs at Horace Williams. Each takeoff is loud enough to trigger the counter, but landings are not, so each takeoff is counted twice to account for landing operations as well. The counting formula employed by DOT adds another 8 percent to the total to adjust for that fact that this time of the year is typically slow for general aviation.

The daily average, as calculated under this formula, was 54 operations. An operation is either a takeoff or a landing. On three of the 12 days tested, more than 70 aircraft operations occurred at Horace Williams. On Aug. 26 and 27, when weather conditions were not optimal for flying, the number of operations was 20 and 18, respectively.

For the counting period, UNC's medical air operations program, called AHEC, accounted for 80 of the total 608 operations. This is 13 percent of the total. UNC officials have estimated that AHEC flights account for 25-30 percent of all of Horace Williams' air traffic.

Citizens for Airport Planning stationed persons at Horace Williams on Friday and Saturday, Sept. 8 and 9, to count takeoffs and landings between 7 a.m. and 11:30 p.m. On Friday, CAP representatives documented 71 takeoffs and landings. The Saturday count was 62.

The DOT monitor was used, at the request of Citizens for Airport Planning, because the University airport managers have not kept thorough counts for several years. Such counts are not required by any federal or state agency.

However, in 1979 and 1980, two former Horace Williams managers did keep counts, which were made available to the town of Chapel Hill upon request.

According to those records obtained from town files, in 1979, there were an average of 32 flights per day. In 1980, there were 28

flights per day. For both 1979 and 1980, the average number of operations for September was 30 per day, slightly more than half the total counted for this year.

To ensure that counts are representative, Citizens for Airport Planning is asking UNC and the town manager to jointly sponsor a year-long acoustical monitoring program.



THE UNIVERSITY OF NORTH CAROLINA  
AT  
CHAPEL HILL

Horace Williams Airport

The University of North Carolina at Chapel Hill  
Airport, Room 477 A  
Chapel Hill, N.C. 27514

MEMORANDUM TO: Charles C. Antle, Jr.  
Associate Vice Chancellor for Business

FROM : Richard Fahrer *RF*  
Airport Manager

DATE : September 25, 1980

SUBJECT : Airport Usage Figures

<u>1979</u>	<u>Transient</u>	<u>NCMF</u>	<u>CHFC</u>	<u>CFS</u>	<u>Other Based A/C</u>	<u>TOTAL</u>
January	192	109	132	78	200	711
February	157	85	190	84	200	716
March	308	118	348	143	200	1117
April	311	106	223	145	200	985
May	269	105	253	126	200	953
June	309	89	308	180	200	1086
July	249	81	185	126	200	841
August	301	89	227	158	200	975
September	304	124	183	98	200	909
October	453	114	360	182	200	1309
November	363	108	331	145	200	1147
December	199	83	190	138	200	810
79 Total	3415	1211	2930	1603	2400	11559
79 Average	285	101	244	134	200	964
79 %	30%	10%	25%	14%	21%	100%
<u>1980</u>						
January	191	111	218	61	200	781
February	213	117	193	118	200	841
March	198	111	168	83	200	760
April	328	126	246	164	200	1064
May	323	99	194	190	200	806
June	297	90	197	171	200	955
July	290	76	180	152	200	898
August	308	90	203	128	200	929
80 Total	2148	820	1599	1067	1600	7234
80 Average	269	103	200	133	200	905
80 %	30%	11%	22%	15%	22%	100%

NCMF=N.C. Medical Foundation (AHEC Medical Air Operations)  
CHFC=Chapel Hill Flying Club  
CFS =Carolina Flying Services





THE UNIVERSITY OF NORTH CAROLINA  
AT  
CHAPEL HILL.

Horace Williams Airport

The University of North Carolina at Chapel Hill  
Airport, Road 437 A  
Chapel Hill, N.C. 27514

MEMORANDUM TO: Charles C. Antle, Jr.  
Associate Vice Chancellor for Business

FROM: Glen Jaspers  
Airport Manager

DATE: May 6, 1981

SUBJECT: Airport Usage Figures  
(ANFC)

<u>1980</u>	<u>Transient</u>	<u>WA*</u>	<u>NCFM</u>	<u>CHFC*</u>	<u>CFS*</u>	<u>Others*</u>	<u>TOTAL</u>
September	316.0	14.0	108.0	203.0	128.0	55.0	814.0
October	354.0	14.0	125.0	110.0	128.0	45.0	776.0
November	290.0	14.0	92.0	110.0	128.0	45.0	679.0
December	206.0	14.0	90.0	110.0	128.0	45.0	593.0
80 Total	1166.0	52.0	415.0	533.0	512.0	190.0	2868.0
80 Average	291.0	14.0	103.8	133.0	128.0	45.0	715.5
80 %	40.7%	1.9%	14.5%	18.6%	17.9%	6.3%	100.0%
<u>1981</u>							
January	238.0	14.0	102.0	110.0	128.0	45.0	637.0
February	219.0	14.0	111.0	110.0	128.0	45.0	627.0
March	215.0	14.0	100.0	110.0	128.0	45.0	612.0
81 Total	672.0	42.0	313.0	330.0	384.0	135.0	1876.0
81 Average	224.0	14.0	103.0	110.0	128.0	45.0	625.0
81 %	35.8%	2.2%	16.6%	17.6%	20.5%	7.2%	100.0%

NCFM= N.C. Medical Foundation (AHEC Medical Air Operations)

CHFC= Chapel Hill Flying Club

CFS = Carolina Flying Services

WA = Williams Aviation

Tran/Others= HWA

\* Figures not immediately available from these sources, and have not been regularly recorded to manager's office since September 1980. Figures are approximate from controlling agency.

WA\* -- These are Chuck Williams' (owner of Williams Aviation) estimates.

CHFC\* -- Sept. 1980 is actual figure; Oct.-Dec. 1980 figures are estimates, and the airport manager thinks they are on the high side.

CFS\* -- Airport manager's estimate. Dan Boone, owner of Carolina Flying Service, is away on a trip and could not be reached.

Others\* -- This category include the planes based at Horace Williams that are not CHFC, CFS, WA, or NCFM.

**AIR TRAFFIC AT HORACE WILLIAMS AIRPORT, AUG. 24 THROUGH SEPT. 4, 1989**

<b>DATE</b>	<b>TOTAL TAKEOFFS AND LANDINGS</b>	<b>TOTAL AHEC TAKEOFFS AND LANDINGS</b>
Thurs., Aug. 24	62	16
Fri., Aug. 25	50	12
Sat., Aug. 26	20	0
Sun., Aug. 27	18	0
Mon., Aug. 28	48	10
Tues., Aug. 29	48	10
Wed., Aug 30	48	10
Thurs., Aug 31	76	12
Fri., Sept. 1	72	10
Sat., Sept. 2	56	0
Sun., Sept. 3	38	0
Mon., Sept. 4 (Labor Day)	72	0

Sources: Frank Bowen, NC DOT, Aviation Division  
Ray Faherty, AHEC

**ATTACHMENT 6**

**1981 Ordinance Creating Airport Hazard District**

MINUTES OF A MEETING OF THE MAYOR AND COUNCIL OF THE TOWN  
OF CHAPEL HILL, MUNICIPAL BUILDING, MONDAY, MAY 11, 1981, 7:30 P.M.

Mayor Nassif called the meeting to order. Present were:

Marilyn Boulton  
Joe Herzenberg  
Jonathan Howes  
Beverly Kawalec  
R. D. Smith  
Joe Straley  
Bill Thorpe  
Jim Wallace



Also present were Town Manager E. Shipman and Town Attorney E. Denny.

Proposed Private Sale of CD Lot at 609 Bynum Street to Mr. and Mrs. Louis Edwards - Public Hearing

Mr. Shipman stated the Housing Authority had requested the public hearing with consideration later in the evening of a resolution authorizing private sale of property to Mr. and Mrs. Edwards. The Edwards were homeowners residing in the Community Development area. Two years ago, the Town had bought land from the Edwards which was used for road improvements.

There were no questions from the Council or from citizens.

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, TO REFER THE MATTER TO THE MANAGER. THE MOTION WAS CARRIED UNANIMOUSLY.

Petitions

Mr. Tony Lathrop asked to speak on item 8, the proposed noise ordinance.

Ms. Dee Gamble submitted a petition from the Committee to Support the Chapel Hill Human Services Department. The Committee wanted the Council to establish an advisory board for Human Services and had many citizens willing to serve on this committee, which would help evaluate the functions of the department. They also urged continued funding of the Human Services Department.

COUNCILMEMBER HERZENBERG MOVED, SECONDED BY COUNCILMEMBER STRALEY, TO RECEIVE THE PETITION. THE MOTION WAS CARRIED UNANIMOUSLY.

Mr. Baker asked to speak on item 4, the proposed zoning ordinance.

Mr. Behrends asked that he and several others be allowed to speak on item 8.

The Inter-Faith Council asked to make a presentation on item 13, endorsement of an application by the Inter-Faith Council to HUD.

Mayor Nassif informed the Council he had received a letter from Ms. Barnes, the Chairman of the County Commissioners. The Commissioners wanted to know if the Council would explore the possibilities of further recycling at the Landfill.

Councilmember Howes suggested the matter be referred to the Manager for a report. Councilmember Smith inquired whether the Council could have information on the price of equipment required for the recycling.

Councilmember Straley informed the Council he had received a letter from Ms. Gloria Williams requesting Council support for Ms. Gaitha Lassiter as a delegate to the 1981 White House Conference on Aging. Councilmember Straley moved, seconded by Councilmember Wallace, that a letter be prepared to North Carolina representatives, supporting Ms. Gaitha Lassiter as a delegate to the 1981 White House Conference on Aging. The motion was carried unanimously.

Minutes

On motion by Councilmember Smith, seconded by Councilmember Wallace, the minutes of April 27, 1981, were approved as corrected.

Chapel Hill Zoning Ordinance

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER KAWALEC, ADOPTION OF THE FOLLOWING ORDINANCE.

## AN ORDINANCE REVISING THE CHAPEL HILL ZONING ORDINANCE (81-O-34)

BE IT ORDAINED by the Council of the Town of Chapel Hill that the Council hereby amends Chapter 24 of the Code of Ordinances, Town of Chapel Hill, to read as follows:

## Section I

## ARTICLE 1. GENERAL PROVISIONS

1.1 Short Title

This chapter shall be known as and may be cited as the Chapel Hill Zoning Ordinance.

1.2 Authority

This chapter is adopted pursuant to the authority contained in Chapter 160A, Article 19; Chapter 143, Article 21 (Part 6) and Article 33C; Chapter 13A, Article 4; Chapter 136, Article 34; and Chapter 63, Article 4 of the N.C. General Statutes; as well as Chapter 473 of the Session Laws of 1975 and Chapter 278 of the Session Laws of 1965.

1.3 Jurisdiction

This chapter shall be effective throughout the Town's planning jurisdiction. The planning jurisdiction of the Town comprises the area described by Chapter 473 of the Session Laws of 1975, as modified from time to time in accordance with Section 160A- 360 of the N.C. General Statutes.

1.4 Intent

## 1.4.1 Declaration of Necessity

In order to protect and promote the health, safety, and general welfare of the town and its extraterritorial area, this chapter is adopted by the Town Council to regulate and restrict by means of zoning regulations the height, number of stories, and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, and other purposes.

## 1.4.2 Purpose

The purpose of the regulations set forth in this chapter shall be to accomplish compatible development of the land within the planning jurisdiction of the Town in a manner which will best promote the health, safety, and general welfare; to promote efficiency, energy conservation, and economy in development; to make adequate provisions for traffic; to secure safety from fire, flooding, panic, and other hazards; to provide for adequate light and air; to prevent the over-crowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to promote desirable living conditions and the stability of neighborhoods; to protect property against blight and depreciation; to ensure accessibility for handicapped persons; and to achieve other purposes in accord with the Comprehensive Plan for the Town's planning jurisdiction.



1.5 Required Conformance to Chapter Provisions

Except as otherwise specifically provided in this chapter, no land or structure shall hereafter be used or occupied, and no excavation, removal of soil, clearing of a site, or placing of fill shall take place on lands contemplated for development, and no structure, or part thereof, shall be constructed, erected, altered, renovated, or moved, except in compliance with all of the applicable provisions of this chapter.

1.6 Fees

Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice, and similar matters may be charged to applicants for Zoning Compliance Permits, Special Use Permits, Certificates of Appropriateness, zoning amendments, appeals, variances, and other administrative relief. The amount of such fees shall be fixed by the Council.

1.7 Effective Date

The provisions of this chapter shall become effective on May 12, 1981.

## ARTICLE 1. GENERAL PROVISIONS

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## ARTICLE 2 ADMINISTRATIVE MECHANISMS

2.1 Council

In considering proposed amendments to the text of this chapter or to the Zoning Atlas, the Council acts in its legislative capacity and shall observe the procedural requirements set forth in Article 19 of this chapter.

In considering Special Use Permit applications, the Council acts in a quasi-judicial capacity and, accordingly, shall observe the procedural requirements set forth in Article 8 of this chapter.

In considering site plan review applications, the Council acts in an administrative capacity and, accordingly, shall observe the procedural requirements set forth in Article 15 of this chapter.

Unless otherwise specifically provided in this chapter, the Council, in acting upon Special Use Permit and site plan review applications or in considering amendments to this chapter or the Zoning Atlas, shall observe the quorum, voting, and other requirements set forth in Chapter 2 of the Town Code of Ordinances.

2.2 Planning Board

## 2.2.1 Establishment of the Board; Qualifications

A Planning Board, consisting of ten (10) members, is hereby established. Seven (7) members, appointed by the Council, shall reside within the corporate limits of Chapel Hill. Three (3) members, appointed by the Orange County Board of Commissioners, shall reside within the Town's extraterritorial planning jurisdiction. Members shall serve without compensation, but may be reimbursed for actual expenses incidental to the performance of their duties within the limit of funds available to the Board.

## 2.2.2 Tenure

Members of the Board shall be appointed to serve terms of three (3) years, and until their respective successors have been appointed and qualified. The terms of the original members may be staggered so that all terms do not expire simultaneously. Vacancies shall be filled for the unexpired term only.

## 2.2.3 Officers

The Board shall elect one member to serve as Chairman and preside over its meetings, and shall create and fill such offices and committees as it may deem necessary. The term of the Chairman and other offices shall be one year, with eligibility for re-election to a second term.

## 2.2.4 Powers of the Board

The Planning Board shall have the following powers and duties:

1. To develop a Comprehensive Plan for the orderly growth and development of Chapel Hill and its environs. Such plan shall set

forth goals, objectives, and policies designed to manage the quantity, type, cost, location, timing, and quality of development and redevelopment in the Chapel Hill community.

2. To seek to coordinate the activities of individuals and public or private agencies and organizations whose plans, activities, and programs bear on the general development of the community.
3. To undertake, on its own or in collaboration with any other board, commission, agency, society, or organization, any programs of information, research, or analysis relating to any matters under its purview;
4. To cooperate with other commissions, boards, or agencies of the Town or other governmental unit in offering or requesting assistance, guidance, or advice concerning matters under the Board's purview or of mutual interest;
5. To make studies of the general development characteristics and problems of the community, including surveys and inventories of an appropriate nature, and to recommend standards and policies of development for the entire community or any portion or neighborhood thereof, or any project to be undertaken therein;
6. To request from the proper officials of any public agency or body its plans for public buildings, facilities, or projects to be located within the Town's jurisdiction, and to review such plans as to conformity with the Comprehensive Plan to make recommendations regarding such plans to the appropriate agency or body, or to the Council. The Board shall review all such plans in a prompt and expeditious manner, and shall make all recommendations with regard to any public project in writing, and shall promptly transmit copies of the recommendation to the appropriate agency or body, and to the Council;
7. To formulate and recommend to the Council the adoption or amendment of ordinances that, in the opinion of the Board will serve to promote the orderly development of the community in accord with the Comprehensive Plan;
8. To direct the attention of appropriate Town officials to needed enforcement of any ordinance that may affect the general development of the community;
9. To enter, at reasonable times, upon private lands and make examinations or surveys as necessary for the performance of its official duties;
10. To promote public interest in and understanding of its recommendations, studies, and plans, and to prepare, publish, and distribute to the public such studies and reports that, in the opinion of the Board, will promote the orderly development of the community in accord with the Comprehensive Plan;
11. To request the Council to hold public hearings on matters within the purview of the Board;

- 12. To conduct public meetings and hearings, giving reasonable notice to the public thereof;
- 13. To review and make recommendations to the Council on proposed plats of land subdivision, applications for Special Use Permits, and proposed amendments to development ordinances,
- 14. To review site plans for conformity with land development regulations, in accord with Article 15 of this chapter;
- 15. To recommend to the Council suitable arrangement for the procurement or provision of staff or technical services for the Board;
- 16. To establish an advisory council or other committees within its membership as it may deem necessary; and
- 17. To accept funds from private agencies, foundations, organizations, individuals, the State or federal government, or any other source, and to disburse such funds for any purpose within the scope of its authority.
- 18. To exercise such other powers and to perform such other duties as are authorized or required elsewhere by this chapter, the N.C. General Statutes, or by the Council.

2.2.5 Meetings

The Board shall establish a regular meeting schedule, and shall meet at least monthly and more often as it shall determine and require.

All meetings of the Board shall be open to the public, and reasonable notice of the time and place thereof shall be given to the public, in accord with Chapter 143, Article 33C of the N.C. General Statutes.

The Board shall keep a record of its meetings, including attendance of its members, its resolutions, findings, recommendations, and actions. In the case of a divided vote on any question on which the Board is required to act, the record shall include the vote of each member.

2.2.6 Attendance at Meetings

Any member of the Board who misses more than three (3) consecutive regular meetings or more than half the regular meetings in a calendar year shall lose his or her status as a member of the Board, and shall be replaced or reappointed by the Council or Orange County Commissioners, as appropriate. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the Board, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

2.2.7 Quorum and Voting

A quorum of the Board, necessary to take any official action, shall consist of five (5) members.



The concurring vote of a simple majority of those members present shall be necessary to take any official action.

#### 2.2.8 Annual Report and Meeting with the Council

The Board shall jointly meet with the Council by January 31 of each year. An annual report shall be prepared and submitted to the Council at this annual meeting. Such report shall include a report of the Board's activities and a statement of its expenditures.

#### 2.2.9 Comprehensive Review of Chapter

The Planning Board shall from time to time, at intervals of not more than three (3) years, examine the provisions of this chapter and the location of zoning district boundary lines, and shall submit a report to the Council recommending amendments, if any, which are desirable in the interest of public health, safety, and general welfare, mindful of the intent expressed in Section 19.1 of this chapter.

### 2.3 Board of Adjustment

#### 2.3.1 Establishment of the Board; Qualifications

A Board of Adjustment, consisting of ten (10) members, is hereby established. Seven (7) members, appointed by the Council, shall reside within the corporate limits of Chapel Hill. Three (3) members, appointed by the Orange County Board of Commissioners, shall reside within the town's extraterritorial planning jurisdiction. Members shall serve without compensation.

The Council or County Board of Commissioners, as appropriate, may appoint alternate members to serve on the Board in the absence of any appointed members. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the Board and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member.

#### 2.3.2 Tenure

Members of the Board shall be appointed to serve terms of three (3) years, and until their respective successors have been appointed and qualified. The terms of the original members may be staggered so that all terms do not expire simultaneously. Vacancies shall be filled for the unexpired term only.

#### 2.3.3 Officers

The Board shall elect one member to serve as Chairman and preside over its meetings, and shall create and fill such offices and committees as it may deem necessary. The term of the Chairman and other offices shall be one year, with eligibility for re-election to a second term. The Chairman or any member temporarily acting as Chairman is authorized to administer oaths to any witnesses in any matter coming before the Board.

#### 2.3.4 Powers of the Board

The Board of Adjustment shall have the following powers:

1. To hear and decide appeals from any decision or determination made by the Town Manager in the performance of his or her duties in the enforcement of this chapter;
2. To hear and decide appeals from any decision of the Council or Planning Board in granting or denying site plan approval or of the Appearance Commission in granting or denying sign plan approval or of the Historic District Commission or Appearance Commission in granting or denying a Certificate of Appropriateness;
3. To hear and decide requests for variances from the dimensional regulations of this chapter, in accord with Article 16 of this chapter;
4. To make interpretations of the Zoning Atlas, including disputed questions of zoning district boundary lines or lot lines, and similar questions as they arise in the administration of this chapter;
5. To enter, at reasonable times, upon private lands and make examinations or surveys as necessary for the performance of its official duties;
6. To request the Council to hold public hearings on matters within the purview of the Board; and
7. To hear and decide any other matter as required by the provisions of this chapter and Article IV, Chapter 5 of the Town Code of Ordinances.

#### 2.3.5 Meetings

The Board shall establish a regular meeting schedule and shall meet frequently enough so that it may take action as expeditiously as reasonably possible.

All meetings of the Board shall be open to the public, and reasonable notice of the time and place thereof shall be given to the public in accord with Chapter 143, Article 33C of the N.C. General Statutes.

The Board shall adopt rules of procedure and regulations for the conduct of its affairs.

In considering appeals, variance requests, and interpretations, the Board shall observe the quasi-judicial procedural requirements set forth in Article 16 of this chapter.

The Board shall keep a record of its meetings, including attendance of its members, the vote of each member on every question, a complete summary of the evidence submitted to it, documents submitted to it, and all official actions.

### 2.3.6 Attendance at Meetings

Any member of the Board who misses more than three (3) consecutive regular meetings or more than half the regular meetings in a calendar year shall lose his or her status as a member of the Board, and shall be replaced or reappointed by the Council or County Board of Commissioners, as appropriate. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the Board, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

### 2.3.7 Quorum and Voting

A quorum of the Board, necessary to take any official action, shall consist of five (5) members.

The concurring vote of four-fifths (4/5) of the membership of the Board shall be necessary in order to:

- a) approve an application for a variance;
- b) reverse or modify a decision of the Town Manager, Planning Board, Historic District Commission, or Appearance Commission in the case of applications for appeal; or
- c) decide in favor of the applicant in any other matter on which the Board is required to act by this chapter.

The concurring vote of a majority of those members present shall be necessary to conduct routine business of the Board, to deny applications for variances, and, in the case of appeals, to affirm the decision of the Town Manager, Planning Board, Historic District Commission, or Appearance Commission.

### 2.3.8 Appeals of Board of Adjustment Actions

Every decision of the Board of Adjustment may be appealed to the Superior Court by any aggrieved party. Such appeal shall be in the nature of certiorari and must be filed within thirty (30) days of the filing of the decision in the office of the Planning Department or the delivery of the notice required in Subsection 16.4.4, whichever is later.

## 2.4 Historic District Commission

### 2.4.1 Establishment of the Commission

A Historic District Commission, consisting of ten (10) members appointed by the Council, is hereby established.

### 2.4.2 Qualifications

All members of the Commission shall reside within the planning jurisdiction of Chapel Hill, and a majority of the members shall have demonstrated special interest, experience, or education in history or architecture. Members shall serve without compensation.

2.4.3 Tenure

Members of the Commission shall be appointed to serve terms of three (3) years, and until their respective successors have been appointed and qualified. The terms of the original members may be staggered so that all terms do not expire simultaneously. Vacancies shall be filled for the unexpired term only.

2.4.4 Officers

The Commission shall elect one member to serve as Chairman and preside over its meetings, and shall create and fill such offices and committees as it may deem necessary. The term of the Chairman and other officers shall be one year, with eligibility for re-election to a second term.

2.4.5 General Responsibilities of the Commission

The Commission shall seek to promote, enhance, and preserve the character of the Chapel Hill Historic District, provided the Commission shall not require the reconstruction or restoration of individual or original buildings, structures, or portions thereof. In considering new construction, the Commission shall encourage design which is harmonious with the character of the Historic District, but shall not discourage either contemporary or traditional design.

2.4.6 Powers of the Commission

The Commission is authorized and empowered to undertake actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in this chapter and in Chapter 160A, Article 19, Part 3A of the N.C. General Statutes, including but not limited to the following:

1. To recommend to the Planning Board and Council areas for designation by ordinance as Historic Districts;
2. To recommend to the Planning Board and Council that designation of any areas as a Historic District be revoked or removed;
3. To recommend to the Planning Board, Council, and the State of North Carolina structures, sites, objects, or districts worthy of local, state, or national historical recognition;
4. To propose to the Council amendments to this chapter or to any other ordinance relating to the Historic District, and to propose new ordinances or laws relating to the Historic District or to a program for the development of the historical resources of the Chapel Hill community;
5. To request the Council to hold public hearings on matters within the purview of the Commission;
6. To hear and decide applications for Certificates of Appropriateness in accord with Article 12 of this chapter;

7. To establish guidelines under which the Town Manager or the Manager's designees shall approve applications for Certificates of Appropriateness covering minor modifications on behalf of the Commission;
8. To undertake, on its own or in collaboration with any other commission, board, agency, society, or organization, any programs of information, research, or analysis relating to any matters under its purview;
9. To cooperate with other commissions, boards, or agencies of the Town or other governmental unit in offering or requesting assistance, guidance, or advice concerning matters under the Commission's purview or of mutual interest;
10. To participate in negotiations with owners and other parties in an effort to find means of preserving historic buildings scheduled for demolition;
11. To provide advice to owners of property located within the Historic District concerning the treatment of the historical and visual characteristics of their properties, such as color schemes, gardens and landscape features, and minor decorative elements;
12. To publish information or otherwise inform owners of property located within the Historic District about any matters pertinent to the Commission's duties, organization, procedures, responsibilities, functions, or requirements;
13. To contract, in accord with established Town policies and procedures, for services or funds from agencies or departments of the State of North Carolina and the United States government;
14. To accept funds granted to the Commission from private or non-profit organizations;
15. To organize itself and conduct its business by whatever legal means it deems proper;
16. To report violations of this chapter or related ordinances to the local official responsible for the enforcement thereof;
17. To exercise, within the Historic District, all the powers and duties of the Chapel Hill Appearance Commission;
18. To exercise such other powers and to perform such other duties as are authorized or required elsewhere by this chapter, the N.C. General Statutes, or by the Council.

#### 2.4.7 Meetings

The Commission shall establish a regular meeting schedule, and shall meet at least quarterly and more often as it shall determine and require.



All meetings of the Commission shall be open to the public, and reasonable notice of the time and place thereof shall be given to the public, in accord with Chapter 143, Article 33C of the N.C. General Statutes.

The Commission shall adopt rules of procedure and regulations for the conduct of its affairs.

The Commission shall keep a record of its meetings, including attendance of its members, and its resolutions, findings, recommendations, and actions.

#### 2.4.8 Attendance at Meetings

Any member of the Commission who misses more than three (3) consecutive regular meetings or more than half the regular meetings in a calendar year shall lose his or her status as a member of the Commission, and shall be replaced or reappointed by the Council. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the Commission except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

#### 2.4.9 Quorum and Voting

A quorum of the Commission, necessary to take any official action, shall consist of five (5) members.

The concurring vote of a simple majority of those members present shall be necessary to take any official action.

#### 2.4.10 Annual Report and Meeting with the Council

The Commission shall meet jointly with the Council by July 31 of each year. An annual report shall be prepared and submitted to the Council at this annual meeting. Such report shall include a comprehensive and detailed review of the activities, expenditures, problems, and actions of the Commission.

#### 2.4.11 Historical and Architectural Significance Maps

The Commission shall prepare, maintain, and consult maps showing the historic and architectural significance of structures within the Historic District. Such maps shall be updated at least every five (5) years.

A structure is deemed to have historic and/or architectural significance if it possesses integrity of location, design, setting, materials, workmanship, feeling, and association, and if it:

- a) is associated with events that have made a significant contribution to the broad patterns of local, state, or national history; or
- b) is associated with the lives of persons significant in the past; or

- c) embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or
- d) has yielded, or may be likely to yield, information important in prehistory or local, state, and national history.

## 2.5 Appearance Commission

### 2.5.1 Establishment of the Commission

A Community Appearance Commission, consisting of ten (10) members appointed by the Council, is hereby established.

### 2.5.2 Qualifications

All members of the Commission shall reside within the planning jurisdiction of Chapel Hill, and a majority of the members shall have demonstrated special training or experience in a design field, such as architecture, landscape design, horticulture, city planning, or a closely related field. Members shall serve without compensation, but may be reimbursed for actual expenses incidental to the performance of their duties within the limit of funds available to the Commission.

### 2.5.3 Tenure

Members of the Commission shall be appointed to serve terms of three (3) years, and until their respective successors have been appointed and qualified. The terms of the original members may be staggered so that all terms do not expire simultaneously. Vacancies shall be filled for the unexpired term only.

### 2.5.4 Officers

The Commission shall elect one member to serve as Chairman and preside over its meetings, and shall create and fill such offices and committees as it may deem necessary. The term of the Chairman and other officers shall be one year, with eligibility for re-election to a second term.

### 2.5.5 Powers of the Commission

The Commission is authorized and empowered to undertake such actions reasonably necessary to the discharge and conduct of its duties and responsibilities as outlined in this chapter, in Chapter 160A, Article 19, Part 7 of the N.C. General Statutes, and in Chapter 278 of the N.C. Session Laws of 1965, including but not limited to the following:

1. To initiate, promote, and assist in the implementation of programs of general community beautification in the Chapel Hill community;
2. To seek to coordinate the activities of individuals and public or private agencies and organizations whose plans, activities, and programs bear on the appearance of the community;

3. To provide leadership and guidance in matters of community design and appearance to individuals and public or private agencies and organizations;
4. To make studies of the visual characteristics and problems of the community, including surveys and inventories of an appropriate nature, and to recommend standards and policies of design for the entire community or any portion or neighborhood thereof, or any project to be undertaken therein;
5. To prepare both general and specific plans for the improved appearance of the entire community or any portion thereof, including private as well as public property. Such plans shall set forth desirable standards and goals for the aesthetic enhancement of the community or any portion thereof, including public ways and areas, open spaces, and public and private buildings and projects;
6. To request from the proper officials of any public agency or body its plans for public buildings, facilities, or projects to be located within the Town's jurisdiction, and to review such plans and to make recommendations regarding their aesthetic suitability to the appropriate agency or body, or to the Council. The Commission shall review all such plans in a prompt and expeditious manner, and shall make all recommendations with regard to any public project in writing, and shall promptly transmit copies of the recommendation to the appropriate agency or body, and to the Council;
7. To formulate and recommend to the Planning Board and Council the adoption or amendment of ordinances that, in the opinion of the Commission, will serve to enhance the appearance of the community;
8. To direct the attention of appropriate Town officials to needed enforcement of any ordinance that may affect the appearance of the community;
9. To seek voluntary adherence to the standards and policies of its plans;
10. To hear and decide applications for Certificates of Appropriateness in accord with Article 13 of this chapter;
11. To enter, at reasonable times, upon private lands and make examinations or surveys as necessary in the performance of its official duties;
12. To promote public interest in and understanding of its recommendations, studies, and plans, and to prepare, publish, and distribute to the public such studies and reports that, in the opinion of the Commission, will advance the cause of improved community appearance;
13. To conduct public meetings and hearings, giving reasonable notice to the public thereof;

14. To conduct an annual meeting at which the programs, problems, and policies of the Commission shall be presented, and at which the public at large shall be invited to express itself on matters relating to the appearance of the community;
15. To recommend to the Council suitable arrangement for the procurement or provision of staff or technical services for the Commission;
16. To establish an advisory council or other committees within its membership as it may deem necessary; and
17. To accept funds from private agencies, foundations, organizations, individuals, the State or federal government, or any other source, and to disburse such funds for any purpose within the scope of its authority.

#### 2.5.6 Meetings

The Commission shall establish a regular meeting schedule, and shall meet at least quarterly and more often as it shall determine and require.

All meetings of the Commission shall be open to the public, and reasonable notice of the time and place thereof shall be given to the public, in accord with Chapter 143, Article 33C of the N.C. General Statutes.

The Commission shall keep a record of its meetings, including attendance of its members, and its resolutions, findings, recommendations, and actions.

#### 2.5.7 Attendance at Meetings

Any member of the Commission who misses more than three (3) consecutive regular meetings or more than half the regular meetings in a calendar year shall lose his or her status as a member of the Commission, and shall be replaced or reappointed by the Council. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the Commission, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

#### 2.5.8 Quorum and Voting

A quorum of the Commission, necessary to take any official action, shall consist of five (5) members.

The concurring vote of a simple majority of those members present shall be necessary to take any official action.

#### 2.5.9 Annual Report and Meeting with the Council

The Commission shall jointly meet with the Council by April 15 of each year. An annual report shall be prepared and submitted to the Council at this annual meeting. Such report shall include a report of the Commission's activities and a statement of its expenditures.

2.6 Town Manager

The provisions of this chapter shall be administered by the Town Manager or his designee. All references in this chapter to "Town Manager" shall be construed to mean "Town Manager or his designee."

The Town Manager shall have the following powers and duties in the administration of the provisions of this chapter:

1. To grant Zoning Compliance Permits;
2. To make inspections of buildings or premises as necessary in the performance of his or her duties in the enforcement of this chapter;
3. To make all necessary determinations and interpretations as required by this chapter; and
4. To propose and promulgate administrative regulations necessary to implement the provisions of this chapter.

Under no circumstance is the Town Manager permitted to make changes in this chapter or to grant exceptions to the actual meaning of any clause, standard, or regulation contained in this chapter.



## ARTICLE 3 ZONING DISTRICTS

3.1 Establishment and Intent of Zoning Districts

The Town and its extraterritorial planning jurisdiction is hereby divided into zoning districts as enumerated below. The use regulations and intensity regulations applicable for such zoning districts are designated in Articles 4 and 5.

## 3.1.1 Town Center Districts (TC-2, TC-1)

The Town Center (TC) districts are intended to provide for the development of the commercial, service, and social center of Chapel Hill while maintaining its character, its pedestrian-oriented scale, and its nature as a concentration of business, administrative, financial, governmental, and support functions serving the community; and to encourage further residential development in the central area of Chapel Hill.

## 3.1.2 Community Commercial District (CC)

The Community Commercial (CC) district is intended to provide for the development of high-intensity commercial and service centers that serve community-wide or regional commercial and service needs.

## 3.1.3 Neighborhood Commercial District (NC)

The Neighborhood Commercial (NC) district is intended to provide for the development of low-intensity commercial and service centers that are accessible by pedestrians from the surrounding neighborhoods, serve the daily convenience and personal service needs of the surrounding neighborhood, and are of such a nature as to minimize conflicts with surrounding residential uses.

## 3.1.4 Office/Institutional - 3 District (OI-3)

The Office/Institutional - 3 (OI-3) district is intended to provide for major educational, research, public service, and office uses, and their necessary support functions, while minimizing conflicts with adjacent land uses.

## 3.1.5 Office/Institutional - 2 (District (OI-2)

The office/institutional-2 (OI-2) district is intended to provide for medium - intensity office and institutional development.

## 3.1.6 Office/Institutional - 1 District (OI-1)

The Office/Institutional - 1 (OI-1) district is intended to provide for low-intensity office and institutional development and, where appropriate, to serve as a buffer zone between residential zoning districts and high-intensity nonresidential zoning districts.

## 3.1.7 Industrial District (I)

The Industrial (I) district is intended to provide for public and private uses of a wholesale, distribution, limited processing, and

production nature serving the needs of the Chapel Hill community, and to ensure the compatibility of such uses with their surroundings.

3.1.8 Residential Districts (R-6, R-5, R-4, R-3, R-2, R-1)

The Residential (R-) districts are intended to provide for residential development of appropriate intensities consonant with the suitability of land, availability of public services, accessibility to major activity centers and transportation systems, and compatibility with surrounding development.

3.1.9 Rural Transition Districts (RT)

The Rural Transition (RT) district is intended to be applied to land which is used for agricultural, very low-intensity residential, or open space uses, but which is projected in the Comprehensive Plan for conversion to more intensive urban uses at such time as community services are available and community needs for such uses are present.

3.1.10 Overlaying Districts

It is the intent of this chapter to provide for Airport Hazard (AH) districts, Flood Hazard (FH), Historic Districts, and Special Appearance Districts, which shall overlay the zoning districts enumerated in Section 3.1.1 through 3.1.10 above, and which shall provide for special review of development within such overlay districts in accord with the intents, procedures, and standards established for the districts in Articles 10, 11, 12 and 13.

3.2 Zoning Atlas

The boundaries of the above zoning districts are hereby established as shown on the official Zoning Atlas which accompanies this ordinance and which, with all notations, references, and other information shown thereon, shall be as much a part of this ordinance as if fully described herein.

3.2.1 Authentication

The official Zoning Atlas shall be authenticated by the Planning Director and shall be retained in the office of the Planning Department.

3.2.2 Status of Copies

Copies of the Zoning Atlas, or portions thereof, may be made. However, the official Zoning Atlas is the final and sole authority as to the zoning status of land within the Town and its extraterritorial jurisdiction.

3.2.3 Amendment Entries

Amendments to the official Zoning Atlas shall be entered by the Planning Director within five (5) working days of the effective date of such amendments. Maps and descriptions accompanying enacted amendments

shall be displayed in the office of the Planning Department until such time as such amendments are entered on the official Zoning Atlas.

#### 3.2.4 Authentication of Amendment Entries

The Planning Director shall authenticate the entry of each amendment on the official Zoning Atlas and shall maintain a record of the nature and date of entry of each amendment. Changes to the official Zoning Atlas other than those authorized by duly approved amendments to this chapter shall be prohibited.

#### 3.2.5 Zoning Atlas Replacement

When all or part of the official Zoning Atlas becomes damaged, lost, destroyed, worn, or difficult to interpret because of its age, condition, number of changes, or otherwise, replacement may be authorized by resolution of the Council. A new edition of the official Zoning Atlas shall not change the zoning status of any property, but it may correct previous errors or omissions. Such replacements shall be authenticated by the Planning Director and shall bear the date and number of the authorizing resolution.

ARTICLE 4 USE REGULATIONS

4.1 Intent

It is the intent of this article to provide for patterns of land use in accord with the Comprehensive Plan, and to promote the organization of land uses so as to minimize conflicts between different types of land use activities while recognizing the community's need for such activities.

4.2 Establishment of Use Regulations

Except as otherwise specifically provided in this chapter, regulations governing the use of land and structures within the various zoning districts and classifications of planned developments are hereby established as shown in Section 4.3, Schedule of Use Regulations.

4.4 Applicability of Use Regulations

Uses of land or structures which are not expressly listed in Section 4.3 as permitted principal uses, permitted accessory uses, or permitted special uses in a zoning district or planned development are prohibited uses and shall not be established in that district or planned development.

Uses listed as permitted special uses in a zoning district may be established in that district only after issuance and recordation of a Special Use Permit in accord with the procedures and conditions specified in Article 8. Planned developments may be established in any zoning district only after the issuance and recordation of a Special Use Permit in accord with the procedures and conditions specified in Article 8.

4.5 Use Groups

The division of permitted uses into use groups as shown in Section 4.3 is intended to differentiate such uses by their intrinsic intensity relative to other uses. This intensity is related to the general character and the traffic generation characteristics of the particular principal use. It is further intended that the division of uses into use groups form a basis for the differential application of the intensity regulations established in Article 5.

4.6 Modified Use Regulations for Certain Uses

Each of the following principal uses shall be permitted in R-1 and R-2 zoning districts only if the zoning lot on which such use is located fronts on either an arterial or collector street:

- a) Church
- b) School, Elementary or Secondary
- c) Public Cultural Facility

4.3 Schedule of Use Regulations

Uses*	Zoning Districts												Planned Developments (See Article 8) - PD use regulations supercede underlying zoning district use regulations)						
	TC-1 and TC-2	CC	NC	01-3	01-1 and 01-2	I	R-5	R-6	R-4	R-3	R-1 and R-2	RT	PD-H	PD-SC(N)	PD-SC(C)	PD-OI	PD-MU	PD-I	
<u>Use Group A</u>																			
Accessory Use Customarily Incidental to a Permitted Group A Principal or Special Use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Agriculture, Non-Livestock	A	A	A	A	A	A	A	A	A	A	A	P,A	A	A	A	A	A	A	A
Agriculture, Livestock	---	---	---	---	---	---	---	---	---	---	---	P,A	---	---	---	---	---	---	---
Cemetery	---	---	---	S	---	---	S	S	S	S	S	S	---	---	---	---	---	---	---
Dwelling, Single Family	P	P	P	P	P	---	P	P	P	P	P	P	P	---	---	---	P	---	---
Dwelling, Two Family	P	P	P	P	P	---	P	P	P	P	P	P	P	---	---	---	P	---	---
Dwelling, Multi-Family-- 3 to 7 Dwelling Units	P	P	P	P	P	---	P	P	P	---	---	---	P	---	---	---	P	---	---
Dwelling, Multi-Family-- Over 7 Dwelling Units	P	P	P	P	P	---	P	P	---	---	---	---	P	---	---	---	P	---	---
Essential Services	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A
Home Occupation	A	A	A	A	A	---	A	A	A	A	A	A	A	---	---	---	A	---	---
Mobile Home, Class A	P	P	P	P	P	---	P	P	P	P	P	P	P	---	---	---	P	---	---
Mobile Home, Class B	---	---	---	---	---	---	---	---	---	---	---	P	---	---	---	---	---	---	---
Mobile Home Park	---	---	---	---	---	---	---	---	---	---	---	---	P	---	---	---	P	---	---

\*KEY: "----" Not Permitted; "A" Permitted as an Accessory Use; "P" Permitted as a Principal Use; "S" Permitted as a Special Use.

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Uses*	Zoning Districts												Planned Developments (See Article 8) - PD use regulations supercede underlying zoning district use regulations)					
	TC-1 and TC-2	CC	NC	OI-3	OI-1 and OI-2	I	R-5	R-6	R-4	R-3	R-1 and R-2	RT	PD-H	PD-SC(N)	PD-SC(C)	PD-OI	PD-MU	PD-I
<u>Use Group B</u>																		
Accessory Use Customarily Incidental to a Per- mitted Group B Principal or Special Use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Business, Office-Type	P,A	P,A	P,A	P,A	P,A	P,A	---	---	---	---	---	---	---	P,A	P,A	P,A	P,A	---
Child Day Care Facility	P,A	P,A	P,A	P,A	P,A	---	A	A	A	A	A	A	A	P,A	P,A	P,A	P,A	---
Church (see Article 4.6)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	---
Clinic	P	P,A	---	P,A	P	---	---	---	---	---	---	---	---	---	P,A	P,A	P,A	---
Club	P,A	P,A	P,A	P,A	P,A	---	---	---	---	---	---	---	A	P,A	P,A	P,A	P,A	---
College or University	P	P	---	P	P	---	---	---	---	---	---	---	---	---	---	P	---	---
4-5 Fraternity or Sorority Dwelling	S	S	---	P	S	---	S	S	---	---	---	---	---	---	---	---	---	---
Funeral Home	P	P,A	---	P,A	P	---	---	---	---	---	---	---	---	---	P	---	P	---
Group Care Facility	P	P	P	P	P	---	S	S	S	S	S	S	A	---	---	P	P	---
Hospital	---	P	---	P	---	---	---	---	---	---	---	---	---	---	---	P	---	---
Hotel or Motel	P	P	---	P	---	---	---	---	---	---	---	---	---	---	P	P	P	---
Public Cultural Facility	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A
Public Use Facility	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A	P,A
Research Activities	P,A	P,A	---	P,A	P,A	P,A	---	---	---	---	---	---	---	---	P,A	P,A	P,A	P,A
Residence Hall	P	---	---	P	---	---	---	---	---	---	---	---	P	---	---	---	P	---
Rooming House	P	P	P	P	P	---	P	P	P	P	---	---	P	---	---	---	P	---
School, Elementary or Secondary (see Article 4.6)	P	P	P	P	P	---	P	P	P	P	P	P	P	P	P	P	P	---
Tourist Home	P	P	---	P	P	---	---	---	---	---	---	---	---	---	P	P	P	---

\*KEY: "----" Not Permitted; "A" Permitted as an Accessory Use; "P" Permitted as a Principal Use; "S" Permitted as a Special Use.

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Uses*	Zoning Districts												Planned Developments (See Article 8) - PD use regulations supercede underlying zoning district use regulations)					
	TC-1 and TC-2	CC	NC	01-3	01-1 and 01-2	I	R-5	R-6	R-4	R-3	R-1 and R-2	RT	PD-H	PD-SC(N)	PD-SC(C)	PD-01	PD-MU	PD-I
<u>Use Group C</u>																		
Accessory Use Customarily Incidental to a Permitted Group C Principal or Special Use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Automotive Repair	P,A	P,A	---	---	---	P,A	---	---	---	---	---	---	---	---	P,A	---	P,A	P,A
Automotive, Trailer, and Farm. Implement Sales or Rental	P,A	P,A	---	---	---	---	---	---	---	---	---	---	---	---	P,A	---	P,A	---
Bank	P,A	P,A	P,A	P,A	P,A	---	---	---	---	---	---	---	---	P,A	P,A	P,A	P,A	---
4-4 Business, Convenience	P,A	P,A	P,A	A	---	A	---	---	---	---	---	---	---	P,A	P,A	---	P,A	---
Business, General	P,A	P,A	P,A	A	---	---	---	---	---	---	---	---	---	P,A	P,A	---	P,A	---
Business, Wholesale	A	P,A	---	---	---	---	---	---	---	---	---	---	---	---	P,A	---	P,A	---
Extraction of Earth Products	---	---	---	S	---	---	---	---	---	---	---	S	---	---	---	---	---	---
Hangar, Medical Aircraft	---	---	---	---	P	---	---	---	---	---	---	---	---	---	---	---	---	---
Kennel	---	P,A	---	A	---	---	---	---	---	---	---	---	---	---	P,A	---	P,A	---
Landfill	---	---	---	---	---	---	---	---	---	---	---	S	---	---	---	---	---	---
Maintenance and/or Storage Facility	---	A	---	P,A,	---	P,A	---	---	---	---	---	---	---	---	A	---	A	P,A
Manufacturing, Light	A	P,A	---	---	---	P	---	---	---	---	---	---	---	---	A	---	A	P
Parking, Off-Street	P,A	A	A	P,A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

\*KEY: "----" Not Permitted; "A" Permitted as an Accessory Use; "P" Permitted as a Principal Use; "S" Permitted as a Special Use.

Uses*	Zoning Districts												Planned Developments (See Article 8) - PD use regulations supercede underlying zoning district use regulations)					
	TC-1 and TC-2	CC	NC	OI-3	OI-1 and OI-2	I	R-5	R-6	R-4	R-3	R-1 and R-2	RT	PD-H	PD-SC(N)	PD-SC(C)	PD-OI	PD-MU	PD-I
Park/Ride Terminal	---	P,A	P,A	P,A	P,A	P,A	S	S	S	S	S	S	A	P,A	P,A	P,A	P,A	P,A
Personal Services	P,A	P,A	P,A	A	---	---	---	---	---	---	---	---	A	P,A,	P,A,	---	P,A	---
Place of Assembly--Up to 2,000 Seating Capacity	P,A	P,A	A	P,A	A	---	---	---	---	---	---	---	A	A	P,A	P,A	P,A	---
Place of Assembly--Over 2,000 Seating Capacity	S	S	---	S	---	---	---	---	---	---	---	---	---	---	P	P	---	---
Public Service Facility	P,A	P,A	P,A	P,A	P,A	P,A	S	S	S	S	S	S	A	P,A	P,A	P,A	P,A	P,A
Publishing and/or Printing	P,A	P,A	---	P,A	P,A	P,A	---	---	---	---	---	---	---	---	P,A	P,A	P,A	P,A
Radio or Television Trans- mitting and/or Receiving Facility	---	S	---	S	S	S	---	---	---	---	---	---	---	---	P,A	P,A	P,A	P,A
4-5 Recreation Facility, Non-Profit	---	---	---	P,A	---	---	P	P	P	P	P	P	A	---	---	---	P,A	---
Recreation Facility, Commercial	P,A	P,A	P,A	P,A	---	A	---	---	---	---	---	---	A	P,A	P,A	P,A	P,A	A
Service Station	S	S	S	A	---	A	---	---	---	---	---	---	---	P	P	---	P	A
Supply Yard	---	P,A	---	---	---	P,A	---	---	---	---	---	---	---	---	P,A	---	P,A	P,A
Temporary Portable Build- ing, Construction-Rel- ated	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Temporary Portable Build- ing, Other than Con- struction-Related	S	S	S	S	S	S	---	---	---	---	---	---	---	---	---	---	---	P

\*KEY: "----" Not Permitted; "A" Permitted as an Accessory Use; "P" Permitted as a Principal Use; "S" Permitted as a Special Use.

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Uses*	Zoning Districts												Planned Developments (See Article 8) - PD use regulations supercede underlying zoning district use regulations)					
	TC-1 and TC-2	CC	NC	OI-3	OI-1 and OI-2	I	R-5	R-6	R-4	R-3	R-1 and R-2	RT	PD-H	PD-SC(N)	PD-SC(C)	PD-OI	PD-MU	PD-I
Veterinary Hospital or Clinic	---	P,A	---	A	---	---	---	---	---	---	---	---	---	---	P,A	---	P,A	---
Vocational School	P,A	P,A	---	P,A	---	---	---	---	---	---	---	---	---	---	P,A	P,A	P,A	---
Water and Wastewater Treatment Plant	---	---	---	---	---	P,A	---	---	---	---	---	---	---	---	---	---	---	P,A
Window, Drive-In, as an Accessory Use to a Permitted Principal Use	S	S	S	S	S	---	---	---	---	---	---	---	---	A	A	A	A	A

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\* KEY: "----" Not Permitted; "A" Permitted as an Accessory Use; "P" Permitted as a Principal Use; "S" Permitted as a Special Use.

ARTICLE 5 INTENSITY REGULATIONS

5.1 General Intent

It is the intent of this article to provide for performance standards which serve to define the development character of an area, and to ensure the compatibility of development both with the environmental characteristics, accessibility levels, and special amenities offered by the development site and with surrounding land uses and development intensities. It is further intended that the establishment of intensity regulations reflect the protection of critical environmental areas and the suitability of land for a particular level of development intensity, in accord with the goals and objectives of the Comprehensive Plan.

5.2 Establishment of Intensity Regulations

Except as otherwise specifically provided in this chapter, regulations governing the intensity of development are hereby established as shown in Section 5.3, Schedule of Intensity Regulations.

5.3.1 Use Group A		Land Use Intensity (LUI) Ratios							Minimum Setbacks (ft.)			Maximum Height (ft.)	
District	Minimum Gross Land Area (sq.ft.)	Minimum Lot Width (ft.)	Bonus Level	LUI Rating	Floor Area (FAR)	Open Space (OSR)	Livability Space (LSR)	Recreation Space (RSR)	Street	Interior	Solar	Primary	Secondary
TC-2	2,000	15	0	75	.226	.72	.50	.136	0	0	0	44	90
			1	77	.260	.76	.52	.145	0	0	0	44	90
			2	78	.279	.83	.57	.150	0	0	0	44	90
TC-1	2,000	15	0	75	.226	.72	.50	.136	0	0	0	44	44
			1	77	.260	.76	.52	.145	0	0	0	44	44
			2	78	.279	.83	.57	.150	0	0	0	44	44
C-1	5,500	50	0	55	.566	.71	.40	.062	22	8	9	34	90
			1	57	.650	.70	.40	.065	22	8	9	34	90
			2	58	.696	.69	.40	.070	22	8	9	34	90
C-2	5,500	50	0	48	.348	.73	.45	.049	24	8	11	29	60
			1	50	.400	.72	.44	.052	24	8	11	29	60
			2	51	.429	.72	.43	.055	24	8	11	29	60
O1-3	2,000	15	0	55	.566	.71	.40	.062	0	0	0	N/A	N/A
			1	57	.650	.70	.40	.065	0	0	0	N/A	N/A
			2	58	.696	.69	.40	.070	0	0	0	N/A	N/A
O1-2	5,500	50	0	55	.566	.71	.40	.062	22	8	9	34	90
			1	57	.650	.70	.40	.065	22	8	9	34	90
			2	58	.696	.69	.40	.070	22	8	9	34	90
O1-1	5,500	50	0	48	.348	.73	.45	.049	24	8	11	29	60
			1	50	.400	.72	.44	.052	24	8	11	29	60
			2	51	.429	.72	.43	.055	24	8	11	29	60
I-1	17,000	80	0	41	.214	.76	.51	.039	26	11	13	26	50
			1	43	.246	.75	.49	.039	26	11	13	26	50
			2	44	.264	.74	.48	.042	26	11	13	26	50
R-6	5,500	50	0	55	.566	.71	.40	.062	20	6	8	39	50
			1	57	.650	.70	.40	.065	20	6	8	39	50
			2	58	.696	.69	.40	.070	20	6	8	39	50
R-5	5,500	50	0	55	.566	.71	.40	.062	20	6	8	39	90
			1	57	.650	.70	.40	.065	20	6	8	39	90
			2	58	.696	.69	.40	.070	20	6	8	39	90
R-4	5,500	50	0	48	.348	.73	.45	.049	22	8	9	34	70
			1	50	.400	.72	.44	.052	22	8	9	34	70
			2	51	.429	.72	.43	.055	22	8	9	34	70
R-3	5,500	50	0	41	.214	.76	.51	.039	24	8	11	29	60
			1	43	.246	.75	.49	.039	24	8	11	29	60
			2	44	.264	.74	.48	.042	24	8	11	29	60
R-2	10,000	65	0	34	.132	.78	.55	.029	26	11	13	26	50
			1	36	.152	.76	.53	.030	26	11	13	26	50
			2	37	.162	.77	.53	.032	26	11	13	26	50
R-1	17,000	80	0	27	.081	.83	.68	.023	28	14	17	24	40
			1	29	.093	.81	.66	.024	28	14	17	24	40
			2	30	.100	.80	.65	.025	28	14	17	24	40
RT	100,000	200	0	13	.031	.90	.80	.014	30	16	20	21	35
			1	15	.035	.89	.78	.015	30	16	20	21	35
			2	16	.038	.88	.78	.016	30	16	20	21	35

5.3.2 Use Group 11

District	Minimum Gross Land Area (sq.ft.)	Minimum Lot Width (ft.)	Bonus Level	LUI Rating	Land Use Intensity (LUI) Ratios				Minimum Setbacks (ft.)			Maximum Height (ft.)	
					Floor Area (FAR)	Open Space (OSR)	Livability Space (LSR)	Recreation Space (RSR)	Street	Interior	Solar	Primary	Secondary
TC-2	2,000	15	0	72	1.84	.28	.12	.115	0	0	0	44	67
			1	74	2.11	.28	.12	.127	0	0	0	44	90
			2	75	2.26	.28	.12	.136	0	0	0	44	90
TC-1	2,000	15	0	72	1.84	.28	.12	.115	0	0	0	44	44
			1	74	2.11	.28	.12	.127	0	0	0	44	44
			2	75	2.26	.28	.12	.136	0	0	0	44	44
CC	5,500	50	0	48	.348	.73	.27	.049	22	8	9	34	90
			1	50	.400	.72	.27	.052	22	8	9	34	90
			2	51	.429	.72	.27	.055	22	8	9	34	90
NC	5,500	50	0	41	.214	.76	.40	.039	24	8	11	29	60
			1	43	.246	.75	.40	.039	24	8	11	29	60
			2	44	.264	.74	.40	.042	24	8	11	29	60
O1-3	2,000	15	0	48	.348	.73	.27	.049	0	0	0	N/A	N/A
			1	50	.400	.72	.27	.052	0	0	0	N/A	N/A
			2	51	.429	.72	.27	.055	0	0	0	N/A	N/A
O1-2	5,500	50	0	48	.348	.73	.27	.049	22	8	9	34	90
			1	50	.400	.72	.27	.052	22	8	9	34	90
			2	51	.429	.72	.27	.055	22	8	9	34	90
O1-1	5,500	50	0	41	.214	.76	.40	.039	24	8	11	29	60
			1	43	.246	.75	.40	.039	24	8	11	29	60
			2	44	.264	.74	.40	.042	24	8	11	29	60
I	17,000	80	0	34	.132	.78	.50	.029	26	11	13	26	50
			1	36	.152	.78	.50	.030	26	11	13	26	50
			2	37	.162	.77	.50	.032	26	11	13	26	50
R-6	5,500	50	0	48	.348	.73	.45	.049	20	6	8	39	50
			1	50	.400	.73	.45	.053	20	6	8	39	50
			2	51	.429	.72	.45	.055	20	6	8	39	50
R-5	5,500	50	0	48	.348	.73	.45	.049	20	6	8	39	90
			1	50	.400	.72	.44	.052	20	6	8	39	90
			2	51	.429	.72	.43	.055	20	6	8	39	90
R-4	5,500	50	0	41	.214	.76	.51	.039	22	8	9	34	70
			1	43	.246	.75	.49	.039	22	8	9	34	70
			2	44	.264	.74	.48	.042	22	8	9	34	70
R-3	5,500	50	0	34	.132	.78	.55	.029	24	8	11	29	60
			1	36	.152	.78	.53	.030	24	8	11	29	60
			2	37	.162	.77	.53	.032	24	8	11	29	60
R-2	10,000	65	0	27	.081	.83	.68	.023	26	11	13	26	50
			1	29	.095	.81	.66	.024	26	11	13	26	50
			2	30	.100	.80	.65	.025	26	11	13	26	50
R-1	17,000	80	0	20	.050	.87	.75	.018	28	14	17	24	40
			1	22	.058	.87	.74	.019	28	14	17	24	40
			2	23	.062	.86	.73	.020	28	14	17	24	40
PT	100,000	200	0	6	.019	.93	.85	.010	30	16	20	21	35
			1	8	.022	.92	.83	.011	30	16	20	21	35
			2	9	.023	.92	.82	.012	30	16	20	21	35

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5.3.3 Use Group C

District	Minimum Gross Land Area (sq.ft.)	Minimum Lot Width (ft.)	Bonus Level	LUI Rating	Land Use Intensity (LUI) Ratios				Minimum Setbacks (ft.)			Maximum Height (ft.)	
					Floor Area (FAR)	Open Space (OSR)	Livability Space (LSR)	Recreation Space (RSR)	Street	Interior	Solar	Primary	Secondary
TC-2	2,000	15	0	72	1.84	.28	.12	N/A	0	0	0	44	67
			1	74	2.11	.28	.12	N/A	0	0	0	44	90
			2	75	2.26	.28	.12	N/A	0	0	0	44	90
TC-1	2,000	15	0	72	1.84	.28	.12	N/A	0	0	0	44	44
			1	74	2.11	.28	.12	N/A	0	0	0	44	44
			2	75	2.26	.28	.12	N/A	0	0	0	44	44
CC	5,500	50	0	41	.214	.76	.27	N/A	22	8	9	34	90
			1	43	.246	.75	.27	N/A	22	8	9	34	90
			2	44	.264	.74	.27	N/A	22	8	9	34	90
NC	5,500	50	0	34	.132	.78	.40	N/A	24	8	11	29	60
			1	36	.152	.78	.40	N/A	24	8	11	29	60
			2	37	.162	.77	.40	N/A	24	8	11	29	60
OI-3	2,000	15	0	41	.214	.76	.27	N/A	0	0	0	N/A	N/A
			1	43	.246	.75	.27	N/A	0	0	0	N/A	N/A
			2	44	.264	.74	.27	N/A	0	0	0	N/A	N/A
OI-2	5,500	50	0	41	.214	.76	.27	N/A	22	8	9	34	90
			1	43	.246	.75	.27	N/A	22	8	9	34	90
			2	44	.264	.74	.27	N/A	22	8	9	34	90
OI-1	5,500	50	0	34	.132	.78	.40	N/A	24	8	11	29	60
			1	36	.152	.78	.40	N/A	24	8	11	29	60
			2	37	.162	.77	.40	N/A	24	8	11	29	60
I	17,000	80	0	27	.081	.83	.50	N/A	26	11	13	26	50
			1	29	.093	.81	.50	N/A	26	11	13	26	50
			2	30	.100	.80	.50	N/A	26	11	13	26	50
R-6	5,500	50	0	41	.214	.76	.51	N/A	20	6	8	39	50
			1	43	.246	.75	.49	N/A	20	6	8	39	50
			2	44	.264	.74	.48	N/A	20	6	8	39	50
R-5	5,500	50	0	41	.214	.76	.51	N/A	20	6	8	39	90
			1	43	.246	.75	.49	N/A	20	6	8	39	90
			2	44	.264	.74	.48	N/A	20	6	8	39	90
R-4	5,500	50	0	34	.132	.78	.55	N/A	22	8	9	34	70
			1	36	.152	.78	.53	N/A	22	8	9	34	70
			2	37	.162	.77	.53	N/A	22	8	9	34	70
R-3	5,500	50	0	27	.081	.83	.68	N/A	24	8	11	29	60
			1	29	.093	.81	.66	N/A	24	8	11	29	60
			2	30	.100	.80	.65	N/A	24	8	11	29	60
R-2	10,000	65	0	20	.050	.87	.75	N/A	26	11	13	26	50
			1	22	.058	.87	.74	N/A	26	11	13	26	50
			2	23	.062	.86	.73	N/A	26	11	13	26	50
R-1	17,000	80	0	13	.031	.90	.80	N/A	28	14	17	24	40
			1	15	.035	.89	.78	N/A	28	14	17	24	40
			2	16	.038	.88	.78	N/A	28	14	17	24	40
RT	100,000	200	0	6	.019	.93	.85	N/A	30	16	20	21	35
			1	8	.022	.92	.83	N/A	30	16	20	21	35
			2	9	.023	.92	.82	N/A	30	16	20	21	35

5.4 General Applicability of Intensity Regulations

No land or structure shall be used or occupied, and no structure, or part thereof, shall be constructed, erected, altered, or moved except in compliance with the intensity regulations herein specified for (a) the general use group to which the principal use of the land or structure belongs (as shown in Section 4.3), (b) the zoning district in which the land or structure is located, and (c) the bonus level, if any, for which such development is eligible.

No portion of land used in connection with an existing or proposed structure or use of land and necessary for compliance with the intensity regulations of this article shall also be used, through sale or otherwise, as part of the land required in connection with any other development.

Except as otherwise provided in this chapter, intensity regulations applicable to OI-3 zoning districts and planned development zoning lots shall be applied to the district or lot as a whole and not to individual parts thereof.

5.5 Bonus Intensities

5.5.1 Intent

It is the intent of this section to provide for increased levels of allowable development intensities as incentive for the provision of certain public benefits beyond those normally required by this chapter or provided by private developers.

5.5.2 Applicability

The intensity regulations established in Section 5.3 for Bonus Level 1 and Bonus Level 2 may be applied, at the option of the developer, to any development which ensures the provision of one or more of the public benefits enumerated below such that the sum of the points assigned to each benefit provided equals or exceeds the threshold of eligibility for the applicable bonus level, as established below.

A minimum of ten (10) benefit-points shall be required in order to be eligible for application of the intensity regulations established for Bonus Level 1.

A minimum of fifteen (15) benefit-points shall be required in order to be eligible for application of the intensity regulations established for Bonus Level 2.

5.5.3 Benefits

- 1. Economically Mixed Housing (10 Benefit-Points) - the provision of new or substantially rehabilitated housing in which at least ten percent (10%) but not more than twenty percent (20%) of the total residential floor area is contained in dwelling units for which an agreement for rental assistance has been made between the developer and the U.S. Department of Housing and Urban Development (DHUD) in accord with DHUD's lower-income housing assistance

programs. The distribution of assisted dwelling units within the development shall avoid undue concentration of assisted persons. The range of size and type of dwelling units available as assisted housing shall be representative of that generally available in the development. The developer must supply such documentation as will assure commitment to the provision of the requisite amount of lower-income housing.

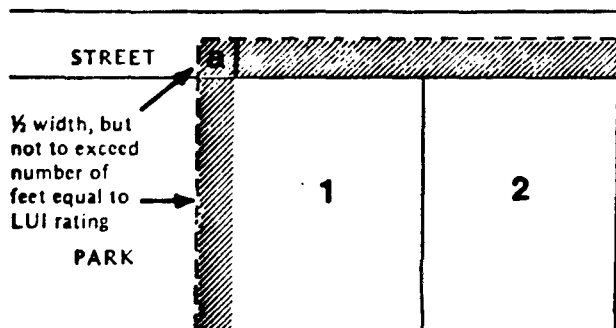
2. Scattered Small-Site Low-Income Housing (10 Benefit-Points) - the provision of new or substantially rehabilitated housing in which greater than twenty percent (20%) of the total residential floor area, up to a maximum of thirty thousand (30,000) square feet, is contained in dwelling units for which an agreement for rental assistance has been made between the developer and the federal Department of Housing and Urban Development (DHUD) in accord with DHUD's lower-income housing assistance programs. The location of such housing shall avoid undue concentration of assisted persons in areas already containing a high proportion of lower-income families and individuals. The developer must supply such documentation as will assure commitment to the provision of the requisite amount of lower-income housing.
3. Mixed Use Development in Town Center (10 Benefit-Points) - the provision of development in the Town Center districts in which at least fifty percent (50%) but not more than seventy-five percent (75%) of the total floor area is contained in dwelling or lodging units and the remaining floor area is devoted to nonresidential principal uses.

## 5.6 Gross Land Area

### 5.6.1 Gross Land Area Defined

The gross land area of a zoning lot shall be construed as all area within its boundaries (net land area) plus half of the adjoining permanent open space such as streets, parks, lakes, cemeteries and the like, provided the width of such credited open space shall be limited to a number of feet equal to the Land Use Intensity (LUI) rating applying to the lot (see Section 5.3). Where a zoning lot contains principal uses belonging to more than one use group, the applicable LUI rating shall be the greatest of those LUI ratings applicable to the represented use groups. Where such open space adjoins the lot on two (2) adjacent sides, the open space thus credited shall include the area required to complete the gap otherwise left at the intersection of the adjacent sides (See Figure 5-1).

Figure 5-1. Gross Land Area



The gross land area of Lot 1 is the area within its boundaries plus the hatched areas across its front and side, including the small rectangle marked a. The gross land area of Lot 2 is its net land area plus the hatched area across its front.

5.6.2 Minimum Gross Land Area

The minimum gross land area (GLA) of a zoning lot shall be as established in Section 5.3 for the zoning district in which such zoning lot is located.

The minimum gross land area required for a two-family dwelling shall be one and one-half (1.5) times the minimum gross land area established in Section 5.3.

The minimum gross land area required for a multi-family dwelling shall be two (2) times the minimum gross land area established in Section 5.3.

Where a zoning lot is located in more than one zoning district, the minimum gross land area required of such zoning lot shall be the sum of the areas derived by multiplying the minimum gross land area required for each represented district by the proportion of the zoning lot located within that district.

The minimum gross land area required for a zoning lot containing a planned development shall be as established in Article 8.

5.7 Lot Width and Street Frontage Width

5.7.1 Lot Width Defined

The width of a zoning lot is the horizontal distance measured along a straight line connecting the points at which a line demarcating the minimum street setback required from a street lot line intersects with interior lot lines and/or other street lot lines (See Figure 5-2).

5.7.2 Minimum Lot Width

The minimum width of a zoning lot shall be as established in Section 5.3 for the zoning district in which such zoning lot is located.

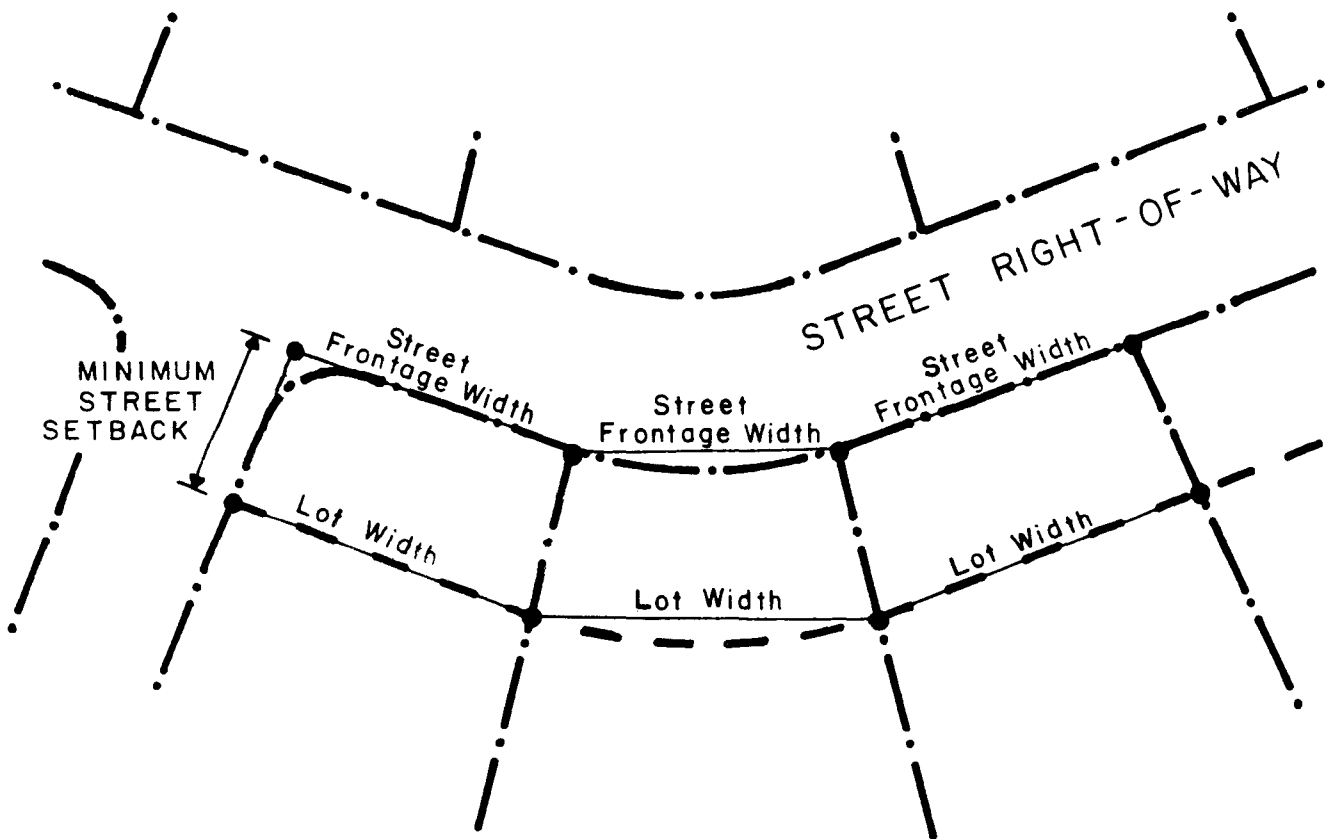
Where a zoning lot fronts or two (2) or more streets, minimum lot width requirements shall be considered met if the lot width at the street setback from any one of such streets meets the minimum lot width requirement.

5.7.3 Street Frontage Width Defined

The width of the frontage of a zoning lot on a street is the horizontal distance measured along a straight line connecting the points at which the street lot line abutting such street intersects with interior lot lines and/or street lot lines (See Figure 5-2).

(FIGURE 5-2)

LOT WIDTH AND STREET FRONTAGE WIDTH



5.7.4 Minimum Street Frontage Width

The minimum width of the frontage of a zoning lot on a street shall be eighty percent (80%) of the minimum lot width required for the zoning lot.

Where a zoning lot fronts on two (2) or more streets, minimum street frontage width requirements shall be considered met if the frontage along any one of such streets meets the minimum street frontage width requirements.

Where a zoning lot fronts on a turning circle of a cul-de-sac or at a point of a street where the radius of the curvature of the right-of-way is less than ninety (90) feet, the minimum street frontage width requirement shall not apply.

5.8 Land Use Intensity (LUI) Ratios

5.8.1 Applicability

The Land Use Intensity (LUI) ratios applicable to development on any zoning lot shall be those ratios established in Section 5.3 for the zoning district in which such zoning lot is located and for the use group to which the principal use of the zoning lot belongs, and shall be applied to the gross land area of the zoning lot.

Where a zoning lot does not contain a planned development and is located in more than one zoning district, the appropriate LUI ratios shall be applied individually to each portion of the gross land area located within the different districts, except that the floor area permitted in that portion of the gross land area located within one zoning district may be transferred to any other portion of the zoning lot's gross land area located within a zoning district with a higher LUI rating. Where a zoning lot containing a planned development is located in more than one zoning district, the appropriate LUI ratios shall apply to each portion of the gross land area located within the different zoning districts, and the sum of permitted intensities so derived shall apply to the zoning lot as a whole.

Where a zoning lot contains principal uses belonging to more than one use group, the appropriate LUI ratios shall apply to that portion of the number of square feet of gross land area allocated to each use group.

5.8.2 Floor Area Defined

Floor area is the sum of enclosed areas on all floors of a building or buildings measured from the outside faces of the exterior walls, including halls, lobbies, arcades, stairways, elevator shafts, enclosed porches and balconies, and any below-grade floor areas used for access and storage. Not countable as floor area are:

- a) Open terraces, patios, atriums, or balconies
- b) Carports, garages
- c) Breezeways





### 5.8.3 Maximum Floor Area

Maximum floor area allowed shall be the number of square feet derived by multiplying gross land area by the applicable floor area ratio (FAR), as shown in Section 5.3. Maximum floor area requirements shall not apply to single- or two-family dwellings or public cultural facilities located outside of a planned development.

### 5.8.4 Open Space Defined

Open space is the total horizontal area of uncovered open space plus one-half ( $\frac{1}{2}$ ) the total horizontal area of covered open space, subject to the limitations set forth below:

- a) Uncovered open space is the total gross land area not covered by buildings, plus open exterior balconies, and roof areas improved as livability space.
- b) Covered open space is usable open space closed to the sky but having at least two (2) clear unobstructed open or partially open sides. Partially open is construed as fifty percent (50%) open or more. The horizontal area countable as covered open space shall not exceed the number of square feet equal to the sum of the vertical areas of the open sides. Examples of covered open space are covered balconies, covered portions of improved roof areas, or spaces under buildings supported on columns or posts, or cantilevered.

### 5.8.5 Minimum Open Space

Minimum open space required shall be the number of square feet derived by multiplying gross land area by the applicable open space ratio (OSR), as shown in Section 5.3.

### 5.8.6 Livability Space Defined

Livability space is that part of total open space appropriately located and, if necessary, improved as outdoor living space and for aesthetic appeal, including existing natural areas, lawns and other landscaped areas, walkways, paved terraces and sitting areas, outdoor recreational areas, and landscaped portions of street rights-of-way. Such space does not include open space used for motorized vehicles, except for incidental service, maintenance, or emergency actions.

### 5.8.7 Minimum Livability Space

Minimum livability space required shall be the number of square feet derived by multiplying gross land area by the applicable livability space ratio (LSR), as shown in Section 5.3.

### 5.8.8 Recreation Space Defined

Recreation space is that part of total open space and livability space plus enclosed floor area, which is appropriately improved for the common active recreational use of residents of multi-family developments and planned developments.

5.8.9 Minimum Recreation Space

Minimum recreation space required shall be the number of square feet derived by multiplying gross land area by the applicable recreation space ratio (RSR), as shown in Section 5.3. Recreation space is only required for multi-family dwellings, PD-H developments, and the residential portion of PD-MU developments.

In general, required recreation space shall have a least dimension of fifty (50) feet, an average dimension of at least one hundred (100) feet, and a minimum area of ten thousand (10,000) square feet. Smaller dimensions are acceptable if:

- a) less than ten thousand (10,000) square feet of recreation space is required, or
- b) the recreation space is suitably improved roof area or enclosed floor area, or
- c) anticipated needs of residents require smaller facilities, such as tot lots or shuffleboard courts.

Outdoor recreation space for common use shall be located at least twenty (20) feet from residential windows at the same general level.

5.9 Setback and Height Regulations

5.9.1 Intent

The setback and height regulations established in Section 5.3 are intended to ensure adequate solar access, privacy, and ventilation; access to and around buildings, offstreet parking areas, loading space, and service areas; space for landscaping; and spacing between buildings and portions of buildings to reduce potential adverse effects of noise, odor, glare, or fire. Adequate solar access is deemed to consist of varying levels of access ranging from rooftop solar access in high-intensity zoning districts to south wall solar access in low-intensity zoning districts.

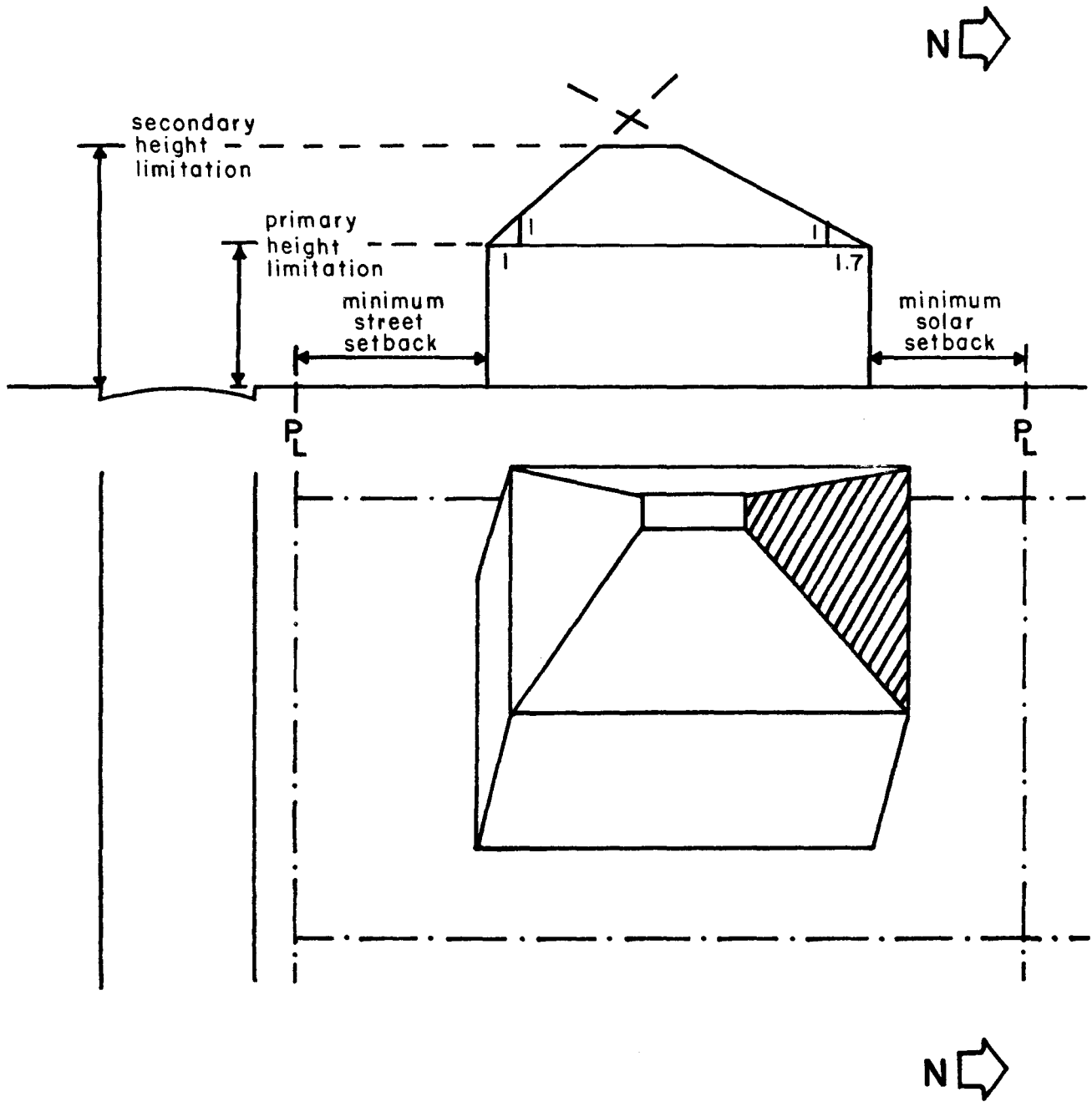
5.9.2 Applicability

Except where provided by Subsection 5.9.11, or where otherwise specifically provided by this chapter, no structure, or part thereof, shall project beyond the building envelope defined by the minimum street, interior, and solar setbacks and the maximum heights established in Section 5.3 for the zoning district in which such structure is located (See Figure 5-3).

(FIGURE 5-3)

# BUILDING ENVELOPE

(AS DEFINED BY SETBACK & HEIGHT REQUIREMENTS)



For purposes of applying the following setback and height regulations to development within a OI-3 zoning district or within planned development, all contiguous land within the district or planned development shall be considered as a single zoning lot.

### 5.9.3 Street Setback Defined

Street setback is the horizontal distance between the street lot line of a zoning lot and any structure on such zoning lot. Street setback shall be measured perpendicular to the street lot line (See Figure 5-4).

Where a zoning lot fronts on a street with a right-of-way width not meeting the standards of this chapter, street setback shall be measured from a line running parallel to the centerline of the street at a distance from such centerline equal to one-half ( $\frac{1}{2}$ ) the standard right-of-way width for the street.

### 5.9.4 Minimum Street Setback

Minimum street setback required for any structure, or part thereof, shall be the distance established in Section 5.3 for the zoning district in which such structure is located.

### 5.9.5 Interior Setback Defined

Interior setback is the horizontal distance between the interior lot line of a zoning lot and any structure on such zoning lot. Interior setback shall be measured perpendicular to the interior lot line (See Figure 5-4).

### 5.9.6 Minimum Interior Setback

Minimum interior setback required for any structure, or part thereof, shall be the distance established in Section 5.3 for the zoning district in which such structure is located.

### 5.9.7 Solar Setback Defined

Solar setback is the horizontal distance between the north lot line of a zoning lot and any structure on such zoning lot. Solar setback shall be measured along the North/South axis and in a southerly direction from the north lot line (See Figure 5-4).

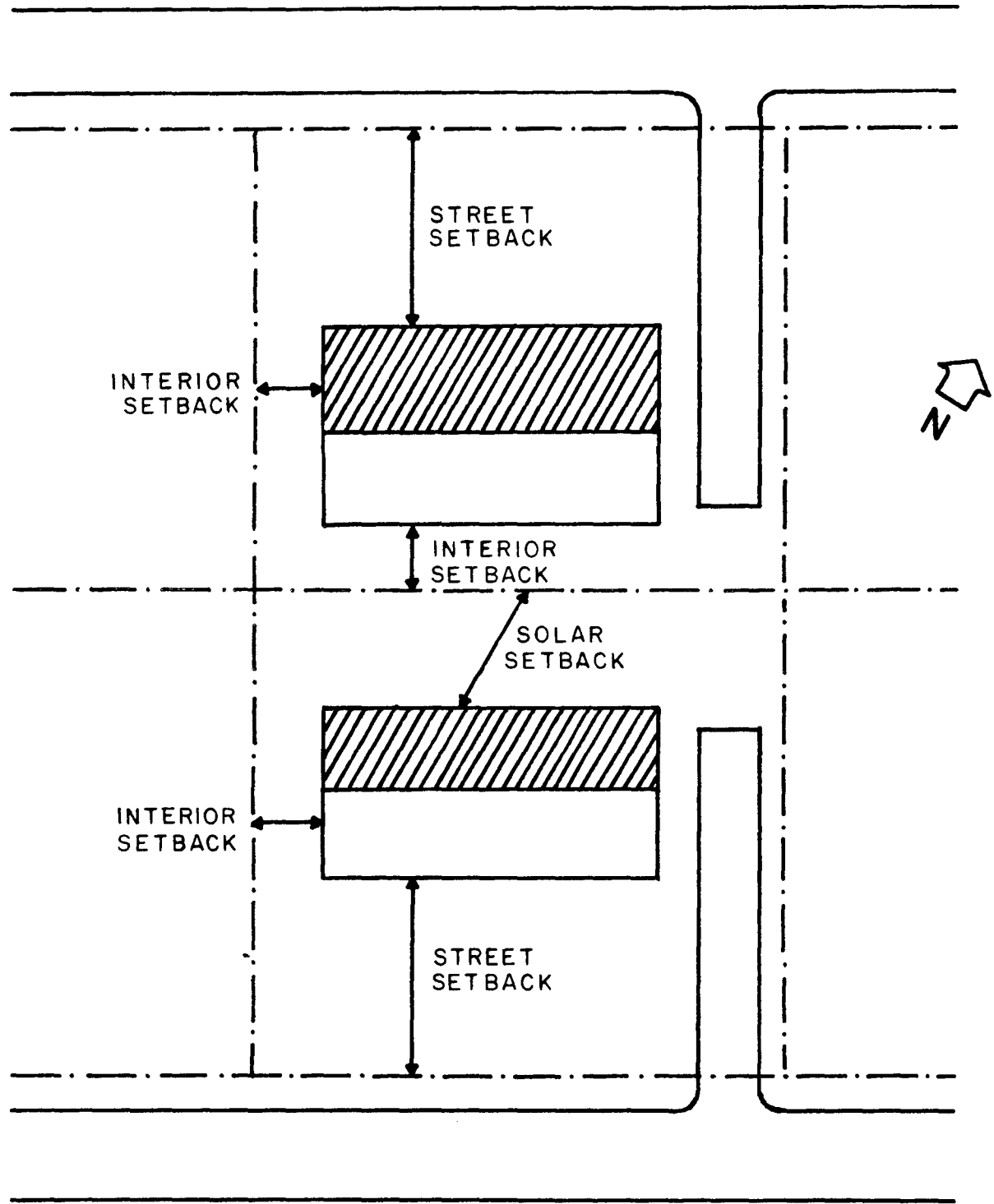
A north lot line shall be construed to include any portion of a lot's lot line which has an alignment within forty-five degrees ( $45^{\circ}$ ) of an East/West axis.

### 5.9.8 Minimum Solar Setback

Minimum solar setback required for any structure, or part thereof, shall be the distance established in Section 5.3 for the zoning district in which such structure is located.

(FIGURE 5-4)

### SETBACKS



Minimum solar setback requirements shall not apply to any structure, or part thereof, where it is demonstrated to the Town Manager that the extent of the shadows projected for such structure at noon on the winter solstice does not exceed the maximum horizontal shadow pattern permitted by application of the minimum solar setback and maximum height limitations.

Where a solar setback and either a street or interior setback both apply to the same portion of a lot line, the required minimum setback shall be the greater of the two (2).

5.9.9 Height Defined

Height of a structure, or part thereof, is the vertical distance from the mean natural grade at the foundation to the highest portion of the structure, or part thereof (See Figure 5-5).

5.9.10 Maximum Height

Maximum height allowed for any structure, or part thereof, shall be the primary height limitation established in Section 5.3 for the zoning district in which such structure is located and for the use group to which the principal use of the structure belongs.

The height of a structure may exceed the primary height limitation established in Section 5.3 provided that for each foot the height of such structure exceeds the primary height limitation,

- a) the minimum street and interior setbacks applicable to that portion of the structure exceeding the primary height limitation shall be increased by one foot, and
- b) the minimum solar setback applicable to that portion of the structure exceeding the primary height limitation shall be increased by one and seven-tenths (1.7) feet (See Figure 5-3).

In no case shall the height of a structure exceed the secondary height limitation established in Section 5.3 for the zoning district in which such structure is located the use group to which the principal use of the structure belongs, and the bonus level for which such structure is eligible.

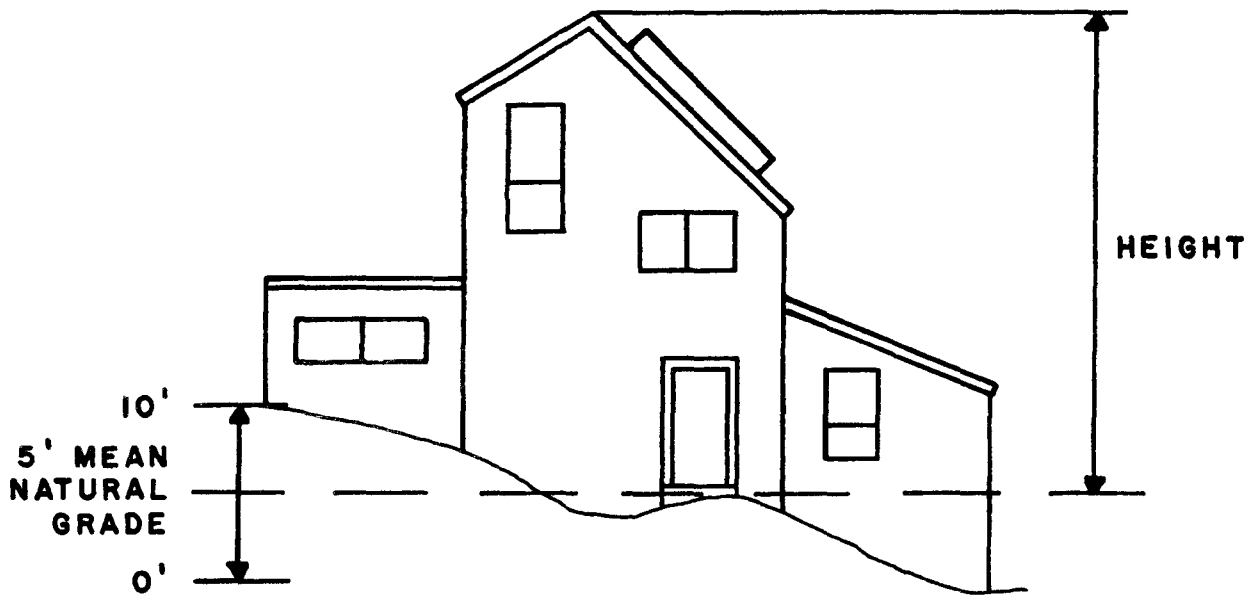
Where a structure contains principal uses belonging to use groups with different secondary height limitations, the secondary height limitation applicable to such structure shall be the sum of the heights derived by multiplying the secondary height limitation applicable to each represented use group by the proportion of floor area within the structure devoted to principal uses belonging to that use group.

If a structure is located in the vicinity of an airport, the height limitations set forth in Federal Aviation Regulations, Part 77, shall apply where such limitations are less than those established in this chapter.



(FIGURE 5-5)

# HEIGHT



5.9.11 Exceptions to Setback and Height Regulations

The following features shall not be subject to the required minimum setbacks provided the Town Manager shall determine that such features do not significantly impair the degree of solar access provided adjacent properties through application of the appropriate solar setback requirements:

- a) free-standing signs and projecting signs, provided such signs comply with the sign standards established in Article 6;
- b) fences and walls not exceeding nine (9) feet in height; and
- c) flagpoles, bridges, and transmission poles, towers, and cables.

The following features may project above the building envelope defined by the maximum height limitations and additional setback requirements contained in Subsection 5.9.10 provided the Town Manager shall determine that such features do not significantly impair the degree of solar access provided adjacent properties through application of the appropriate solar setback requirements:

- a) chimneys, accessory radio or television antennas, flagpoles, monuments, or solar collectors, provided the projection of such structures above the building envelope does not exceed fifteen percent (15%) of the maximum height limitation that defines the portion of the building envelope penetrated by such structures;
- b) spires, smokestacks, water tanks, windmills, radio and television transmitting towers, or relay towers, provided such structures do not exceed in height the horizontal distance therefrom to the nearest lot line; and
- c) transmission poles, towers, and cables

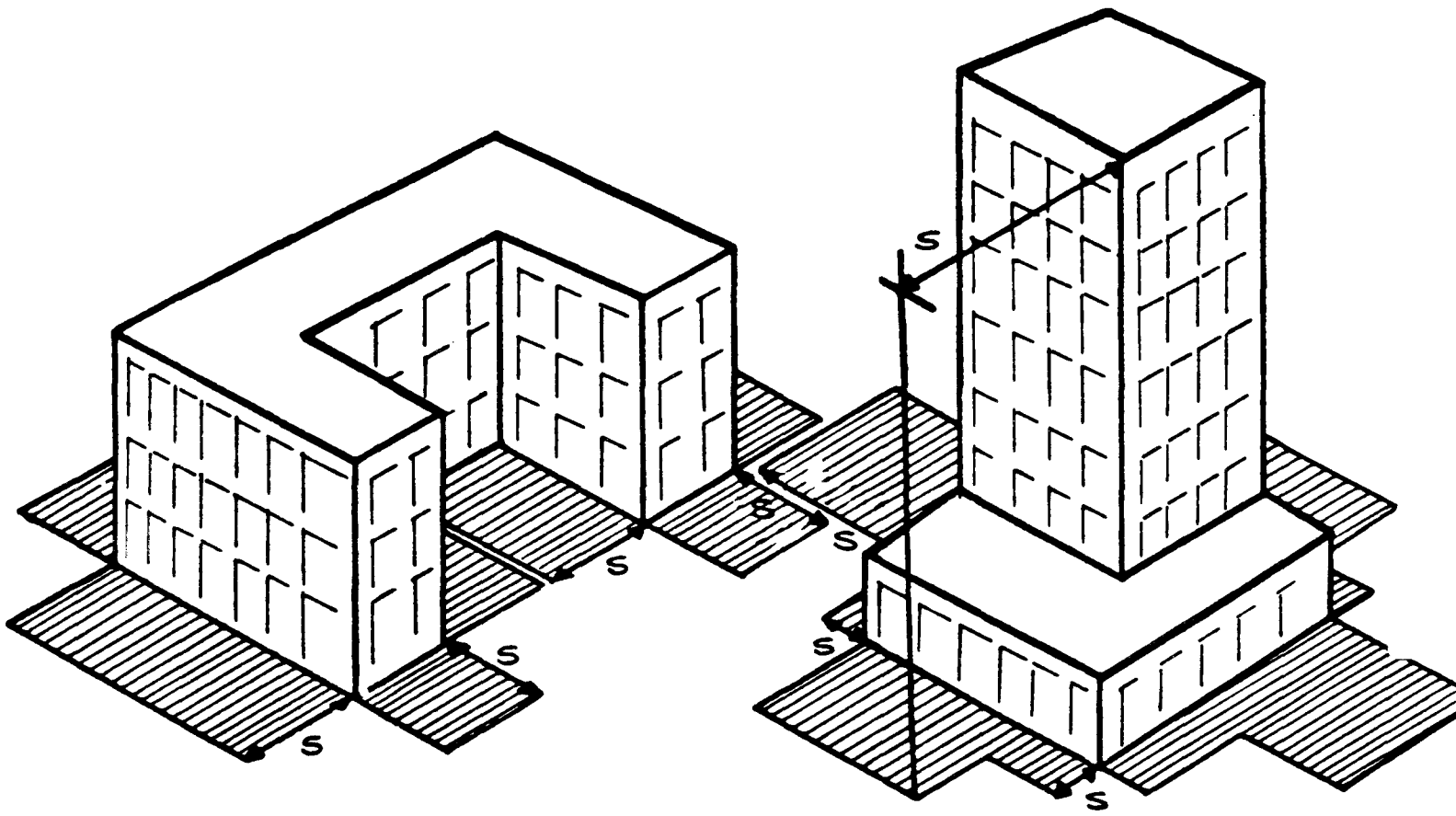
5.9.12 Minimum Building Spacing

Minimum spacing between any two (2) buildings located within a single zoning lot or OI-3 district and containing dwelling or lodging units, or between noncontiguous portions of a building containing dwelling or lodging units, shall be the sum of the spacing distances required for the walls of each such building or portion of a building (See Figure 5-6). The required spacing distance for any wall containing windows shall be the horizontal distance equal to the minimum interior setback applicable to the lot or district (See Section 5.3) plus one additional foot for each foot the height of the wall exceeds thirty-five (35) feet, and shall be measured perpendicular to the wall. The required spacing distance for a windowless wall shall be only that required for fire protection by applicable building codes.

Unless otherwise regulated by this chapter, spacing between structures or portions of structures not containing dwelling or lodging units shall be appropriate to the use of such structures or portions of structures, as related to anticipated amounts and timing of vehicular and pedestrian traffic and exposure of nearby living quarters to such use, and shall be determined with regard for the location of windows, the separation of spaces by walls, fences, or vegetative screening, the location of parking and service areas, fire protection requirements, and similar considerations.

(FIGURE 5-6)

BUILDING SPACING



$$S = \text{MINIMUM INTERIOR SETBACK} + (\text{HEIGHT} - 35 \text{ FT.})$$

5.10 Transitional Control Intensity Modifications

In Office/Institutional - 3 districts, all development located within one hundred (100) feet of a Residential district shall observe LUI ratios equal to those required for Office/Institutional - 1 districts, as shown in Section 5.3.

In all nonresidential zoning districts and planned developments (TC-2, TC-1, CC, NC, OI-3, OI-2, OI-1, I, PD-SC, PD-OI and PD-I), the following setback and height regulation modifications shall apply:

- a) Minimum street setback across a street from residentially zoned land shall be equal to the street setback applicable in the Residential district across the street.
- b) Minimum interior setback adjacent to residentially zoned land shall be equal to the interior setback applicable in the adjacent Residential district.
- c) Minimum solar setback adjacent to residentially zoned land shall be equal to the solar setback applicable in the adjacent Residential district.
- d) The primary height limitation applicable at any of the modified setbacks identified in a) - c) above shall not exceed thirty-five (35) feet.

ARTICLE 6 DESIGN STANDARDS

6.1 Intent

It is the intent of this article to provide general performance standards to ensure that development within the Chapel Hill planning jurisdiction will be designed, arranged, and constructed in a safe, orderly, energy-efficient, and visually harmonious manner, and will reflect the basic character of the development site and its immediate surroundings as well as the nature of the proposed uses of the site.

6.2 Applicability

Except as otherwise specifically provided in this chapter, no land or structure shall be used or occupied, and no excavation, removal of soil, clearing of a site, or placing of fill shall take place on land contemplated for development, and no structure, or part thereof, shall be constructed, erected, altered, renovated, or moved except in compliance with the general performance standards specified herein and the specific standards contained in the design manual required below.

6.3 Design Manual

Within one hundred eighty (180) days of the enactment of this chapter, the Town Manager shall develop and make available a design manual which shall contain specific design and construction standards. Such standards shall be in accord with the general performance standards contained herein, and shall reflect, where applicable, generally accepted design and construction practices and techniques. The design manual shall contain sufficient flexibility in the application of specific standards so as to permit modifications of the standards where such modifications have been determined by the Town Manager to be equally or more appropriate to safe, orderly, energy-efficient, and visually harmonious development due to particular conditions of a development site, and that such modifications continue to be in conformance with the general performance standards contained herein.

6.4 General Site Arrangement

Structures shall be placed and arranged so as not to adversely affect adjacent property. Adverse effects shall include, but are not limited to, the removal of lateral support, the creation of hazard, nuisance danger, or inconvenience, unreasonable loss of light and air or solar access, or unreasonable loss of privacy or views.

Insofar as is practicable, developments shall be arranged so as to maximize energy efficiency and conservation.

Developments shall be arranged so as to be visually harmonious both within the development site and in relation to adjacent developments. Site design elements of the development shall be integrated to the degree of their compatibility with each other and shall be separated to the degree of their incompatibility. Insofar as is practicable, developments shall be arranged so as to preserve or enhance vistas.

6.5 Access and Circulation

6.5.1 External Circulation

The type and arrangement of streets and driveways within the development shall be in compliance with and coordinate to Chapel Hill's Major Street Plan.

Principal vehicular access points to the development shall be designed to encourage smooth traffic flow with minimum hazards to pedestrian, bicycle, and other vehicle traffic. Accommodations for controlled turning movements into and out of the development and improvement of the approach street shall be provided where existing or anticipated heavy traffic flows indicate need.

Whenever appropriate to the type, size, and location of development, the site shall be so arranged as to facilitate the future utilization or accommodation of public transportation.

Bicycle and pedestrian access to the site shall be in compliance with and coordinate to existing and future Town bicycle and pedestrian systems and the systems of adjacent developments.

Access for cyclists and pedestrians shall be by safe and convenient routes which need not be limited to the vicinity of vehicular access points. Accommodations for safe intersections of bicycle and/or pedestrian routes with adjacent vehicular routes shall be provided where existing or anticipated heavy traffic flows indicate need.

6.5.2 Internal Circulation

Internal circulation systems shall provide the types, amounts, and locations of accessibility appropriate to the type and size of the development, and shall be designed so as to facilitate the movement of persons, goods, services, and waste products in a safe and efficient manner, with maximum pedestrian orientation and a minimum of impermeable surface.

Safe and convenient vehicular access shall be provided for emergency and service vehicles.

Whenever appropriate to the type and size of the development, the provision of safe, efficient, and convenient bicycle and/or pedestrian circulation systems shall be required.

The integration or separation of circulation systems and patterns shall be provided as appropriate to the type and size of the development and to the existing or anticipated traffic flows.

6.5.3 Reserved

6.5.4 Clear-Vision Areas

To assure safe sight distances at street intersections and driveway intersections with streets, a minimum clear-vision area shall be provided at each corner of such intersections. No structure or

planting that would impede visibility between the heights of three (3) and ten (10) feet above the street or driveway centerline grade shall be established in the clear-vision area, provided that the above requirement shall not apply to the following features:

- a) An official traffic control sign or signal; and
- b) Any structure or planting having a maximum horizontal cross-sectional diameter of eighteen (18) inches between the heights of three (3) and ten (10) feet above the street or driveway grade, provided that an, combination of such structures or plantings which impedes the required cross-vision shall be prohibited.

Grading of land within the clear-vision area may be required where topography impedes the required cross-vision.

The minimum clear-vision area shall consist of a triangular area bounded by the intersecting roadway and driveway edges and a straight line connecting those points on said edge lines which are located at a specified distance from the projected intersection of such edge lines. Such specified distance shall be ten (10) feet for each intersecting street or driveway within the Town Center districts and twenty-five (25) feet for each intersecting street or driveway within all other zoning districts.

## 6.6 Off-Street Parking and Loading

### 6.6.1 Off-Street Parking and Loading Required

Off-street parking shall be provided for all uses of land, structures, and buildings as well as for any expansion of such uses or change in use in accord with the requirements of this section.

Off-street loading space shall be provided for all retail business, wholesale, and industrial uses having an enclosed floor area greater than five thousand (5,000) square feet, in accord with the requirements of this section.

In the case of mixed uses, the total requirements for off-street parking or loading space shall be the sum of the requirements for the various uses computed separately.

### 6.6.2 Methods of Providing Required Parking and Loading

All required parking or loading space shall be located on the same zoning lot as the principal use(s) it serves, except as provided for below. Where the number of parking spaces required for the use on a zoning lot located in either Town Center district is less than twenty (20), parking required for such uses shall be either combined with parking on another zoning lot, as provided for in a) below, or provided in accord with the provisions of b) below.

In lieu of actual construction of required on-site parking spaces, all or any portion of the off-street parking required in this section may be provided by the following means.



- a) Required parking for a use on a zoning lot may be located on another zoning lot, either by itself or combined with parking for other uses, subject to certification by the Town Manager that the following requirements have been met:
  - i) The use being served by the off-site parking shall be a permitted principal use, as established in Article 4, in the zoning districts within which the zoning lot containing such parking is located;
  - ii) The off-site parking spaces shall be located within five hundred (500) feet walking distance of a public entrance to the structure or land area containing the use for which such spaces are required. A safe, direct, attractive, lighted and convenient pedestrian route shall exist or be provided between the off-site parking and the use being served;
  - iii) The continued availability of off-site parking spaces necessary to meet the requirements of this section shall be ensured by an appropriate restriction on the title to the land providing the off-site parking spaces, in the form of a declaration, covenant, or contract; and
  - iv) For purposes of determining applicable minimum and maximum land use intensities, the land area devoted to off-site parking shall be added to the gross land area of the zoning lot containing the use being served by such parking and shall be subtracted from the gross land area of the zoning lot containing the off-site parking.
- b) For uses located within either Town Center zoning district, compliance with parking requirements may be achieved by making payments to the Town of Chapel Hill Parking Fund in accord with Chapter 11A of the Chapel Hill Code of Ordinances.

6.6.3 Combined Parking

Up to one-half ( $\frac{1}{2}$ ) of the parking spaces required for one use may be used to satisfy the parking requirements for either a second use on the same zoning lot or a use for which the provisions of subsection 6.6.2 a) above are utilized, subject to certification by the Town Manager that such joint usage of parking complies with the following provisions:

- a) The peak usage of the parking facility by one use will be at night or on Sundays (such as with theaters, assembly halls, or churches), and the peak usage of the parking facility by the second use will be at other times; or
- b) The second use is an ancillary use to the first use, such as restaurants and meeting rooms to hotels and motels.

#### 6.6.4 Use Of Required Parking and Loading Space

Required parking areas shall be available for the parking of operable vehicles of residents, customers, and employees, and shall not be used for the storage of vehicles or materials, or for the parking of vehicles used for loading or unloading, or in conducting the use.

Required loading space shall be available for the loading and unloading of vehicles, and shall not be used for the storage of vehicles or materials, or to meet off-street parking requirements, or in conducting the use.

#### 6.6.5 Parking Design Standards

All parking areas shall meet the following minimum design requirement:

- a) Ingress to and egress from parking areas shall conform to Town design standards.
- b) Except for single- or two-family dwellings, parking facilities shall observe a minimum setback of ten (10) feet from any public street right-of-way. Above-ground structures containing parking facilities (eg. parking decks, including ramps) shall observe the minimum setback requirements established in Article 5 or the ten-foot setback required above, whichever is greater.
- c) In the Town Center districts, if a setback is provided between a principal structure and a street such setback shall not be used for off-street parking.
- d) Except for single- or two-family dwellings, all parking spaces and maneuvering space shall be surfaced with an all-weather material, which shall be maintained in a safe, sanitary, and neat condition.
- e) No parking area or maneuvering space shall be located within a public street right-of-way. Parked vehicles in off-street parking spaces shall be prevented from intruding on travel lanes, walkways, public streets, or adjacent properties by means of walls, curbs, wheel stops, or other appropriate means.
- f) Except for single- or two-family dwellings or for attendant parking, each parking space shall be arranged so that any vehicle may be parked and unparked without moving another vehicle.
- g) The size of parking spaces shall be adequate for the safe parking of vehicles and maneuvering space shall be provided so that parking and unparking can be accomplished in one continuous maneuver. Parking facilities designed to accommodate five (5) or more vehicles shall be designed in accord with the standards for stalls and aisles as set forth in the drawings and table shown in Figure 6-1-A. However, where parking facilities are designed to accommodate more than ten (10) vehicles, up to sixty percent (60%) of the parking spaces provided may be designed in accord

with the stall and aisle standards shown in Figure 6-1.B., provided the smaller spaces are designated for use only by compact vehicles (manufacturers' frame classes 4 through 8).

- h) Curbed islands shall be required at the ends of or between parking aisles where necessary for traffic control or drainage control.
- i) Except for single- or two-family dwellings, parking spaces shall be provided with adequate aisles or turnaround areas so that all vehicles may enter adjacent streets in a forward manner.
- j) Parking facilities shall be designed to connect with parking facilities on adjacent zoning lots where appropriate to eliminate the need to use the abutting street(s) for cross movements.
- k) All off-street parking facilities shall be provided with a drainage system meeting the design standards contained in Section 6.7.
- l) All lighting of and within parking facilities shall conform to the lighting design standards contained in Section 6.14.
- m) Adequate provision shall be made for the ventilation of and dispersion and removal of smoke and gases from above-ground and below-ground parking structures.
- n) Parking facilities designed to accommodate five(5) or more vehicles shall provide areas as necessary for the parking of motorcycles, mopeds, and bicycles. Such areas shall be clearly defined and reserved for the exclusive use by motorcycles, mopeds, and bicycles.
- o) Parking facilities designed to accommodate twenty-five (25) or more vehicles shall provide, as part of the required number of parking spaces, one handicapped parking space at least twelve (12) feet in width for every fifty (50) standard parking spaces, or major fraction thereof. Such spaces shall be clearly defined and reserved for the exclusive use by handicapped persons.

6.6.6 Parking Landscaping Standards

It is the intent of this subsection to protect and promote the public health, safety, and general welfare by requiring the landscaping of parking areas which will serve to reduce radiant heat from surfaces, to reduce wind and air turbulence, to reduce noise, to reduce the glare of automobile lights, to ameliorate stormwater drainage problems, and to protect and preserve the appearance, character, and value of adjacent properties.

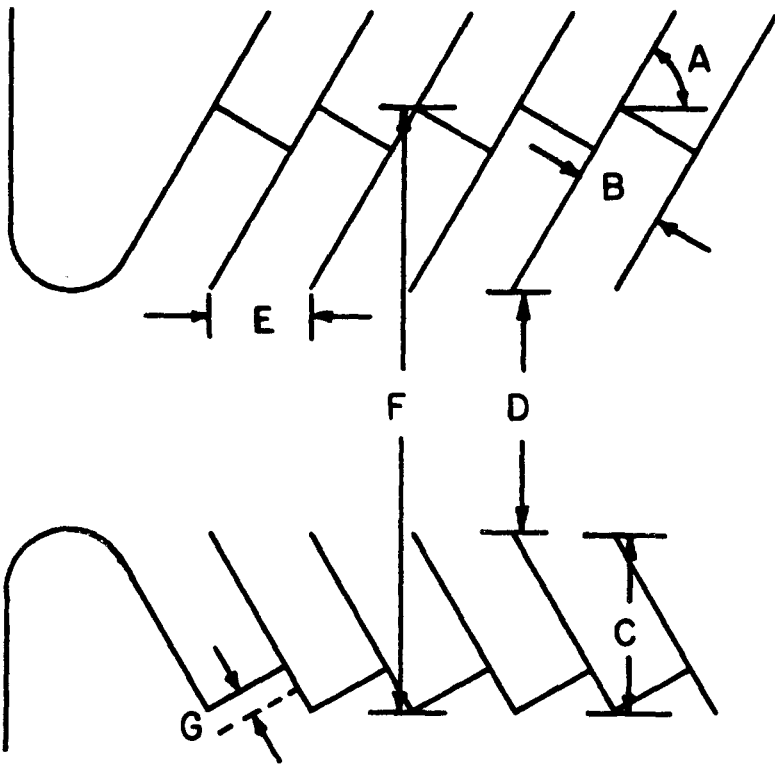
Except for one- or two-family dwellings, all parking facilities, unless located entirely underground, shall meet the following minimum landscaping requirements:

- 52
- a) Parking facilities, unless located on or within a structure, shall be separated from the exterior wall of a structure, exclusive of paved pedestrian entrance ways or loading areas, by a buffer strip at least five (5) feet in width, which shall be landscaped in accord with Town landscaping standards.
  - b) Entryways into parking facilities shall be bordered by a buffer strip a minimum of eight (8) feet in width, which shall be landscaped in accord with Town landscaping standards.
  - c) Ground-level parking facilities and the ground level of parking structures shall be screened from adjacent streets by means of an effective screening device which is at least three (3) feet in height above the grade of the edge of the parking area. Ground-level parking facilities and the ground level of parking structures shall be screened from adjacent properties zoned Residential by means of an effective screening device which is at least six (6) feet in height above the grade of the edge of the parking area. Appropriate screening devices may include solid decorative brick walls, wood fences, berms, tight evergreen hedges which shall reach the required height within two (2) years of planting, or any combination of the above.
  - d) Vegetation shall be provided within and adjacent to ground-level parking areas which will, in the opinion of the Town Manager, be sufficient to achieve shading of at least thirty-five percent (35%) of the parking area surface on noon on August 21 within ten (10) years of the date the parking area is constructed.
  - e) In providing the vegetation required above, the retention of existing significant vegetation shall be encouraged.

Figure 6-1

A. Standard Automobiles

A	B	C	D*	E	F	G
0°	9.5'	N/A	12.0'	23.0'	31.0'	N/A
45°	9.0'	17.5'	12.0'	12.7'	47.2'	2.0'
60°	9.0'	19.0'	16.0'	10.4'	54.0'	2.5'
75°	9.0'	19.5'	23.0'	9.3'	62.0'	2.5'
90°	9.0'	18.5'	26.0'	9.0'	63.0'	3.0'



- A) Parking angle
- B) Stall Width
- C) Stall Depth
- D) Aisle width between stall lines
- E) Stall width parallel to aisle
- F) Module width
- G) Bumper overhang

B. Compact Automobiles

A°	B	C	D*	E	F	G
0°	8.0'	N/A	11.0'	19.0'	27.0'	N/A
45°	7.5'	16.0'	11.0'	10.5'	43.0'	2.0'
60°	7.5'	16.7'	14.0'	8.7'	47.4'	2.3'
75°	7.5'	16.3'	17.4'	7.8'	50.0'	2.5'
90°	7.5'	15.0'	20.0'	7.5'	50.0'	2.5'

\*Additional width may be required where the aisle serves as a principal vehicular access to on-site uses or structures or serves two-way traffic.

6.6.7 Minimum Off-Street Parking Space Requirements

The following minimum parking space requirements shall apply for the appropriate use and zoning district. Parking space requirements shall not apply for uses located within the Office/Institutional-3 District.

A reduction of up to twenty percent (20%) of the minimum number of required parking spaces may be permitted through the granting of a variance by the Board of Adjustment if, based on substantial evidence in the record of its proceedings, the Board finds that compliance with the full minimum off-street parking space requirements of this section would necessitate the removal of or would seriously endanger significant specimen trees on or adjacent to the zoning lot on which such parking is required.

Use	Minimum Number of Parking Spaces	
	TC 1 and TC-2 Districts	Districts other than TC and OI-3
Dwelling, single-family	1 per dwelling unit	2 per dwelling unit
Dwelling, two-family or multi-family		
Efficiency	1 per dwelling unit	1 per dwelling unit
1 or 2 bedrooms	1 per dwelling unit	1.5 per dwelling unit
3 or more bedrooms	1 per dwelling unit	2 per dwelling unit
Mobile home	N/A	2 per unit
Mobile home park	N/A	1 per unit
Business, office-type	1 per 400 sq. ft. of floor area	1 per 350 sq. ft. of floor area
Church	1 per 4 persons the use is designed to accommodate	1 per 4 persons the use is designed to accommodate
Fraternity or sorority house	1 per resident	1 per resident
Group care facility	1 per 2 beds	1 per 2 beds
Hospital	1.5 per bed	1.5 per bed
Hotel or motel	1 per lodging unit	1 per lodging unit
Public cultural facility	1 per 500 sq. ft. of floor area	1 per 500 sq. ft. of floor area
Public use facility	1 per 400 sq. ft. of floor area	1 per 350 sq. ft. of floor area
Research activities	1 per 400 sq. ft. of floor area	1 per 350 sq. ft. of floor area

Residence Hall	1 per 2 residents	1 per 2 residents
Rooming house	1 per lodging unit	1 per lodging unit
School, elementary	1 per staff member	1 per staff member
School, secondary	1 per 4 students	1 per 4 students
Tourist home	1 per lodging unit	1 per lodging unit
Automotive, trailer, and farm implement sales or rental	1 per 500 sq. ft. of enclosed exhibit area	1 per 500 sq. ft. of enclosed exhibit area
Bank	1 per 400 sq. ft. of floor area	1 per 350 sq. ft. of floor area
Business, convenience		
Restaurant	1 per 400 sq. ft. of floor area	1 per 4 seats
Other convenience business	1 per 400 sq. ft. of floor area	1 per 250 sq. ft. of floor area
Business, general	1 per 400 sq. ft. of floor area	1 per 250 sq. ft. of floor area
Clinic	1 per 400 sq. ft. of floor area	1 per 250 sq. ft. of floor area
Maintenance and/or storage facility	N/A	1 per 2 employees of 2 largest shifts combined.
Manufacturing, light	N/A	1 per 2 employees of 2 largest shifts combined
Personal services	1 per 400 sq. ft. of floor area	1 per 250 sq. ft. of floor area
Place of assembly	1 per 4 persons the use is designed to accommodate	1 per 4 persons the use is designed to accommodate

In the case of a use not listed above, the minimum parking space requirement shall be determined by the Town Manager. In making such determinations, the Town Manager shall be guided by the requirements for similar uses, the number and kind of vehicles likely to be attracted to the use, and studies of minimum parking space requirements for such use in other jurisdictions.

6.6.8 Loading Space Design Standards

All loading spaces shall meet the following minimum design requirements:



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- a) Off-street loading spaces shall be located and arranged so that a semi-trailer truck (WB 50 class) shall be able to gain access to and use such spaces by means of one continuous parking maneuver.
  - b) Loading space shall observe the minimum street and interior setbacks established for structures in Article 5 of this chapter.
  - c) All loading space and maneuvering space shall be surfaced with an all-weather material which shall be maintained in a safe, sanitary, and neat condition.
  - d) No loading space shall be located so that a vehicle using such space intrudes on travel lanes, walkways, public or private streets, or adjacent properties.
  - e) Each required off-street loading space shall have a minimum width of twelve (12) feet, a minimum depth of sixty (60) feet, and a vertical clearance of sixteen (16) feet above finished grade of the space.
  - f) Loading areas shall be screened from adjacent streets and adjacent properties by means of an effective screening device which is at least six (6) feet in height above the grade of the loading area. Appropriate screening devices may include solid decorative brick walls, wood fences, berms, tight evergreen hedges which shall reach the required height within two (2) years of planting, or any combination of the above.

#### 6.6.9 Minimum Off-Street Loading Space Requirements

The following minimum loading space requirements shall apply for the appropriate use.

<u>Use</u>	<u>Minimum Number of Loading Spaces</u>
Business, convenience or general	1 per 5,000 sq. ft. of floor area or major fraction thereof, not to exceed 2 spaces
Maintenance and/or storage facility, light manufacturing, or supply yard	1 per 10,000 sq. ft. of floor area or major fraction thereof, not to exceed 3 spaces

#### 6.7 Drainage and Storm Water Management

Natural drainage systems and storm water management installations shall be designed, constructed, and maintained so as to 1) provide for natural infiltration of storm water; 2) control velocity of runoff flows; 3) extend the time of concentration of storm water runoff; and 4) to collect and transmit excess storm water flows into either the Town drainage system or into a natural drainage system.

6.8 Erosion and Sedimentation Control

All developments shall comply with the provisions of applicable soil erosion and sedimentation control regulations. Certification of compliance with or exemption from the plan requirements of such regulations shall be submitted to the Town Manager prior to issuance of any Zoning Compliance Permit for the development. No Development Improvements Construction Permit or Building Permit for a structure shall be issued until certification of the completion of control measures and facilities required for all land-disturbing activity associated with such structure and its ancillary construction has been submitted to the Town Manager.

6.9 Water and Sewerage

6.9.1 Service by Public Systems

All developments shall be served by a public water supply and a public sanitary sewer system wherever reasonably practicable.

Fire hydrants of sufficient water pressure to provide adequate fire protection shall be provided where necessary.

All proposed public water and sanitary sewer installations shall be approved by the Orange Water and Sewer Authority (OWASA). Certification of such approval shall be submitted to the Town Manager prior to issuance of any Zoning Compliance Permit for the development being served.

No Certificate of Occupancy for a structure shall be issued until the following documents have been submitted to the Town Manager:

- a) Certification from OWASA that all water and/or sewer facilities necessary to serve such structure have been completed to OWASA standards; and
- b) As-built construction drawings of those completed water and/or sewer facilities located within a public right-of-way or easement.

6.9.2 Service by Individual Systems

Individual water supply systems intended to provide potable water may be permitted for a single- or two-family dwelling on a zoning lot, subject to approval by the appropriate County Health Department. Certification of such approval shall be submitted to the Town Manager prior to issuance of any Zoning Compliance Permit for the development being served.

Individual subsurface sewage disposal systems may be permitted for a single- or two-family dwelling on a zoning lot, subject to approval by the appropriate County Health Department. Certification of such approval shall be submitted to the Town Manager prior to issuance of any Zoning Compliance Permit for the development being served.

6.10 Other Utilities

All utility lines other than lines used only to transmit electricity between generating stations or substations and three-phase electric power distribution lines shall be placed underground, and all surface disruptions required for installation shall be rehabilitated to the original or an improved condition.

A letter or letters certifying the availability of immediate service from each of the other utilities (electric, gas, telephone, cable television) serving a structure shall be submitted to the Town Manager prior to issuance of a Zoning Compliance Permit for such structure.

No Certificate of Occupancy for a structure shall be issued until the following documents have been submitted to the Town Manager:

- a) Certification or certifications from the appropriate utilities that all facilities necessary to provide electric, gas, telephone, and/or CATV service to such structure have been completed to the standards of the appropriate utilities; and
- b) As-built construction drawings of those completed electric, gas, telephone, and CATV facilities located within a public right-of-way or easement.

6.11 Refuse Collection

All developments shall provide secure, safe, and sanitary facilities for the storage and pickup of refuse. Such facilities shall be convenient to collection and shall be appropriate to the type and size of the development being served.

Except for single- and two-family dwellings, all refuse storage facilities shall be screened by a solid wall, fence, tight evergreen hedge, or combination of the above. Such screening shall be of sufficient height and design to effectively screen the facility from the view from adjacent residential uses and streets, and from adjacent properties.

6.12 Buffers and Screening

In order to reduce the impacts of a use of land on adjacent uses which are of a significantly different type of use, buffers and screening shall be required in accord with the following provisions of this subsection.

6.12.1 Buffers Required

A buffer consists of a horizontal distance from a property line which may only be occupied by screening, utilities, access ways, and landscaping materials. The required buffering distance between land uses on adjoining zoning lots is set forth in the matrix shown in Figure 6-2. Such buffer shall be provided unless the abutting use has already provided a buffer in compliance with the provisions of this subsection.

6.12.2 Screening Required

Within buffers, screening is required and shall consist of at least the following:

- a) A row of deciduous and/or evergreen trees which are not less than fifteen (15) feet high at the time of planting and are spaced not more than fifteen (15) feet apart; and
- b) A row of evergreen shrubs spaced not more than five (5) feet apart which will grow to form a continuous hedge at least six (6) feet in height within two (2) years of planting; and
- c) Lawn, low-growing evergreen shrubs, evergreen ground cover, or vegetable or rock mulch covering the balance of the buffer.

All business, service, repair, processing, storage, or merchandise display conducted outside of an enclosed building shall be screened from adjacent streets and properties by means of an effective screening device of a height appropriate to its screening function. Appropriate screening devices may include solid decorative brick walls, wood fences, berms, tight evergreen hedges which shall reach the necessary height within two (2) years of planting, or combination of the above.

FIGURE 6-2 BUFFER MATRIX

Proposed Use	Abutting Use	Dwelling, single or two-family	Dwelling, multi-family	Any use in Use Group B	Automotive repair, maintenance and/or storage facility, light manufacturing, supply yard	Any use in Use Group C other than the above
Dwelling, single- or two-family		0	5	10	20	15
Dwelling, multi-family		5	0	10	20	15
Any principal use in Use Group B		10	10	0	15	10
Automotive repair, maintenance and/or storage facility, light manufacturing, supply yard		20	20	15	0	5
Any principal use in Use Group C other than the above		15	15	10	5	0

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6.12.3 Alternative Buffers and Screening

In lieu of compliance with the above buffer and screening requirements, a developer may submit to the Appearance Commission for its approval a detailed plan and specifications for landscaping and screening which will afford a degree of buffering and screening equivalent to or exceeding that provided by the above requirements.

6.12.4 Existing Vegetation

The retention of existing vegetation shall be maximized to the extent practicable wherever such vegetation contributes to required buffering and screening or to the preservation of significant trees.

6.12.5 Maintenance of Landscaping

All landscaping and screening providing required buffering and screening shall be maintained so as to continue their effectiveness.

6.13 Signs

6.13.1 Intent

It is the intent of this section to authorize the use of signs whose types, sizes, and arrangements are compatible with their surroundings; appropriate to the type and intensity of activity to which they pertain, expressive of the identity of individual properties or occupants or of the community as a whole, legible in the circumstances in which they are seen, and appropriate to traffic safety.

6.13.2 Sign Defined

A sign is any device designed to inform or attract attention of persons not on the premises on which the device is located and which is related in its subject matter to the premises on which it is located.

6.13.3 Signs Subject to Control

Unless specifically exempted, no sign visible from a public right-of-way, whether exterior to or interior to a structure, shall be erected, displayed, or substantially altered except in accord with the provisions of this chapter and until a Zoning Compliance Permit has been issued therefor.

6.13.4 Signs Exempt from Regulation

The following signs are exempt from regulation and permit requirements under this section provided such signs comply with the provisions of Subsection 6.13.5.

- a) Signs bearing only property identification numbers and names, post office box numbers, names of occupants of the premises, or other identification of premises not of a commercial nature, provided such signs are not illuminated and do not exceed two (2) signs per zoning lot or two (2) square feet in area per display surface.

- b) Flags and insignia of a government, when not displayed in connection with a commercial promotion.
- c) Legal notices, identification and informational signs, and traffic directional or regulatory signs erected by or on behalf of a governmental body.
- d) Memorial signs or tablets, and names and construction dates of buildings when cut into any masonry surface.
- e) Signs directing and guiding traffic and parking on private property, provided such signs are non-illuminated or indirectly illuminated, bear no advertising matter, and do not exceed four (4) square feet in area per display surface.
- f) Real estate signs advertising the sale, rental, or lease of the premises on which said signs are located, provided such signs do not exceed one sign per street frontage or one sign per four hundred (400) feet of street frontage, or four (4) square feet in area per display surface, and are removed immediately after sale, rental, or lease of the premises.
- g) Construction site identification signs whose message is limited to identification of architects, engineers, contractors, and other individuals or firms involved with the construction, the name of the building, the intended purpose of the building, and the expected completion date, provided such signs do not exceed one sign per construction site or four (4) square feet in area per display surface, are not erected prior to issuance of a Building Permit, and are removed within seven (7) days of issuance of a Certificate of Occupancy.
- h) Temporary political signs advertising candidates or issues, provided such signs do not exceed one sign per zoning lot or four (4) square feet in area per display surface, are not erected prior to thirty (30) days before the appropriate election, and are removed within seven (7) days after the election.
- i) Yard or garage sale signs announcing yard or garage sales, provided such signs do not exceed one sign per site of such sale or four (4) square feet in area per display surface, and are removed within seven (7) days of erection.
- j) Public event announcements by public or non-profit organizations of special events or activities of interest to the general public, provided such signs do not exceed one sign per site of such events or activities or twelve (12) square feet in area per display surface, and are removed within fourteen (14) days of erection.
- k) Temporary signs announcing grand openings of new businesses only, provided such signs do not exceed thirty-two (32) square feet of display area per business site, and are removed within fourteen (14) days of the opening of the business.

6.13.5 Traffic Safety Precautions

Notwithstanding any other provision in this chapter, the following restrictions shall apply to signs in order to preserve the safety of pedestrian, bicycle, and vehicular movement:

- a) No sign, or part thereof, shall be located within a clear-vision area established by Subsection 6.5.4.
- b) No sign shall make use of the words "STOP", "SLOW", "CAUTION", "DANGER", or any other word, phrase, symbol, or character in such manner as is reasonably likely to be confused with traffic directional and regulatory signs.
- c) No sign shall be erected so that by its location, color, nature, or message is likely to be confused with or obstruct the view of traffic signals or signs, or is likely to be confused with the warning lights of an emergency or public safety vehicle.
- d) Except as used to display time and temperature, no sign shall contain flashing lights.

6.13.6 General Limitations

Except where specifically exempted by this chapter, all signs, including the supports, frames, and embellishments thereto, shall not be located within any public right-of-way, nor shall any sign be attached, affixed, or painted on any utility pole, light standard, telephone or telegraph pole, any tree, rock, or other natural object.

No sign shall have more than two (2) display surfaces.

No display surface shall contain more than ten (10) items of information except where the name of the occupant of the premises contains more than ten (10) items of information and the display surface contains only the name of the occupant. An item of information means any of the following: a syllable of a word; an abbreviation; a number; a symbol; a geometric shape. In computing items of information, letters less than three (3) inches in height, if contained in a wall sign, shall not be counted. No source of illumination of a sign, such as flood-lights or spotlights, shall be directly visible from any public right-of-way, from any Residential district, or from adjacent properties. Internally illuminated signs shall consist of a dark background and a light message. Neon tube illumination shall be prohibited except as internal illumination.

Animated, rotating, or other moving or apparently moving signs shall be prohibited.

Devices consisting of banners, streamers, pennants, windblown propellers, strung light bulbs, and similar installations shall be prohibited.



6.13.7 Signs in Residential and Rural Transition Districts and in PD-H Developments

No sign shall be erected or displayed in any Residential or Rural Transition district or in any Planned Development - Housing except as allowed under subsection 6.13.4 or as provided below:

- a) Development identification signs containing the name only of a subdivision, multi-family development, or planned development, provided such signs are not illuminated and are limited to one free-standing sign at each principal point of access to the development, sixteen (16) square feet in area per display surface, and a maximum height of six (6) feet.
- b) Home occupation signs identifying a home occupation, provided such signs are not illuminated are are limited to one wall sign per zoning and a maximum display surface area of three (3) square feet.
- c) Nonresidential signs identifying nonresidential uses permitted as a principal or special use in Residential or Rural Transition districts or as an accessory use in PD-H developments provided such signs are not illuminated and are limited to one free-standing or wall sign per zoning lot and sixteen (16) square feet in area per display surface.

6.13.8 Signs in TC-2, TC-1, CC, NC, OI-3, OI-2, OI-1, and I Districts

No sign shall be erected or displayed in the Town Center districts or in any Community Commercial, Neighborhood Commercial Office/Institutional-3, Office/Institutional-2, Office/Institutional-1 or Industrial district except as allowed under Subsection 6.13.4 or as provided below for the type of sign and the zoning district in which it is located.

Where a zoning lot contains more than one principal use or establishment, the provisions below shall apply to the zoning lot as a whole, and the owner(s) of the zoning lot shall be responsible for allocating permitted signs and display surface areas among the individual uses or establishments. The sign plan submitted for such zoning lot shall show all signs located or proposed thereon and shall be designed so that all signs are in harmony and consistent with each other.

1. Free-Standing Signs

Free-standing signs may be erected and displayed on a zoning lot in compliance with the maximum area per display surface and the maximum height limitations contained in Subsection 6.13.9, provided:

- a) The zoning lot on which a free-standing sign is located shall be accessible by automobile and contains off-street parking for the principal use(s);

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- b) The buildings or structures housing the principal use(s) on a zoning lot on which a free-standing sign is located shall be set back at least twenty (20) feet from the abutting street right-of-way;
  - c) Free-standing signs shall be limited to one sign per street frontage of one hundred (100) feet or more, and shall not be located closer than one hundred (100) feet to any other free-standing sign;
  - d) No free-standing sign shall be permitted on the same street frontage along which there is a projecting sign;
  - e) Free-standing signs shall clear driveway and parking areas by a height of at least fourteen (14) feet and shall clear sidewalks and pedestrian paths by a height of at least eight (8) feet; and
  - f) The message of free-standing signs shall be limited to the name(s) of the establishment(s) located on the zoning lot and/or the name of a multi-use development located thereon, except that free-standing signs identifying theaters or service stations may also identify the current presentation(s) or fuel prices, as appropriate.

2. Projecting Signs

Projecting signs may be erected and displayed on a zoning lot in compliance with the maximum area per display surface limitations contained in Subsection 6.13.9, provided:

- a) The building to which a projecting sign is attached shall be twenty (20) feet or more in width;
- b) Projecting signs shall be limited to one sign per street frontage, and shall not be located closer than fifty (50) feet to any other projecting sign;
- c) No projecting sign shall be permitted on the same street frontage along which there is a free-standing sign;
- d) Projecting signs shall clear sidewalks and pedestrian paths by a height of at least eight (8) feet, and shall project no more than four (4) feet from the building to which they are attached;
- e) No projecting sign shall extend above the soffit, parapet, or eave line, as appropriate, of the building to which it is attached;
- f) Projecting signs shall not be located at the intersection of building corners except at right angles to a building facade; and
- g) The message of projecting signs shall be limited to the name(s) of the establishment(s) located on the zoning lot and/or the name of a multi-use development located thereon.

3. Wall Signs

Wall signs may be erected and displayed on a zoning lot in compliance with the maximum percentage of facade coverage limitations contained in Subsection 6.13.9, provided:

- a) Wall signs placed in the space between windows shall not exceed in height two-thirds (2/3) of the distance between the top of a window and the sill of the window above;
- b) No wall sign shall protrude more than twelve (12) inches from the wall to which it is attached;
- c) No wall sign shall extend above the soffit, parapet, or eave line, as appropriate, of the building to which it is attached. If the building consists of more than two (2) stories, wall signs shall not extend above the second story;
- d) The display area of wall signs painted on, affixed to, or otherwise displayed on or through a facade window shall not exceed fifteen percent (15%) of the area of the window;
- e) Wall signs, or portions thereof, placed between window spandrels shall not exceed in height two-thirds (2/3) the height of the spandrel; and
- f) Wall signs shall not cover or interrupt major architectural features.

6.13.9 Sign Area and Height Limitations

<u>District</u>	<u>Free-Standing Signs</u>		<u>Projecting Signs</u>		<u>Wall Signs</u>	
	Maximum Area Per Display Surface (sq. ft.)	Maximum Height	Maximum Area Per Display Surface (sq. ft.)	Maximum Area Per Display Surface (sq. ft.)	Maximum Percentage of Facade Coverage (%)	
TC-2	8	14	8	8	5	
TC-1	8	14	8	8	5	
CC	30	20	30	30	10	
NC	20	16	20	20	10	
OI-3	20	16	20	20	5	
OI-2	20	12	20	20	5	
OI-1	20	12	20	20	5	
I	20	12	20	20	5	

6.13.10 Signs in PD-SC, PD-OI, PD-MU and PD-I Developments

No sign intended to be read from outside a Planned Development - Shopping Center, Planned Development - Office/Institutional, Planned Development - Mixed Use or Planned Development - Industrial, or from public streets within the development, shall be permitted within such development except as allowed under Subsection 6.13.4 or as provided below:

- a) Development identification signs containing the name only of a planned development, provided such signs are limited to one

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free-standing sign at each principal point of access to the development, forty (40) square feet in area per display surface, and a maximum height of twenty (20) feet;

- b) Building identification signs containing only the name of a building or building complex and the nature of the establishments therein, provided such signs are limited to one wall sign per building with a display area not exceeding five percent (5%) of the area of the building facade to which it is attached, up to a maximum area of forty (40) square feet;
- c) Identification signs for individual establishments containing the name(s) only of the establishments, provided such signs are limited to wall signs with a maximum display area of thirty (30) square feet.

#### 6.13.11 Sign Area and Number

The area of a display surface of a sign shall be computed as including the entire area, within a regular geometric form or combination of forms, comprising all the display area of the surface and including all of the elements of the matter displayed and the sign frame. Structural members not bearing advertising matter shall not be included in the computation of sign area.

For the purpose of determining number of signs, a sign shall be considered to be a single display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random matter without organized relationship of elements, each element shall be considered a single sign.

#### 6.14 Outdoor Lighting

Except for single- and two-family dwellings, all streets, driveways, bikeways, sidewalks, pedestrian paths, parking areas, and other common areas and facilities shall be lighted where necessary to ensure the security of property and the safety of persons using such streets, driveways, bikeways, sidewalks, pedestrian paths, parking areas, and other common areas and facilities.

All principal entrances and exits to principal buildings used for nonresidential purposes or containing more than five (5) dwelling or lodging units shall be sufficiently lighted to ensure the safety of residents and the security of the building.

Lighting sources shall be shielded or arranged so as not to produce within any public right-of-way glare that interferes with the safe use of such right-of-way or constitutes a nuisance to the occupants of adjacent properties.

#### 6.15 Accessibility for the Handicapped

Except for single- and two-family dwellings, all buildings and facilities shall be accessible to and usable by the physically handicapped, in accord with the building code provisions contained in Chapter 5 of the Town Code of Ordinances.

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ARTICLE 7 RESERVED

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ARTICLE 8. SPECIAL USE PERMITS

8.1 Intent

It is the intent of this article to recognize and permit certain uses and developments that require special review, and to provide standards by which applications for permits for such uses and developments shall be evaluated.

It is further intended that Special Use Permits be required for the following types of developments:

- a) Special use that, because of their inherent nature, extent; and external effects, require special care in the control of their location, design, and methods of operation in order to ensure protection of the public health, safety, and welfare; and
- b) Planned developments that require special review in order to provide the regulatory flexibility and performance criteria necessary to permit a creative approach to the development of land that will (i) accomplish a more desirable environment than would be possible through the strict application of the generally applicable requirements of this chapter; (ii) provide for an efficient use of land and arrangement of land uses, buildings, circulation systems, and utilities; (iii) promote an improved level of amenities; and (iv) provide an environment of stable character compatible with surrounding areas.

8.2 Special Use Permit Required

Those uses described in Section 8.7 and listed in Section 4.3 as permitted special uses in a zoning district may be established in that district only after issuance and recordation of a Special Use Permit.

Those planned developments described in Section 8.8 may be established in any zoning district and only after issuance and recordation of a Special Use Permit.

8.3 Findings of Fact

No Special Use Permit shall be recommended by the Town Manager or Planning Board for approval and no Special Use Permit shall be approved by the Council unless each of the following findings is made concerning the proposed special use or planned development:

- a) That the use or development is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
- b) That the use or development complies with all required regulations and standards of this chapter, including all applicable provisions of Articles 4, 5, and 6 and the applicable specific standards contained in Sections 8.7 and 8.8, and with all other applicable regulations;

- c) That the use or development is located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or that the use or development is a public necessity; and
- d) That the use or development conforms with the general plans for the physical development of the Town as embodied in this chapter and in the Comprehensive Plan.

8.4 Procedures for Approval of Special Use Permits

8.4.1 Application Submittal Requirements

Applications for Special Use Permits shall be filed with the Town Manager.

The Town Manager shall prescribe the form(s) on which applications are made, as well as any other material which may reasonably be required to make the determinations called for in the particular case, with sufficient copies for necessary referrals and records.

No application shall be accepted by the Town Manager unless it complies with such requirements. Applications which are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the application.

8.4.2 Town Manager's Analysis

On acceptance of a complete application, the Town Manager shall cause an analysis to be made by qualified representatives of the Town and such other agencies or officials as appear appropriate in the circumstances of the case, to determine conformity with the Comprehensive Plan, the provisions of this chapter, and other regulations applicable in the case, and, in the case of planned developments, to define specifically the modifications of regulations which seem justified in view of equivalent service of public purposes.

8.4.3 Preliminary Conferences with Applicant

Following such analysis, unless complete conformity is found, the Town Manager shall notify the applicant, in writing, of deficiencies in the proposed development. Such notification shall also state the willingness of the Town Manager to confer for the purpose of assisting the applicant in bringing the proposed development into conformity with the Comprehensive Plan and applicable regulations.

If the applicant joins in such conferences, changes may be made in the original application, further conferences may be held, and additional material may be requested to guide in determinations. In the course of such preliminary conferences, any recommendations for changes shall be recorded in writing along with the reasons therefor. Such recommendations shall become part of the record in the case. Applicants shall indicate, in writing, their agreement or disagreement with such recommendations, and the reasons therefor. Such responses by applicants shall also be included in the record in the case.



8.4.4 Town Manager's Report to Planning Board

The Town Manager shall prepare and submit to the Planning Board a written report containing findings as the determinations required in Section 8.3 and a recommendation for action on the application.

If the applicant does not participate in preliminary conferences with the Town Manager, such report shall be submitted to the Planning Board within thirty (30) days of the acceptance of the application, or within such further time consented to by written notice from the applicant or by Council resolution. Failure of the Town Manager to submit a report to the Planning Board within the prescribed time limit, or extensions thereof, shall be construed as a favorable recommendation without conditions.

If the applicant participates in preliminary conferences with the Town Manager, such report shall be submitted to the Planning Board at such time as further conferences appear unnecessary. In order to allow sufficient time for the conferences, no time limits shall apply to the Town Manager's review in such case.

8.4.5 Planning Board Review

The Planning Board shall review the application and the Town Manager's report and shall prepare and submit to the Council a written recommendation for action based on findings as to the determinations required in Section 8.3

Such recommendation shall be submitted to the Council within thirty-five (35) days of the meeting at which the Town Manager's report is submitted to the Planning Board, or within such further time consented to by written notice from the applicant or by Council resolution.

Failure of the Planning Board to submit a recommendation to the Council within the prescribed time limit, or extensions thereof, shall be construed as a favorable recommendation without conditions.

8.4.6 Public Hearing

After its receipt of the Planning Board's recommendation or, if applicable, the expiration of the time limit prescribed in Subsection 8.4.5, the Council shall hold a hearing on the application at the next available regularly scheduled public hearing. Public hearings on applications for Special Use Permits shall be held by the Council on the third Monday of January, March, May, September, and November. If two-thirds (2/3) of its total membership find that an emergency exists, the Council may schedule a public hearing at a date other than the times specified above.

Notice of the date, time, and place of the public hearing shall be published in a newspaper of general circulation in the planning jurisdiction once a week for two (2) successive weeks, with the first notice to be published not less than ten (10) nor more than twenty-five (25) days prior to the date of the hearing.

The Public Hearing shall be open to the public and all interested persons shall be given the opportunity to present evidence and arguments and to ask questions of persons who testify. The Council may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the application may be heard without undue delay. All persons who intend to present evidence at the public hearing shall be sworn.

The applicant shall bear the burden of presenting evidence sufficient to establish conclusively that the proposed development will comply with the determinations required in Section 8.3.

A record of the proceedings of the hearing shall be made and shall include all documentary evidence presented at the hearing.

3.4.7 Town Manager's Report to Council

After completion of the public hearing, the Town Manager and Town Attorney shall review the record of the public hearing and the Town Manager shall prepare and submit to the Council a written report containing findings as to the determinations required in Section 8.3 and a recommendation for action.

Such report shall be submitted to the Council within thirty (30) days after completion of the public hearing, or within such further time consented to by written notice from the applicant or by Council resolution.

Failure of the Town Manager to submit a recommendation to the Council within the prescribed time limit, or extensions thereof, shall be construed as a favorable recommendation without conditions.

8.4.8 Council Action

The Council shall review the record of the public hearing, the Planning Board's recommendation, and the Town Manager's report and shall take action on the application based on findings as to the determinations required in Section 8.3. All findings shall be based on reliable evidence presented at the public hearing.

Action on the application shall be one of the following:

- a) Approval;
- b) Approval subject to conditions; or
- c) Denial.

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8.4.9 Effect of Denial or Withdrawal on Subsequent Applications

When the Council shall have denied an application or the application shall have been withdrawn, by written notice, after publication of the first public hearing notice required in Subsection 8.4.6, the Town Manager shall not accept another application for approval of the same or similar special use or planned development, affecting the same property or a portion thereof, until the expiration of a twelve (12) month period extending from the date of denial or withdrawal, as appropriate.

8.4.10 Amended Applications

If the applicant proposes any substantial amendments to or modifications of the application subsequent to the Town Manager's initial review, an amended application shall be submitted and reviewed as an original application.

8.4.11 Notice of Decision and Issuance of Special Use Permit

The Town Manager shall cause notice of the disposition of the application to be delivered to the applicant by personal service or by registered or certified mail, return receipt requested, and shall cause a copy of the decision to be filed in the office of the Planning Department.

In the case of approval or approval with conditions, the Town Manager shall issue the necessary Special Use Permit in accord with the action of the Council. The applicant shall record such permit in the office of the appropriate County Register of Deeds.

The Special Use Permit, including all conditions attached thereto, shall run with the land and shall be binding on the original applicant as well as all successors, assigns, and heirs.

8.4.12 Appeal of Decision

A decision by the Council on an application for a Special Use Permit may be appealed to the Superior Court by an aggrieved party. Such appeal shall be in the nature of certiorari and must be filed within thirty (30) days of filing of the decision in the office of the Planning Department or the delivery of the notice required in Subsection 8.4.11, whichever is later.

8.4.13 Final Plan Approval

No Zoning Compliance Permit shall be issued for development approved in a Special Use Permit unless and until such Special Use Permit has been issued and recorded and the Town Manager has approved final plans for the development as a whole, or for phases thereof deemed satisfactory in relation to total development. The Town Manager shall prescribe the form and content of such final plans.

Approval of final plans shall be based in compliance with all applicable regulations and requirements, including all conditions attached to the Special Use Permit.

8.4.13 Issuance of Development Permits

After final plan approval, the Town Manager may issue Zoning Compliance Permits, Development Improvements Construction Permits, Building Permits, Sign Permits, and Certificates of Occupancy for development approved in a Special Use Permit, or an approved phase thereof, in the manner prescribed in Article 15, subject to compliance with the approved final plans and following additional requirements:

- a) Prior to issuance of a Building Permit for any new structures, additions, and exterior renovations or alterations, detailed architectural elevations of such structures, additions, and renovations or alterations shall be submitted to and approved by the Appearance Commission; and
- b) Prior to issuance of any Certificate of Occupancy for development approved in a Special Use Permit, a detailed landscape plan for such development, or an approved phase thereof, shall be submitted to and approved by the Appearance Commission.

8.5 Modifications of Special Use Permits

The Town Manager is authorized to approve minor changes in the approved final plans as long as such changes continue to be in compliance with the approving action of the Council and all other applicable requirements, but shall not have the authority to approve changes that constitute a modification of the Special Use Permit.

Any change requiring evidenciary support in addition to that presented at a public hearing on applications for the original Special Use Permit or subsequent Modifications of Special Use Permit shall constitute a modification of the Special Use Permit. Before making a determination as to whether a proposed action is a minor change or a modification, the Town Manager shall review the record of the proceedings on the original application for the Special Use Permit and subsequent applications for Modifications of Special Use Permit and shall use the following criteria in making the determination:

- a) A change from the use approved by the Council shall constitute a modification;
- b) An increase of five (5) percent or more in the floor area or number of parking spaces approved by the Council shall constitute a modification;
- c) Substantial changes in the location of principal and/or accessory structures approved by the Council shall constitute a modification;

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- d) Structural alterations significantly affecting the basic size, form, style, ornamentation, and appearance of principal and/or accessory structures as shown on the plans approved by the Council shall constitute a modification;
  - e) Substantial changes in pedestrian or vehicular access or circulation approved by the Council shall constitute a modification; and
  - f) Substantial change in the amount or location of landscape screens approved by the Council shall constitute a modification.

If the proposed action is determined to be a modification, the Town Manager shall require the filing of an application for approval of the modification.

Such application shall be made on forms prescribed by the Town Manager and shall contain any other materials which may be reasonably required to make the necessary determinations called for in the particular case.

An application for Modification of a Special Use Permit shall be reviewed in accord with the procedures established in Section 8.4.

#### 8.6 Revocation of Special Use Permit

A Special Use Permit or Modification of Special Use Permit may be revoked by the Council after a finding of the existence of any one of the following conditions:

- a) That the physical construction or activity authorized by a Special Use Permit or Modification of Special Use Permit is not commenced within two (2) years of the issuance of such permit or modification;
- b) That the activity authorized by a Special Use Permit or Modification of Special Use Permit ceases for a continuous period of twelve (12) months;
- c) That the governmental licenses or permits required for the activity authorized by a Special Use Permit or Modification of Special Use Permit are not obtained or are subsequently terminated; and
- d) That any of the applicable requirements of this chapter or any conditions attached to the Special Use Permit or Modification of Special Use Permit are violated.

On request by the holder of a Special Use Permit, the Council may, for good cause shown, extend the time limits for commencement of authorized construction or activity by up to twelve (12) months.

The Council may reinstate a revoked Special Use Permit or Modification of Special Use Permit provided:

- a) A petition for reinstatement is submitted to the Council within ninety (90) days of the revocation;
- b) The conditions that were the cause of the revocation have been eliminated; and
- c) The development is in full compliance with all applicable requirements of this chapter.

8.7 Special Uses

Special uses may be established in accord with the procedures and general requirements set forth in Sections 8.1-8.6 above.

Except where more restrictive specific standards are required below, special uses shall comply with the intensity regulations established in Article 5 for the zoning district in which such use is located and the use group to which such use belongs, and with the design standards established in Article 6.

In addition to the general determinations required in Section 8.3 and the above requirements, the following specific supplemental standards shall be applicable for the designated special use.

8.7.1 Cemetery

- 1. A minimum gross land area of one hundred thousand (100,000) square feet shall be provided.
- 2. The zoning lot shall front on an arterial or collector street and have direct access thereto.
- 3. Adequate space for the parking and maneuvering of funeral entourage shall be provided within the site.
- 4. No interment shall be permitted within twenty (20) feet of any lot line.

8.7.2 Reserved

8.7.3 Fraternity or Sorority Dwelling

- 1. A minimum of two hundred fifty (250) square feet of floor area shall be provided for each resident.
- 2. Reserved.

8.7.4 Group Care Facility

- 1. The zoning lot on which a group care facility is proposed shall not be located within five hundred (500) feet of a zoning lot containing another existing or approved group care facility.
- 2. Reserved

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8.7.5 Reserved

8.7.6 Extraction of Earth Products

1. An Operations Plan and a Rehabilitation Plan, containing information as required by the Town Manager, shall be submitted as part of the application for a Special Use Permit.
2. All operations associated with the extraction shall conform to the following performance standards:
  - a) Direct illumination resulting from the operation shall not fall upon any land not covered by the application;
  - b) Equivalent sound levels at the boundaries of the extraction site shall not exceed the noise standards contained in Chapter II, Article 3 of the Town Code of Ordinances; and
  - c) Reserved.
3. The permanent roads, defined as those to be used in excess of one year, within the excavation site shall be surfaced with a dust-free material, such as soil cement, bituminous concrete, or Portland Cement concrete.
4. Roads other than permanent roads shall be treated with dust inhibitors which will reduce to a minimum the generation of dust from the road surfaces as a result of wind or vehicular action.
5. Where the proposed extraction shall take place within three hundred (300) feet of a dwelling, school, church, hospital, commercial or industrial building, public building, or public land, a security fence at least six (6) feet high shall be installed.
6. Spoil piles and other accumulations of by-products shall not be created to a height more than thirty-five (35) feet above the original contour and shall be so graded that the vertical slope shall not exceed the material's natural angle of repose.
7. The Operations Plans and the Rehabilitation Plan shall be coordinated so that the amount of disturbed land is kept to the absolute minimum consonant with good practices and so that rehabilitation proceeds in concert with extraction.

8.7.7 Landfill

1. An Operations Plan and a Rehabilitation Plan, containing information as required by the Town Manager, shall be submitted as part of the application for a Special Use Permit.
2. All operations associated with the landfill shall conform to the following performance standards:
  - a) Direct illumination resulting from the operation shall not fall upon any land not covered by the application;



b) Equivalent sound levels at the boundaries of the landfill site shall not exceeded the noise standard contained in Chapter 11, Article 3 of the Town Code of Ordinances; and

c) Reserved.

- 3. The permanent roads, defined as those to be used in excess of one year, within the landfill site shall be surfaced with a dust free material, such as soil cement, bituminous concrete or Portland Cement concrete.
- 4. Roads other than permanent roads shall be treated with dust inhibitors which will reduce to a minimum the generation of dust from the road surfaces as a result of wind or vehicular action.
- 5. Where the proposed fill shall take place within three hundred (300) feet of a dwelling, school, church, hospital, commercial or industrial building, public building, or public land, a security fence at least six (6) feet high shall be installed.
- 6. The Operations Plan and the Rehabilitation Plan shall be coordinated so that the amount of disturbed land is kept to the absolute minimum consonant with good practices and so that rehabilitation proceeds in concert with fill.

8.7.8 Reserved

8.7.9 Park/Ride Terminal

- 1. The proposed facility shall be accessible by public bus transportation and bus passenger shelters shall be provided.
- 2. The zoning lot on which a park/ride terminal is located shall front on an arterial or collector street and have direct access thereto.

8.7.10 Place of Assembly--Over 2,000 Seating Capacity

- 1. Equivalent sound levels at the boundaries of the zoning lot shall not exceed the noise standards contained in Chapter 11, Article 3 of the Town Code of Ordinances.
- 2. Reserved.

8.7.11 Reserved

8.7.12 Public Service Facility

- 1. Adequate security of the site, by means of fencing or otherwise, shall be provided.

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8.7.13 Radio or Television Transmitting and/or Receiving Facility

1. The zoning lot on which a radio or television transmitting and/or receiving facility is located shall have a minimum gross land area of one hundred fifty thousand (150,000) square feet.
2. Adequate security of the site, by means of fencing or otherwise, shall be provided.

8.7.14 Reserved

8.7.15 Service Station

1. The zoning lot on which a service station is located shall have a minimum gross land area of twenty thousand (20,000) square feet. If rental of trucks, trailers, etc. is proposed as an accessory use, the minimum gross land area required shall be increased by ten thousand (10,000) square feet.
2. The zoning lot shall front on an arterial or collector street and have direct access thereto.
3. Adequate provision shall be made for ventilation and the dispersion and removal of fumes, and for the removal of hazardous chemicals and fluids.
4. The zoning lot on which a service station is proposed shall not be located within three hundred (300) feet of any intersecting street centerlines or within seven hundred fifty (750) feet of a zoning lot fronting on the same street and containing another existing or approved service station.

8.7.16 Reserved

8.7.17 Temporary Portable Building, Other Than Related to Construction

1. Residential use of temporary buildings shall be prohibited.
2. Temporary buildings shall not be used as part of a drive-in business.
3. Temporary buildings shall be removed within a time period designated on approval, such time period not to exceed three (3) years.

8.7.18 Window, Drive-In, as Accessory Use to Permitted Principal Use

1. Pedestrian walkups shall be clearly separated and well-defined from service areas by curbs.
2. Reserved.

8.8 Planned Developments

8.8.1 Establishment of Planned Developments

Planned developments may be established in any zoning district in accord with the procedures and general requirements set forth in Sections 8.1-8.6 and with the requirements contained in this section.

Planned developments shall be appropriately located with respect to intended functions, to the pattern and timing of development indicated in the Comprehensive Plan, and to public and private facilities existing or clearly to be available by the time the development reaches the stage where they will be needed.

8.8.1.1 Relation to Major Transportation Facilities

Planned developments shall be so located with respect to major street, bicycle, and pedestrian networks, or public transportation facilities, and shall be so designed, as to provide direct access to the development without creating traffic in residential neighborhoods outside the development.

8.8.1.2 Relation to Public Utilities, Facilities, and Services

Planned developments shall be so located in relation to sanitary sewers, water lines, storm and surface drainage systems, and other utilities and installations that neither extension nor enlargement of such systems will be required in manner, form, character, location, degree, scale, or timing resulting in higher net public cost or earlier incursion of public cost than would development generally permitted under existing zoning and development policies.

Such developments shall be so located with respect to necessary public facilities (as for example, schools, parks, and playgrounds in the case of Planned Development-Housing) as to have access to such facilities in the same degree as would development permitted under general regulation, and shall be located, designed, and scaled so that access for public services is equivalent to, and net cost for such services is not greater than, access and net costs for public services for development permitted under general development controls.

However, planned developments failing to meet these criteria may be approved if applicants (a) provide private facilities, utilities, and services approved by appropriate public agencies as substituting on an equivalent basis, and assure their satisfactory continuing operation, permanently or until similar public utilities, facilities, or services are available and used; or (b) make provision acceptable to the Town for offsetting any added net public cost of early commitment of public funds made necessary by such development.

In determining net public costs, the difference in anticipated public installation, operation, and maintenance costs and the difference in anticipated public revenue shall be considered. Expenses involved in making such determinations shall be paid by the applicant. Determinations shall be made by the Town or by experts acceptable to the Town.

8.8.1.3 Relation to Physical Character of the Site

The site of a planned development shall be suitable for development in the manner proposed without hazards to persons or property, on or off the tract, and shall be free from the probability of flooding, excessive erosion, subsidence or slipping of the soil, or other dangers. Condition of soil, ground water level, drainage, and topography shall all be appropriate to both the kind and pattern of use intended.

If appropriate to the form of planned development, lands to be included in planned developments may be divided by streets, alleys, rights-of-way, or easements, which shall be located, dimensioned, and arranged so as to permit unified planning and provide necessary protection against adverse relationships between uses in the development and uses in surrounding areas.

8.8.1.4 Relation to Energy Use

Planned developments shall be so located with respect to climatic elements, including solar access, and shall be so designed, as to provide for and promote energy conservation and efficient use of energy.

8.8.2 Reduction or Increase in Required Land Areas

The minimum and maximum land areas required for zoning lots containing the various classification of planned development as specified in this section, may be reduced or increased by the Council in accord with the following provisions:

1. Reductions in the minimum land area required may be approved upon findings in the particular case that special circumstances required such reduction, that other requirements can be met in such reduced area, and that such reduction shall not exceed ten percent (10%) of the area generally required.
2. Increases in the maximum land area allowed may be approved upon findings in the particular case that the proposed plan of development or the character of the property involved require such increase to meet the requirements and intent of this article or to provide necessary special protection.

In reaching decisions on requests for reduction or increase in required land areas, the Council shall be guided by the provisions of the Comprehensive Plan and the protection of the public health, safety, and general welfare of present and future occupants of the proposed planned development and the surrounding area.

8.8.3 Additions to Planned Development and Similar Zoning Districts Not Subject to Minimum Area Requirements

Where planned developments are proposed within or abutting zoning districts that permit land uses similar to those proposed in the planned development and where the land and proposed plan of development are appropriately related to the existing planned development or the

surrounding or abutting zoning district and provide necessary safeguards in relation to the surrounding area, such additions may be approved without regard to the minimum area requirements set forth herein. The classification of and plans proposed for such additions shall be complementary to the original planned development or abutting zoning district.

8.8.4 Permitted Modifications of Regulations

Where actions, designs or solutions proposed by the applicant are not literally in accord with applicable planned development or general regulations, but the Council makes a finding in the particular case that public purposes are satisfied to an equivalent or greater degree, the Council may make specific modification of the regulations in the particular case, provided that the Council shall not act in a particular case to modify the applicable land use intensity ratios established in Article 5. Any modification of regulations shall be explicitly indicated in the Special Use Permit.

8.8.5 Relation to Subdivision Review

It is the intent of this Section that applicable subdivision review under the subdivision regulations be carried out as an integral part of the review of a planned development. It is the further intent of this Section to permit the submittal of subdivision applications for the whole planned development or for approved phases thereof. The form and content of applications and plans submitted for such integrated review shall be sufficient to satisfy requirements of the subdivision regulations as well as those of this Article.

8.8.6 Planned Development-Housing (PD-H)

The following regulations and requirements apply to a Planned Development-Housing (PD-H), defined for purposes of these regulations as a planned development primarily for dwellings and related uses and facilities.

8.8.6.1 Intent

With respect to timing of development of a particular PD-H, it is intended that in addition to other policies and limitations set forth in this ordinance, consideration shall be given to general housing needs in the Town as a whole and in the subcommunity in which development is proposed, and the need for particular types of housing. In such consideration, due weight shall be given to availability of existing supply of housing types for which there is evident need in view of the age characteristics and economic characteristics of the population, and to the amount and types of potential housing being developed under issued Special Use Permits and Building Permits.

8.8.6.2 Minimum Land Area

Except as provided for in Subsections 8.8.2 and 8.8.3, the minimum gross land area required for a zoning lot containing a PD-H shall

be equal to the minimum gross land area required for a multi-family dwelling in the same zoning district (see Subsection 5.6.2).

8.8.6.3 Permitted Uses

Permitted principal and accessory uses of land or structures within a PD-H shall be as established in Section 4.3 of this Chapter.

8.8.6.4 Intensity Regulations

Except as otherwise provided in this Chapter, the intensity regulations applicable within a PD-H shall be as established in Article 5 for the zoning district in which such PD-H is located and the use group to which the principal use belongs.

8.8.6.5 Design Standards

Except as otherwise provided in this Chapter, the design standards applicable within a PD-H shall be as established in Article 6, with the following additions:

- a) Where a PD-H zoning lot of ten (10) acres or more in area adjoins land zoned residential without intervening permanent open space at least one hundred (100) feet in width serving as a separation for building areas, the portion of the perimeter of the PD-H zoning lot so adjoining shall be planned and developed only for uses permitted by right in the adjoining residentially zoned land and in accord with all other requirements applicable to such land, provided however that in lieu of development, common open space for the PD-H to a depth of one hundred (100) feet from the district boundary may be permitted. No intensive recreational use or off-street parking shall be permitted within seventy-five (75) feet of the PD-H zoning lot boundary in such circumstances; and
- b) Vehicular access to streets shall be limited and controlled as follows:
  - i) if the street or portion thereof serves fifty (50) or fewer dwelling units, vehicular access from off-street parking and service areas may be directly to the street from the sites of individual dwelling units. Determination of number of dwelling units served shall be based on normal routes of traffic anticipated in the development; and
  - ii) vehicular access to other streets or portions of streets from off-street parking and service areas shall be so combined, limited, located, designed, and controlled as to channel traffic from and to such areas conveniently, safely, and in a manner which minimizes marginal traffic friction and promotes free flow of traffic on streets without excessive interruption.

8.8.7 Planned Development-Shopping Center (PD-SC)

The following regulations and requirements apply to a Planned Development-Shopping Center (PD-SC), defined for purposes of these regulations as a planned development for neighborhood, PD-SC(N), or community, PD-SC(C) commercial activity centers.

8.8.7.1 Intent

It is the intent of these regulations to provide for development of such commercial centers in scale with surrounding market areas, at locations in conformance with the Comprehensive Plan and Major Street Plan, and in close proximity to public transportation facilities, in accord with standards set forth herein, and to serve areas not already conveniently and adequately provided with commercial and service facilities of the kind proposed.

It is further the intent to permit the establishment of such planned developments only where planned centers with carefully related buildings, parking and service areas, and landscaped open space will serve clearly demonstrated public need, reduce marginal traffic friction below that which would result from strip commercial development, and protect property values in surrounding neighborhoods. It is further intended that a PD-SC shall provide a broad range of facilities and services appropriate to the general need of the area served to these ends:

- a) PD-SC(N): A Planned Development-Shopping Center (Neighborhood) is intended to be built around a supermarket as the major use, and to provide for the sale of convenience goods, for provision of personal services, and for other frequent needs of a trade area with a population of two thousand (2,000) to ten thousand (10,000), within approximately five (5) to ten (10) minutes driving time; and
- b) PD-SC(C): A Planned Development-Shopping Center (Community) is intended to be built around a department store or substantial variety store as the major tenant, in addition to a supermarket. Such centers normally serve a trade area population of ten thousand (10,000) to twenty-five thousand (25,000), within fifteen (15) to twenty (20) minutes' driving time.

8.8.7.2 Land Area Requirements

Except as provided for in Subsections 8.8.2 and 8.8.3, the land area requirements for a zoning lot containing a PD-SC shall be as follows:

- a) The minimum gross land area required for a zoning lot containing a PD-SC(N) shall be five (5) acres. The maximum gross land area permitted for a zoning lot containing a PD-SC(N) shall be fifteen (15) acres; and

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- b) The minimum gross land area required for a zoning lot containing a PD-SC(C) shall be fifteen (15) acres. There is no maximum limitation on the gross land area permitted within a zoning lot containing a PD-SC(C).

#### 8.8.7.3 Permitted Uses

Permitted principal and accessory uses of land or structures within a PD-SC(N) or PD-SC(C) shall be established in Section 4.3 of this chapter, provided that a PD-SC contains a sufficient range of establishments to provide for the general needs of the trade area proposed to be served.

#### 8.8.7.4 Intensity Regulations

Except as otherwise provided in this chapter, the intensity regulations applicable within a PD-SC shall be as established in Article 5 for the zoning district in which such PD-SC is located and the use group to which the principal use belongs.

#### 8.8.7.5 Design Standards

Except as otherwise provided in this chapter, the design standards applicable within a PD-SC shall be as established in Article 6 with the following additions:

- a) No PD-SC shall be created except where public transportation or direct access to an arterial street is available, or is made available, at convenient locations at the edges of or within the planned development. Such public transportation shall be at a scale and of a character suited to the needs of occupants and visitors; and
- b) Where a PD-SC adjoins any residential neighborhood, with or without an intervening street or alley, to the maximum extent reasonably practicable, non-residential uses and signs shall be located or oriented away from the residential neighborhood.

#### 8.8.8 Planned Development-Office and Institutional (PD-OI)

The following regulations and requirements apply to a Planned Development-Office and Institutional (PD-OI), defined for purposes of these regulations as a planned development for complementary groupings of office and institutional uses.

##### 8.8.8.1 Intent

It is the intent of these regulations to provide for development of such office and institutional centers at locations in conformance with the Comprehensive Plan and the Major Street Plan, and in close proximity to public transportation facilities, in accord with standards set forth herein.



It is further intended that PD-01 development shall be scaled, balanced, and located to reduce general traffic congestion and the need for private automobiles by providing employment close to principal places of residence, convenient pedestrian and bicycle circulation systems, and public transportation facilities.

Within such developments, it is intended that uses shall be arranged horizontally or vertically so that:

- a) Major vehicular flows and other disquieting influences are so separated from residential areas as to protect privacy and tranquility;
- b) General service uses are concentrated for maximum pedestrian convenience and located for easy accessibility by workers and visitors arriving by public transportation; and
- c) Major office and institutional uses are so located as to be convenient to public transportation.

Where such developments adjoin residential neighborhoods, it is intended that arrangement of buildings, uses, open space, and vehicular access be such as to provide appropriate transition and reduce potentially adverse effects.

8.8.8.2 Land Area Requirements

Except as provided for in Subsections 8.8.2 and 8.8.3, the minimum gross land area required for a zoning lot containing a PD-01 shall be five (5) acres. There is no maximum limitation on the gross land area permitted within a zoning lot containing a PD-01.

8.8.8.3 Permitted Uses

Permitted principal and accessory uses of land or structures within a PD-01 shall be as established in Section 4.3 of this chapter.

8.8.8.4 Intensity Regulations

Except as otherwise provided in this chapter, the intensity regulations applicable within a PD-01 shall be as established in Article 5 for the zoning district in which such PD-01 is located and the use group to which the principal use belongs.

8.8.8.5 Design Standards

Except as otherwise provided in this chapter, the design standards applicable within a PD-01 shall be as established in Article 6, with the following additions:

- a) No PD-01 shall be created except where public transportation or direct access to an arterial street is available, or is made available, at convenient locations at the edges of or within the planned development. Such public transportation shall be at a scale and of a character suited to the needs of occupants and visitors; and

- b) Where a PD-01 adjoins any residential neighborhood, with or without an intervening street or alley, to the maximum extent reasonably practicable, non-residential uses and signs shall be located or oriented away from the residential neighborhood.

8.8.9 Planned Development-Mixed Use (PD-MU)

The following regulations and requirements apply to a Planned Development-Mixed Use (PD-MU), defined for purposes of these regulations as a planned development for complementary groupings of residential, commercial, and office uses.

8.8.9.1 Intent

It is the intent of these regulations to provide for development of such mixed uses at locations appropriate in terms of the Comprehensive Plan and the Major Street Plan, and in close proximity to public transportation facilities, in accord with standards set forth herein.

It is further intended that PD-MU development shall be in complexes within which mutually supporting residential, commercial, and office uses are scaled, balanced, and located to reduce general traffic congestion and the need for private automobiles by providing housing close to principal destinations, convenient pedestrian circulation systems, and public transportation devices.

Within such developments, it is intended that uses shall be arranged horizontally or vertically so that:

- a) Residential uses are so separated from major vehicular traffic flows and other disquieting influences as to protect privacy and tranquility;
- b) General commercial and service uses are concentrated for maximum pedestrian convenience, and located for easy accessibility by residents of the development, workers within the development, and visitors arriving by public transportation, and that commercial frontage is uninterrupted by residential or office uses; and
- c) Major office uses are so located as to be convenient to public transportation.

Where such developments adjoin residential neighborhoods, it is intended that arrangement of buildings, uses, open space, and vehicular access be such as to provide appropriate transition and reduce potential adverse effects.

8.8.9.2 Land Area Requirements

Except as provided in Subsections 8.8.2 and 8.8.3, the minimum gross land area required for a zoning lot containing a PD-MU shall be five (5) acres. There is no maximum limitation on the gross land area permitted within a zoning lot containing a PD-MU.

8.8.9.3 Permitted Uses

Permitted principal and accessory uses of land or structures within a PD-MU shall be as established in Section 4.3 of this chapter.

8.8.9.4 Intensity Regulations

Except as otherwise provided in this chapter, the intensity regulations applicable within a PD-MU shall be as established in Article 5 for the zoning district in which such PD-MU is located and the use groups to which the principal uses belong.

8.8.9.5 Design Standards

Except as otherwise provided in this chapter, the design standards applicable within a PD-MU shall be established in Article 6, with the following additions:

- a) No PD-MU shall be created except where public transportation or direct access to an arterial street is available, or is made available, at convenient locations at the edges of or within the planned development. Such public transportation shall be at a scale and of a character suited to the needs of occupants and visitors;
- b) Where a PD-MU adjoins any residential neighborhood, with or without an intervening street or alley, to the maximum extent reasonably practicable, residential uses within the PD-MU district shall be located adjacent to the residential neighborhood, and non-residential uses and signs shall be located or oriented away from the residential neighborhood; and
- c) Relationship of uses shall be such that major commercial and service establishments are grouped for maximum pedestrian convenience along frontages uninterrupted by residential or general office occupancies. Residential or general office uses may either be in separate areas within the development, or may be separated vertically from commercial and service concourses.

8.8.10 Planned Development-Industrial (PD-I)

The following regulations and requirements apply to a Planned Development-Industrial (PD-I), defined for purposes of these regulations as a planned development for complementary groupings of industrial uses.

8.8.10.1 Intent

It is the intent of these regulations to provide development of such industrial centers at locations in conformance with the Comprehensive Plan and the Major Street Plan, and in close proximity to public transportation facilities, in accord with standards set forth herein.

It is further intended that PD-1 development shall be scaled, balanced, and located to reduce general traffic congestion and the need for private automobiles by providing employment close to principal places of residence, convenient pedestrian and bicycle circulation systems, and public transportation facilities.

Within such development, it is intended that uses shall be arranged horizontally or vertically so that:

- a) Major vehicular flows and other disquieting influences are so separated from residential areas to protect privacy and tranquility; and
- b) General industrial uses are concentrated for maximum pedestrian convenience and located for easy accessibility by workers arriving by public transportation.

Where such developments adjoin residential neighborhoods, it is intended that arrangement of buildings, uses, open space, and vehicular access be such as to provide appropriate transition and reduce potentially adverse effects.

#### 8.8.10.2 Land Area Requirements

Except as provided for in Subsections 8.8.2 and 8.8.2, the minimum gross land area required for a zoning lot containing a PD-1 shall be five (5) acres. There is no maximum limitation on the gross land area permitted within a zoning lot containing a PD-1.

#### 8.8.10.3 Permitted Uses

Permitted principal and accessory uses of land or structures within a PD-1 shall be as established in Section 4.3 of this chapter.

#### 8.8.10.4 Intensity Regulations

Except as otherwise provided in this chapter, the intensity regulations applicable with a PD-1 shall be as established in Article 5 for the zoning district in which such PD-1 is located and the use group to which the principal use belongs.

#### 8.8.10.5 Design Standards

Except as otherwise provided in this chapter, the design standards applicable within a PD-1 shall be established in Article 6, with the following additions:

- a) No PD-1 shall be created except where public transportation or direct access to an arterial street is available, or is made available, at convenient locations at the edges of or within the planned development. Such public transportation shall be at a scale and of a character suited to the needs of workers within the development;

- b) Where a PD-1 adjoins any residential neighborhood, with or without an intervening street or alley, to the maximum extent reasonably practicable, non-residential uses and signs shall be located or oriented away from the residential neighborhood.

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ARTICLE 9 RESERVED

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ARTICLE 10 RESERVED

ARTICLE 11 AIRPORT HAZARD DISTRICT

11.1 Intent

The Airport Hazard district is intended to be applied to the approaches to runways of airports or landing fields within the Town's planning jurisdiction in order to minimize danger to lives and property of users of the airport and of occupants in its vicinity.

11.2 Establishment of Airport Hazard District

The Airport Hazard (AH) district is hereby established as a district which overlays other zoning districts established in Article 3. The boundaries of the Airport Hazard district are as shown on the official Zoning Atlas.

The use of any land or structure within the Airport Hazard district shall comply with use regulations applicable to the underlying zoning district.

11.3 Modified Intensity Regulations

Irrespective of intensity regulations generally applicable to the underlying zoning district, the development of any land or structure within the Airport Hazard district shall comply with the following modified gross land area requirement and LUI ratios:

LUI Rating	Minimum GLA	Use Group	FAR	LUI Ratios		
				OSR	LSR	RSR
5	500,000	A,B,C	.018	.90	.80	.010

Application of these regulations shall be as established in Section 5.4 of this chapter.



ARTICLE 12 HISTORIC DISTRICT

12.1 Intent

The Historic District is intended to protect and conserve the heritage and character of the Chapel Hill community by providing for the preservation of designated areas within the planning jurisdiction, including individual properties therein that embody important elements of social, economic, political, or architectural history, and by promoting the stabilization and enhancement of property values throughout such areas.

It is intended that these regulations ensure, insofar as possible, that buildings or structures in the Historic District shall be in harmony with other buildings or structures located therein. However, it is not the intention of these regulations to require the reconstruction or restoration of individual or original buildings, or to prohibit the demolition or removal of such buildings, or to impose architectural styles from particular historic periods, but rather to encourage design whether contemporary or traditional, which is harmonious with the character of the Historic District.

12.2 Establishment of Historic District

The Historic District is hereby established as a district which overlays other zoning districts established in Article 3. The boundaries of the Historic District are as shown on the official Zoning Atlas.

No new historic district or any change to the boundaries of any existing historic district shall be designated until the North Carolina Department of Cultural Resources shall have been given an opportunity, in accord with Chapter 160A, Article 19, Part 3A of the N.C. General Statutes, to make recommendations with respect to the establishment of such new district or change in the boundaries of an existing district.

The use and development of any land or structure within the Historic District shall comply with use regulations and intensity regulations applicable to the underlying zoning district.

12.3 Certificate of Appropriateness Required

No exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), or any above-ground utility structure, or any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished within the Historic District until after an application for a Certificate of Appropriateness as to exterior architectural features has been submitted to and approved by the Historic District Commission.

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For purposes of this article, "exterior architectural features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior architectural features" shall be construed to mean the style, material, size, and location of all such signs.

Such a Certificate of Appropriateness shall be issued by the Commission prior to the issuance of a Zoning Compliance Permit or any other permit granted for purposes of constructing, altering, or demolishing buildings or structures. A Certificate of Appropriateness shall be required whether or not a Zoning Compliance Permit is required. Any Zoning Compliance permit or other permit not issued in conformity with this section shall be invalid.

The Town and all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating any changes in the character of street paving, sidewalks, utility installations, lighting, walls, fences, structures, and buildings on property, easements, or streets owned or franchised by the Town of Chapel Hill or public utility companies.

#### 12.4 Certain Changes Not Prohibited

Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the Historic District that does not involve a change in design, material, or outer appearance thereof, or to prevent the construction, reconstruction, alteration, restoration, moving, or demolition of any such feature that the Building Inspector or similar official shall certify is required by the public safety because of unsafe or dangerous condition.

On the basis of preliminary sketches or drawings and other supporting data, the Town Manager may exempt from requirements for a Certificate of Appropriateness projects involving the ordinary maintenance or repair of any exterior architectural feature that does not involve a change in design, material, or outer appearance thereof. The Town Manager shall notify the Commission of all such exemptions.

#### 12.5 Procedures for Approval of Certificates of Appropriateness

##### 12.5.1 Application Submittal Requirements

Applications for Certificates of Appropriateness shall be filed with the Town Manager.

The Town Manager shall prescribe the form(s) on which applications are made, as well as any other material which may reasonably be required to determine the nature of the application.

The Commission may specify criteria for situations in which the Town Manager may waive any of the application material requirements.

No application shall be accepted by the Town Manager unless it complies with such requirements. Applications which are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the application.

12.5.2 Notification of Affected Property Owners

Prior to approval or denial of an application for a Certificate of Appropriateness, the Commission shall take such action as may reasonably be required to inform the owners of any property likely to be materially affected by the application, and shall give the applicant and such owners an opportunity to be heard.

12.5.3 Public Hearing

In cases where the Commission deems it necessary, it may hold a public hearing concerning the application.

12.5.4 Commission Action

Within sixty (60) days of the acceptance of an application, or within such further time consented to by written notice from the applicant, the Commission shall take action on the application. Such action shall be based upon the review criteria established in Section 12.6 of this article, and shall be one of the following:

- a) Approval
- b) Approval subject to conditions
- c) Denial

Failure of the Commission to take final action on an application within the prescribed time limit, or extensions thereof, shall result in approval of the application as submitted.

The Commission may impose such reasonable conditions on its approval of an application as will ensure that the spirit and intent of this article are achieved.

An application for a Certificate of Appropriateness authorizing the demolition of a building or structure within the Historic District may not be denied. However, the effective date of such a certificate may be delayed for a period of up to one hundred eighty (180) days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the Commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period the Commission may negotiate with the owner and with any other parties in an effort to find a means of preserving the building. If the Commission finds that the building has no particular significance or value toward maintaining the character of the Historic District, it shall waive all or part of such period and authorize earlier demolition or removal.

In every case, the record of the Commission's action shall include the reasons for its action.

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12.5.5 Actions Subsequent to Decision

The Town Manager shall cause notice of the disposition of the application to be sent to the applicant by personal service or by registered or certified mail, return receipt requested, and shall cause a copy of the decision to be filed in the office of the Planning Department. If the application is denied, such notice shall include the reasons for such action.

12.5.6 Appeal of Decision

A decision by the Commission on an application for a Certificate of Appropriateness may be appealed to the Board of Adjustment in accord with the provisions of Article 16.

12.5.7 Submission of New Application

If the Commission denies an application for a Certificate of Appropriateness, a new application affecting the same property may be submitted only if substantive change is made in plans for the proposed construction, reconstruction, alteration, restoration, or moving.

12.6 Review Criteria

In considering an application for a Certificate of Appropriateness, the Commission shall take into account the historical and/or architectural significance of the structure under consideration and the exterior form and appearance of any proposed additions or modifications to that structure that are visible from a public right-of-way. The Commission shall not consider interior arrangement or use.

The Commission, using the criteria below, shall make findings of fact indicating the extent to which the application is or is not congruous with the historic aspects of the Historic District.

The following criteria shall be considered, when relevant, by the Commission in reviewing applications for a Certificate of Appropriateness:

- a) The height of the building in relation to the average height of the nearest adjacent and opposite buildings.
- b) The setback and placement on lot of the building in relation to the average setback and placement of the nearest adjacent and opposite buildings.
- c) Exterior construction materials, including texture and pattern.
- d) Architectural detailing, such as lintels, cornices, brick bond, and foundation materials.
- e) Roof shapes, forms, and materials.
- f) Proportion, shape, positioning and location, pattern, and size of any elements of fenestration.

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- g) General form and proportions of buildings and structures.
- h) Appurtenant fixtures and other features such as lighting.
- i) Structural conditions and soundness.
- j) Architectural scale.

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ARTICLE 13 SPECIAL APPEARANCE DISTRICTS

13.1 Intent

Special Appearance Districts are intended to provide for the preservation and enhancement of the visual character of designated areas within the Town's planning jurisdiction, including individual properties therein, that are significant to the preservation and enhancement of the special visual character of the Chapel Hill community.

It is intended that these regulations ensure, insofar as possible, that buildings or structures in Special Appearance Districts shall be in harmony with other buildings or structures located therein. However, it is not the intention of these regulations to require the reconstruction or restoration of individual or original buildings, or to prohibit the demolition or removal of such buildings, or to impose architectural styles, but rather to encourage design which is harmonious with the character of the district.

13.2 Establishment of Special Appearance Districts

Special Appearance Districts are hereby established as districts which overlay zoning districts established in Article 3. The boundaries of the various Special Appearance Districts are as shown on the official Zoning Atlas.

The use and development of any land or structure within any Special Appearance District shall comply with use regulations and intensity regulations applicable to the underlying zoning district.

13.3 Certificate of Appropriateness Required

No exterior portion of any building or other structure (including stone walls, fences, light fixtures, steps and pavement, or other appurtenant features), or any above ground utility structure, or any type of outdoor advertising sign shall be erected, altered, restored, or moved within designated Special Appearance Districts until after an application for a Certificate of Appropriateness as to exterior architectural features has been submitted to and approved by the Appearance Commission.

For purposes of this article, "exterior architectural features" shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the color, the kind and texture of the building material, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures. In the case of outdoor advertising signs, "exterior architectural features" shall be construed to mean the style, material, size, and location of all such signs.

Such a Certificate of Appropriateness shall be issued by the Commission prior to the issuance of a Zoning Compliance Permit or any other permit granted for purposes of construction or altering buildings or structures. A Certificate of Appropriateness shall be required whether

or not a Zoning Compliance Permit is required. Any Zoning Compliance Permit or other permit not issued in conformity with this section shall be invalid.

The Town and all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating any changes in the character of street paving, sidewalks, utility installations, lighting, walls, fences, structures, and buildings on property, easements, or streets owned or franchised by the Town of Chapel Hill or public utility companies.

13.4 Certain Changes Not Prohibited

Nothing in this article shall be construed to prevent construction, reconstruction, alteration, restoration, moving, or demolition of any such feature that the Building Inspector or similar official shall certify is required by public safety because of an unsafe or dangerous condition.

13.5 Procedures for Approval of Certificates of Appropriateness

13.5.1 Application Submittal Requirements

Applications for Certificates of Appropriateness shall be filed with the Town Manager.

The Town Manager shall prescribe the form(s) on which applications are made, as well as any other material which may reasonably be required to determine the nature of the application.

No application shall be accepted by the Town Manager unless it complies with such requirements. Applications which are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the application.

13.5.2 Notification of Affected Property Owners

Prior to approval or denial of an application for a Certificate of Appropriateness, the Commission shall take such action as may be reasonably required to inform the owners of any property likely to be materially affected by the application, and shall give the applicant and such owners an opportunity to be heard.

13.5.3 Public Hearing

In cases where the Commission deems it necessary, it may hold a public hearing concerning the application.

13.5.4 Commission Action

Within sixty (60) days of the acceptance of the application, or within such further time consented to by written notice from the applicant, the Commission shall take action on the application. Such action shall be based upon the review criteria established in Section 13.6 of this article, and shall be one of the following:

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- a) Approval
  - b) Approval subject to conditions
  - c) Denial

Failure of the Commission to take final action on an application within the prescribed time limit, or extensions thereof, shall result in approval of the application as submitted.

The Commission may impose such reasonable conditions on its approval of an application as will ensure that the spirit and intent of this article are achieved.

In every case, the record of the Commission's action shall include the reasons for its actions.

#### 13.5.5 Actions Subsequent to Decision

The Town Manager shall cause notice of the disposition of the application to be sent to the applicant by personal service or by registered or certified mail, return receipt requested, and shall cause a copy of the decision to be filed in the office of the Planning Department. If the application is denied, such notice shall include the reasons for such action.

#### 13.5.6 Appeal of Decision

A decision by the Commission on an application for a Certificate of Appropriateness may be appealed to the Board of Adjustment in accord with the provisions of Article 16.

#### 13.5.7 Submission of New Application

If the Commission denies an application for a Certificate of Appropriateness, a new application affecting the same property may be submitted only if substantive change is made in plans for the proposed construction, reconstruction, alteration, restoration, or moving.

#### 13.6 Review Criteria

In considering an application for a Certificate of Appropriateness, the Commission shall take into account the architectural significance of the structure under construction and the exterior form and appearance of any proposed additions or modifications to that structure, as well as the effect of such change or additions upon other structures in the vicinity. The Commission shall not consider interior arrangement or use.

The Commission, using the criteria below, shall make findings of fact indicating the extent to which the application is or is not congruous with the visual aspects of the Special Appearance District, and, more particularly, with a) existing or planned development in the area, b) the general character of the town as evidenced by patterns of existing development and by any plans officially adopted by the Planning Board, c) the setting for any public building or buildings, or d) the maintenance and enhancement of the value of neighboring properties.



In its review of plans and specifications, the Commission shall examine the proposed architectural style and general design, the exterior surface treatment (including kind and texture of building material, and color or colors), the arrangement and location of building and structures on the site in question and their relationship to other buildings and structures, proposed landscaping, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant features.

In addition to the above standards, the Commission may adopt and apply specific guidelines for each separate Special Appearance District based upon special aspects of such district.

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ARTICLE 14 NONCONFORMITIES

14.1 Intent

It is the intent of this chapter to recognize that the eventual elimination, as expeditiously as is reasonable, of existing uses or structures that are not in conformity with the provisions of this chapter is as much a subject of health, safety, and welfare as is the prevention of the establishment of new uses or structures that would violate the provisions of this chapter. It is also the intent of this chapter that any elimination of nonconformities shall be effected so as to avoid any unreasonable invasion of established private property rights.

14.2 Nonconforming Lots

14.2.1 Definition

A nonconforming lot is a lot that was lawfully created prior to the effective date of this chapter or a subsequent amendment thereto, but does not conform to the minimum gross land area or minimum lot width requirements established in Article 5 for the zoning district in which it is located.

14.2.2 Required Combination or Recombination of Nonconforming Lots

Where a nonconforming lot abuts another lot of record (whether conforming or nonconforming) held in the same ownership at or subsequent to enactment of this chapter, such lots shall be combined or recombined as necessary to form a conforming lot or lots and shall not thereafter be subdivided except in compliance with all of the requirements of this chapter.

Where a nonconforming lot was created by public taking action or as a result of a court order, the above combination or recombination of lots shall not be required.

14.2.3 Use of Nonconforming Lots

Where a nonconforming lot cannot be combined or recombined with other lots to form a conforming lot or lots, such nonconforming lot may be used subject to the compliance of the intended use and structure(s) with applicable use regulations and with applicable LUI ratios and setback and height regulations. However, any use (e.g. two-family or multi-family dwelling) that requires a greater gross land area than the minimum gross land area listed in Section 5.3 for the appropriate zoning district shall not be permitted on a lot which does not conform to such minimum gross land area requirement.

If compliance of the structure(s) intended on the nonforming lot with applicable setback regulations is not reasonably possible, the nonconforming lot may be used as a building site subject to the granting of variance from such setback regulations by the Board of Adjustment in accord with the provisions of Article 16.

14.3 Nonconforming Uses

14.3.1 Definition

A nonconforming use is a use of land, buildings, or structures that was lawfully established prior to the effective date of this chapter or a subsequent amendment thereto, but does not conform to the Use Regulations of Article 4 for the zoning district in which it is located.

14.3.2 Regulations

Nonconforming uses may be continued subject to the following limitations:

- a) No nonconforming use shall be extended, expanded, enlarged, or moved to occupy a different or greater area of land, buildings, or structures than was occupied by such use at the time it became nonconforming, provided that a nonconforming use may be extended throughout any parts of a building which were specifically designed and arranged for such use at the time it became nonconforming.
- b) No building or structure devoted to a nonconforming use shall be enlarged, extended, reconstructed, moved, or structurally altered unless such building or structure is thereafter devoted to a conforming use.
- c) When a building or structure devoted to a nonconforming use is damaged to the extent of fifty percent (50%) or more of its current assessed taxable value, such building, if restored, shall thereafter be devoted to conforming uses.
- d) If a nonconforming use ceases for more than ninety (90) consecutive days or a total of one hundred and eighty (180) days in any twelve (12) month period, subsequent use of the land, or structures previously devoted to such use shall thereafter be devoted to conforming uses.

14.3.3 Discontinuance

Any nonconforming use of land and any nonconforming use involving structures with a total replacement cost of less than five thousand dollars (\$5,000) at the time such use became nonconforming shall cease within five (5) years after the date of the notice of nonconformity required in Section 14.6.

Any nonconforming use involving structures with a total replacement cost of five thousand dollars (\$5,000) or more at the time such use became nonconforming shall cease within fifteen (15) years after the date of the notice of nonconformity required in Section 14.6, or within forty (40) years after the construction of such structures, whichever is later.

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14.4 Nonconforming Features

14.4.1 Definition

A nonconforming feature is a physical feature or characteristic of a use, building, structure or other development of land that was lawfully established prior to the effective date of this chapter or a subsequent amendment thereto, but does not conform to the Intensity Regulations of Article 5 or the Design Standards of Article 6 applicable to such use, building, structure, or development of land, including but not limited to, nonconforming structures, nonconforming signs, nonconforming parking facilities, and nonconforming lighting.

14.4.2 Regulations

Nonconforming features may be continued subject to the following limitations:

- a) No enlargement, extension, or structural alteration of any building, structure, or other development of land having a nonconforming feature shall increase the degree or extent of the nonconforming feature.
- b) When a building, structure, or other development of land having a nonconforming feature is damaged to the extent of fifty percent (50%) or more of its assessed taxable value, such building, structure, or development of land may be reconstructed only if the nonconforming feature is eliminated and the building or structure shall thereafter conform the provisions of this chapter.

14.4.3 Discontinuance

Any sign having a nonconforming feature shall be either eliminated or made to conform with the provisions of this chapter within twelve (12) months after the date of the notice of nonconformity required in Section 14.6.

Any building, structurally independent or free-standing structure other than a sign, or other development of land (lighting, fencing, parking area, or accessory structure) having a nonconforming feature and having a replacement or correction cost of less than five thousand dollars (\$5,000) shall be either eliminated or made to conform with the provisions of this chapter within five (5) years after the date of the notice of nonconformity required in Section 14.6.

14.5 Repairs and Maintenance

Minor repairs to and routine maintenance of land, buildings, structures, or other development of land or portion thereof, devoted to a nonconforming use or having nonconforming features are permitted, provided the cost of such repairs and maintenance within any twelve (12) month period does not exceed ten percent (10%) of the current assessed taxable value of the land, buildings, structure, or other development of land, or portion thereof.

Any structure or other development of land, or portion thereof, devoted to a nonconforming use or having a nonconforming feature, that is declared unsafe by the Building Inspector because of lack of repairs and maintenance shall not be restored, repaired, reconstructed, or used except in conformity with the provisions of this chapter.

Any structure or other development of land, or portion thereof, devoted to a nonconforming use or having a nonconforming feature, that is declared unsafe by the Building Inspector, but not because of lack of repairs and maintenance, may be repaired and restored subject to the requirements of subsections 14.3.2 and 14.4.2

14.6 Nonconformity Survey and Notice

Within eighteen (18) months after the effective date of this chapter, or subsequent amendment thereto, the Town Manager shall make an inventory of all nonconforming uses, signs having nonconforming features, and other significant nonconforming features existing within the Town jurisdiction.

On completion of the inventory, the Town Manager shall notify the owner(s) of the property on which each nonconformity is located of the determination of nonconformity, the reasons therefor, and the deadlines, where applicable, for compliance with the provisions of this chapter.

The above requirements shall not preclude the further inventory and subsequent notices of nonconformity.

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ARTICLE 15 PERMITS AND SITE PLAN APPROVAL

15.1 Zoning Compliance Permit Required

Except as otherwise specifically provided in this chapter, it shall be unlawful to begin any excavation, removal of soil, clearing of a site, or placing of any fill on lands contemplated for development, or to begin any construction, moving, alteration, or renovation, except for ordinary repairs, of any building or other structure, including accessory structures and signs, until the Town Manager has issued for such action a Zoning Compliance Permit, certifying that such development complies with the applicable provisions of this chapter.

It shall also be unlawful to change the type of use or type of occupancy of any land or structure, or to extend any use on any lot on which exists a nonconforming use, until the Town Manager has issued for such action a Zoning Compliance Permit, certifying that such intended uses comply with the applicable provisions of this chapter.

15.2 Site Plan Review Required

Site plan review and approval by the Council or Planning Board as appropriate, shall be required prior to issuance of a Zoning Compliance Permit for any development or change in use described in Section 15.1, with the following exceptions:

- a) Any development of a single or two-family dwelling on a zoning lot, or any uses accessory thereto;
- b) Any development resulting in an increase of not more than fifteen percent (15%) in either the floor area, number of parking spaces, or amount of land cleared for non-agricultural development previously existing within a zoning lot;
- c) Any sign;
- d) Any development pursuant to an approved Special Use Permit or Certificate of Appropriateness;
- e) Any development that, in the opinion of the Town Manager, does not affect existing circulation, drainage, relationship of buildings to each other, landscaping, buffering, or lighting, provided such existing site elements comply with the applicable provisions of this chapter; or
- f) Any change in use to another use in the same use group, provided such change does not involve development other than that exempted above.

In cases where a proposed development requiring site plan review consists of a modification, other than a change in principal use, of an existing development that was established in accord with a site plan and Special Use Permit approved under the provisions of the previously adopted zoning ordinance but that is currently permitted under the provisions of this chapter as a principal use in the zoning district where it is located, site plan review of such development shall be

conducted by the Council. The Planning Board shall conduct site plan review in all other cases requiring site plan review.

15.3 Sign Plan Review Required

Sign plan review and approval by the Appearance Commission shall be required prior to issuance of a Zoning Compliance Permit for any sign requiring such permit.

15.4 Procedures

15.4.1 Application Submittal Requirements

Applications for a Zoning Compliance Permit shall be submitted to the Town Manager.

The Town Manager shall prescribe the form(s) on which applications are made, as well as any other material which may reasonably be required to determine compliance with applicable provisions of this chapter, with sufficient copies for necessary referrals and records.

No application shall be accepted by the Town Manager unless it complies with such submittal requirements. Applications which are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the application.

Where a Development Improvements Construction Permit, Building Permit, or Sign Permit is required, applications for such permits may be made coincidentally with the application for a Zoning Compliance Permit.

15.4.2 Action on the Application

On receipt of a complete application, the Town Manager shall cause an analysis to be made by qualified representatives of the Town and such other agencies or officials as appear appropriate in the circumstances of the case, to determine compliance with applicable provisions of this chapter and any applicable conditions of an approved Special Use Permit or Certificate of Appropriateness.

In the cases of developments exempted from site plan review or signs not requiring sign plan review, the Town Manager shall take final action on the application.

In the case of developments requiring site plan review, the Town Manager shall submit to the Council or Planning Board, as appropriate, a report of his or her analysis of the application. The Council or Planning Board, as appropriate, shall review the application and the Town Manager's report and shall take final action on the application.

In the case of signs requiring sign plan review, the Town Manager shall submit to the Appearance Commission a report of his or her analysis of the application. The Appearance Commission shall review the application and the Town Manager's report and shall take final action on the application.

Final action on an application shall be based solely on findings as to compliance with all applicable provisions of this chapter, including

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all applicable conditions of an approved Special Use Permit or Certificate of Appropriateness, and shall be one of the following:

- a) Approval
- b) Approval subject to conditions
- c) Denial

The Town Manager, Council, Planning Board, or Appearance Commission, as appropriate, may impose such reasonable conditions on an approval as will ensure compliance with applicable regulations.

In the case of final action by the Town Manager, such action shall be taken within fifteen (15) days of the acceptance of an application, or within such further time consented to by written notice from the applicant or by Council resolution.

In the case of final action by the Planning Board or Appearance Commission, such action shall be taken within forty-five (45) days of the acceptance of an application or within such further time consented to by written notice from the applicant or by Council resolution.

Failure of the Town Manager, Planning Board, or Appearance Commission, as appropriate, to reach a decision within the prescribed time limit, or extensions thereof, shall result in the approval of the application as submitted.

#### 15.4.3 Performance and Maintenance Guarantees

Conditions attached to an approval of a Zoning Compliance Permit may include the following:

- a) A condition requiring the applicant to provide performance guarantees and/or maintenance guarantees deemed necessary to ensure compliance with the requirements of this chapter and the conditions of permit approval.
- b) A condition permitting the applicant to provide performance guarantees in lieu of actual completion of required improvements prior to use or occupancy of the development authorized by the Zoning Compliance Permit, provided the delayed completion of such improvements is determined to be compatible with the public health, safety and welfare.

Such performance guarantees and maintenance guarantees shall be satisfactory as to their form and manner of execution, and as to the sufficiency of their amount in securing the satisfactory construction, installation, or maintenance of the required improvements.

The condition requiring or permitting a performance guarantee shall specify a reasonable time period within which required improvements must be completed. Such time period shall be incorporated in the performance guarantee. The length of such time period shall not exceed two (2) years from the date the Zoning Compliance Permit is issued.

No performance guarantee shall be released until certification of the satisfactory completion of all required improvements covered by such



performance guarantee has been submitted to and approved by the Town Manager.

If the required improvements covered by a performance guarantee are not completed in accord with the terms of the performance guarantee, the obligor shall be liable thereon to the Town for the reasonable cost of the improvements not completed and the Town may, either prior to or after the receipt of the proceeds thereof, complete such improvements.

15.4.4 Actions Subsequent to Decision

In the case of approval or approval with conditions, the Town Manager shall issue the Zoning Compliance Permit. Such permit, including all conditions attached thereto, shall be valid for two (2) years from the date of its issuance, provided that the approved application and the conditions of its approval shall not be changed.

In the case of denial of an application, the applicant shall be notified, in writing, of the reasons for such denial.

Where a Development Improvements Construction Permit is required by Chapter 17 of the Town Code of Ordinances, such permit shall not be issued prior to issuance of the Zoning Compliance Permit required for the development and shall comply with the approved Zoning Compliance Permit, including all conditions or approval attached thereto.

Where a Building Permit or Sign Permit is required by Chapter 5 of the Town Code of Ordinances, such permits shall not be issued prior to issuance of the Zoning Compliance Permit and Development Improvements Construction Permit required for the development and shall comply with the approved Zoning Compliance Permit and Development Improvements Construction Permit, including all conditions of approval attached thereto.

No building or structure for which a Zoning Compliance Permit has been issued shall be used or occupied until, after final inspection, a Certificate of Occupancy has been issued indicating compliance with the provisions of this chapter and all other state and local laws, including conditions of the Zoning Compliance Permit and all other required permits.

15.4.5 Appeal of Decision

A decision by the Council or Planning Board in granting or denying site plan approval or by the Appearance Commission in granting or denying sign plan approval or by the Town Manager in issuing a Zoning Compliance Permit may be appealed to the Board of Adjustment in accord with the provisions of Article 16.

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ARTICLE 16 INTERPRETATIONS, APPEALS, AND VARIANCES

16.1 Interpretations

Where there is any uncertainty as to the intent or actual meaning of any provision of this chapter, or as to the intended location of any zoning district boundary shown on the Zoning Atlas, the Town Manager shall make an interpretation of said provision or boundary on request of any person. Any person aggrieved by such interpretation may appeal the interpretation to the Board of Adjustment in accord with the provisions of Section 16.2.

In making an interpretation of any zoning district boundary, or in deciding any appeal thereof, the Town Manager or Board of Adjustment shall apply the following standards:

- a) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed as following such centerlines;
- b) Boundaries indicated as approximately following lot lines shall be construed as following such lot lines;
- c) Boundaries indicated as approximately following corporate limits shall be construed as following such limits;
- d) Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks;
- e) Boundaries indicated as approximately following the shorelines or centerlines of streams, rivers, lakes, or other bodies of water shall be construed as following such shorelines or centerlines; in the event of change in the shoreline or centerline, the boundary shall be construed as moving with the actual shoreline or centerline;
- f) Boundaries indicated as approximately following designated limits of areas of special flood hazard shall be construed as following such limits, as shown on the official Base Floodway and Floodplain Boundary Maps and Base Flood Profiles;
- g) Boundaries indicated as approximately parallel to, or as extensions of, features described in a) through f) above shall be so construed; distances not specifically indicated on the Zoning Atlas shall be determined by reference to the scale of the Atlas;
- h) Where features described in a) through f) above, as existing on the ground, are at variance with those indicated on the Zoning Atlas, or in other circumstances not covered by a) through g) above, the Board of Adjustment shall interpret the district boundaries.

16.2 Appeals

16.2.1 Applicability

Any decision of the Town Manager made in the administration of the provisions of this chapter may be appealed to the Board of Adjustment by any person aggrieved by such decision. Any decision of the Planning Board in granting or denying site plan approval or of the Appearance Commission in granting or denying sign plan approval may be appealed to the Board of Adjustment. Any decision of the Historic District Commission or of the Appearance Commission in granting or denying a Certificate of Appropriateness may be appealed to the Board of Adjustment.

An application for appeal shall be filed within thirty (30) days of the filing of the decision being appealed or the delivery of any required written notice of the decision, whichever is later.

16.2.2 Stay of Further Action

An appeal to the Board of Adjustment stays all actions seeking enforcement of, or compliance with, the decision being appealed, except where the Town Manager certifies to the Board of Adjustment that, based on findings stated in the certificate, a stay would cause imminent peril to life or property, or that because the situation appealed from is transitory in nature, an appeal would seriously interfere with enforcement of this chapter.

16.3 Variations

16.3.1 Variations From Dimensional Regulations

A variance from the dimensional regulations of this chapter may be granted by the Board of Adjustment if it finds that strict enforcement of the regulations would result in practical difficulties or unnecessary hardships to the applicant for the variance, and that, by granting the variance, the intent of this chapter and the Comprehensive Plan will be observed, public safety and welfare secured, and substantial justice done. Such findings shall be based on the following determinations:

- a) That strict compliance with the regulations allows no reasonable use of the applicant's property;
- b) That the hardship complained of is one suffered by the applicant rather than by neighbors or the general public;
- c) That the hardship relates to the applicant's property rather than to personal circumstances;
- d) That the hardship is peculiar to the applicant's property, rather than a hardship shared by the neighborhood or resulting from the existence of nonconforming situations in the vicinity;
- e) That the hardship is not the result of the applicant's own actions;

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- f) That the variance will not substantially interfere with or injure the rights of others whose property would be affected by granting of the variance; and
  - g) That the variance will not result in a violation of the provisions of Article 14 by allowing the enlargement, expansion, extension, or the greater permanence or intensity of a nonconforming use or feature.

16.3.2 Reserved

16.4 Procedures for Appeals and Variances

16.4.1 Application Submittal Requirements

Applications for appeal or for a variance shall be filed with the Town Manager.

The Town Manager shall prescribe the form(s) on which applications are made, as well as any other material which may reasonably be required to make the determinations called for in the particular case, with sufficient copies for necessary referrals and records.

No application shall be accepted by the Town Manager unless it complies with such requirements. Applications which are not complete shall be returned forthwith to the applicant, with a notation of the deficiencies in the application.

On receipt of a complete application, the Town Manager shall transmit the application to the Board of Adjustment. In the case of applications for appeal, the Town Manager shall also transmit to the Board all documents constituting the record on which the decision being appealed was based.

16.4.2 Public Hearing

After its receipt of an application for appeal or for a variance, the Board of Adjustment shall hold a public hearing on the application at its next available regularly scheduled meeting.

Notice of the date, time, and place of the public hearing shall be published in a newspaper of general circulation in the planning jurisdiction once a week for two (2) successive weeks, with the first notice to be published not less than ten (10) nor more than twenty-five (25) days prior to the date of the hearing.

The public hearing shall be open to the public and all interested persons shall be given the opportunity to present evidence and arguments and to ask questions of persons who testify. The Board may place reasonable and equitable time limitations on the presentation of evidence and arguments and the cross examination of witnesses so that the application may be heard without undue delay. All persons who intend to present evidence at the public hearing shall be sworn.

In the case of applications for a variance, the applicant shall bear the burden of presenting evidence sufficient to establish conclusively that the requested variance will comply with each of the determinations required in Section 16.3.1.

A record of the proceedings of the hearing shall be made and shall include all documentary evidence presented at the hearing.

#### 16.4.3 Action on the Application

After completion of the public hearing, the Board of Adjustment shall take action on the application.

In the case of applications for appeal, such action shall be to reverse, or affirm (wholly or partly), or modify the decision being appealed.

In the case of applications for a variance, such action shall be based on findings as to each of the determinations required in Section 16.3, and shall be approval, or approval subject to conditions, or denial. The Board may impose reasonable conditions on the granting of any variance to ensure that the public health, safety, and general welfare shall be protected and substantial justice done. In its consideration of applications for a variance, the Board shall not use the existence of nonconformities in the vicinity as justification for the granting of variances.

In every case, the record of the action of the Board shall include a summary of its findings and the evidence supporting them.

#### 16.4.4 Actions Subsequent to Decision

The Town Manager shall cause notice of the disposition of the application to be delivered to the applicant by personal service or by registered or certified mail, return receipt requested, and shall cause a copy of the decision to be filed in the office of the Planning Department.

If a variance is granted, the nature of the variance and any conditions attached thereto shall be entered on the face of any necessary Zoning Compliance Permit.

#### 16.4.5 Appeal of Decision

A decision by the Board of Adjustment on an application for appeal or for a variance may be appealed to the Superior Court by an aggrieved party. Such appeal shall be in the nature of certiorari and must be filed within thirty (30) days of the filing of the decision in the office of the Planning Department or the delivery of the notice required in Subsection 16.4.4, whichever is later.

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ARTICLE 17 ENFORCEMENT

17.1 Violations

Whenever, by the provisions of this ordinance, the performance of any act is required, or the performance of any act is prohibited, or whenever any regulation or limitation is imposed on the use of any land, or on the erection, alteration, or the use or change of use of a structure, a failure to comply with such provisions shall constitute a violation of this chapter.

17.2 Liability

The owner, tenant, or occupant of any land or structure, or part thereof, and any architect, engineer, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this chapter may be held responsible for the violation and be subject to the penalties and remedies provided herein.

17.3 Procedures Upon Discovery of Violations

Upon the determination that any provision of this chapter is being violated, the Town Manager shall deliver a written notice by personal service or by registered or certified mail, return receipt requested, to the person(s) responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Town Manager's discretion.

The final written notice, which may also be the initial notice, shall state the action the Town Manager intends to take if the violation is not corrected, and shall advise that the Town Manager's order may be appealed to the Board of Adjustment as provided in Article 16.

In cases when delay would seriously threaten the effective enforcement of this chapter, or pose a danger to the public health, safety, or general welfare, the Town Manager may seek enforcement without prior written notice by invoking any of the penalties or remedies contained in Section 17.4.

17.4 Penalties and Remedies

Violations of this chapter shall constitute a misdemeanor, punishable as provided in G.S. 14-4.

Any act constituting a violation of this chapter shall also subject the offender to a civil penalty of twenty-five dollars (\$25.00). If the offender fails to pay the penalty within ten (10) days of receiving final written notice of a violation, the penalty may be recovered by the Town in a civil action in the nature of a debt. A civil penalty may not be appealed to the Board of Adjustment if the offender received a final written notice of violation and did not appeal to the Board of Adjustment within the time limit prescribed in Article 16.

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Each day that any violation continues after receipt of the final written notice of such violation shall constitute a separate violation and a separate offence for purposes of the penalties and remedies specified herein.

In addition to the penalties and remedies above, the Town Manager may institute any appropriate action or proceedings to prevent, restrain, correct, or abate a violation of this chapter.

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ARTICLE 18 DEFINITIONS

18.1 Interpretation of Terms or Words: For the purpose of this chapter, certain terms or words used herein shall be interpreted as follows:

- 1. The word "shall" is always mandatory and the word "may" is permissive.
- 2. The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied"

Terms not herein defined shall have the meanings customarily assigned to them.

18.2 Agriculture, Non-Livestock: The use of land for the production of cash grains, field crops, vegetables, fruits, and nuts, and for horticulture and floriculture.

18.3 Agriculture, Livestock: The use of land for the keeping, grazing, feeding, or breeding of livestock, including cattle, hogs, sheep, goats, and poultry, and also animal specialities such as horses, rabbits, bees, and fish and fur-bearing animals in captivity.

18.4 Reserved

18.5 Alley: A publicly dedicated and maintained right-of-way twenty (20) feet or less in width that provides only a secondary means of access to abutting property and is not intended for general traffic circulation.

18.6 Reserved

18.7 Automotive Repair: The repair, rebuilding, or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning of vehicles.

18.8 Automotive, Trailer, and Farm Implement Sales or Rental: The sale or rental of new and used motor vehicles, travel trailers, or farm implements to be displayed and sold on the premises, but not including repair work except incidental warranty repair of the above.

18.9 Bank: Financial institution engaged in deposit banking and closely related functions such as the extension of credit by means of loans and investments, and fiduciary activities.

18.10 Reserved

18.11 Building: Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels, or property.

18.12 Building, Accessory: A subordinate building detached from, but located on the same lot as the principal building, the use of which is incidental and accessory to that of the principal building.

18.13 Building, Principal: A building or, where the context so indicates, a group of buildings in which is conducted the principal use of the lot on which such building is located.



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- 18.14 Reserved
- 18.15 Business, Convenience: Commercial establishments that generally serve day-to-day commercial needs of a residential neighborhood, including drugstores, tobacco shops, newsstands, bakeries, confectioneries, delicatessens, meat and produce markets, food stores with less than ten thousand (10,000) square feet in floor area, and eating and drinking establishments.
- 18.16 Business, General: Commercial establishments that, in addition to serving day-to-day commercial needs of a community, also supply the more durable and permanent needs of a whole community, including supermarkets, department stores, discount stores, variety stores, hardware and garden supply stores, apparel and footwear stores, florists, gift shops, jewelry stores, book and stationery stores, specialty shops, sporting goods stores, furniture and home furnishing stores, automotive supply stores, and appliance stores.
- 18.17 Business, Office-Type: Quasi-commercial uses that generally accommodate occupations such as administrative, executive, legal, accounting, writing, clerical, stenographic, and drafting occupations, and including institutional offices of a charitable, philanthropic, religious, or educational nature.
- 18.18 Business, Wholesale: Commercial establishments that generally sell commodities in large quantities or by the piece to retailers, jobbers, other wholesale establishments, or manufacturing establishments, basically for use in the fabrication of a product or for use by a business service.
- 18.19 Business Services: Any profit-making activity that renders services primarily to other commercial or industrial enterprises, or which services and repairs appliances and machines used in homes and businesses.
- 18.20 Reserved
- 18.21 Cemetery: Land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.
- 18.22 Certificate of Appropriateness: A document issued by the Historic District Commission or Appearance Commission certifying compliance with the provisions of Article 12 or Article 13, respectively.
- 18.23 Certificate of Occupancy: A document issued by the Building Inspector certifying compliance with all applicable state and local laws, including all terms of an approved Zoning Compliance Permit, and authorizing occupancy of a building or structure.
- 18.24 Child Day Care Facility: A use of land and buildings that provides care to preschool children away from their homes, and by persons other than family members, guardians, or custodians, and where a payment, fee, or grant is made for such care.

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- 18.25 Reserved
- 18.26 Church: A structure in which persons regularly assembly for religious worship and which is maintained and controlled by a religious body organized to sustain public worship.
- 18.27 Clinic: An establishment used for the medical or dental care, diagnosis, or treatment of sick, ailing, infirm, or injured persons on a out-patient basis.
- 18.28 Club: An establishment operated by a corporation or association of persons for social, literary, political, educational, fraternal, or charitable purposes, but which is not operated for profit or to render a service which is customarily conducted as a business.
- 18.29 College, University, or Professional School: A degree-granting establishment providing formal academic education and generally requiring for admission at least a high school diploma or equivalent academic training, including colleges, junior colleges, universities, technical institutes, seminaries, and professional schools (architectural, dental, engineering, law, medical, etc.)
- 18.30 Comprehensive Plan: A plan, or any portion thereof, adopted by the Chapel Hill Planning Board and Council, establishing goals, objectives, and policies designed to manage the quantity, type, cost, location, timing, and quality of development and redevelopment in the Chapel Hill community.
- 18.31 Council: The governing body of the Town of Chapel Hill, consisting of a mayor and eight (8) council members, as established in Chapter III of the Charter of the Town of Chapel Hill.
- 18.32 Development: The use or occupancy of any land or structure, or the construction, erection, alteration, or moving of any structure.
- 18.33 Drive-In Window: A window or other opening in the wall of a principal building through which goods or services are provided directly to customers in motor vehicles by means that eliminate the need for such customers to exit their motor vehicles.
- 18.34 Driveway: A vehicular way, other than a street or alley, that provides vehicular access from a street to or through off-street parking and/or loading areas.
- 18.35 Dwelling: Any building or structure (except a mobile home) that is wholly or partly used or intended to be used for living or sleeping by one or more human occupants.
- 18.36 Dwelling, Single-Family: A detached dwelling consisting of a single dwelling unit only.
- 18.37 Dwelling, Two-Family: A dwelling or combination of dwellings on a single lot consisting of two (2) dwelling units.
- 18.38 Dwelling, Multi-Family: A dwelling or combination of dwellings on a single lot consisting of three (3) or more dwelling units.

- 18.39 Dwelling Unit: A room or group of rooms within a dwelling forming a single independent habitable unit used or intended to be used for living, sleeping, sanitation, cooking, and eating purposes by one family only; for owner occupancy or for rental, lease, or other occupancy on a weekly or longer basis; and containing independent kitchen, sanitary, and sleeping facilities; and provided such dwelling unit complies with Chapel Hill's Minimum Housing Code.
- 18.40 Reserved
- 18.41 Essential Services: The erection, construction, alteration, or maintenance by public utilities or governmental agencies of traffic distribution systems; water, sewage, steam, gas, electrical, or communication transmission or distribution systems; and storm water collection and distribution systems; including streets, sidewalks, street lights, bus passenger shelters, traffic signals, pipes, hydrants, pumping stations, wires, curb-and-gutter, catch basins, drains, or other similar equipment and accessories reasonably necessary for the provision of adequate service by such public utilities or governmental agencies, but not including buildings or other substantial above-ground structures (see Public Service Facility and Radio or Television Transmitting and/or Receiving Facility).
- 18.42 Extraction of Earth Products: The process of removal of natural deposits of mineral ores, soils, or other solid matter from their original location, not including any processing of such material beyond incidental mechanical consolidation or sorting to facilitate transportation off-site.
- 18.43 Family: An individual living alone or two (2) or more persons living together as a single housekeeping unit, using a single facility in a dwelling unit for culinary purposes. The term "family" shall not be construed to include a fraternity or sorority, club, rooming house, institutional group or the like.
- 18.44 Reserved
- 18.45 Floor Area: The sum of enclosed areas on all floors of a building or buildings measured from the outside faces of the exterior walls, including halls, lobbies, arcades, stairways, elevator shafts, enclosed porches and balconies, and any below-grade floor areas used for access and storage. Not countable as floor area are open terraces, patios, atriums, balconies, carport garages, and breezeways.
- 18.46 Reserved
- 18.47 Fraternity or Sorority Dwelling: A dwelling or combination of dwellings on a single lot occupied by and maintained exclusively for college, university, or professional school students who are affiliated with a social, honorary, or professional organization recognized by the college, university, or professional school.
- 18.48 Funeral Home: An establishment primarily engaged in preparing the dead for burial, conducting funerals, and cremating the human dead.
- 18.49 Reserved

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- 18.50 Gross Land Area: All area within the boundaries of a zoning lot or PD district plus half of the adjoining permanent open space such as streets, parks, lakes, cemeteries, and the like, provided the width of such credited open space shall be limited to a number of feet equal to the LUI rating applying to the lot or district.
- 18.51 Group Care Facility: An establishment qualified for a license by the State of North Carolina for the provision of resident services to seven (7) or more individuals of whom one or more are unrelated, and who are handicapped, aged, or disabled, and undergoing rehabilitation or extended care, and who are provided services to meet their needs. Included are group homes for all ages, half-way houses, boarding homes for children, and convalescent and nursing homes.
- 18.52 Height (of a Structure or Part thereof): The vertical distance from the mean natural grade at the foundation to the highest portion of the structure, or part thereof.
- 18.53 Height Limitation, Primary: The maximum height allowed for any structure located at the minimum setback required for such structure, as shown in Section 5.3.
- 18.54 Height Limitation, Secondary: The absolute maximum height allowed for any structure, as shown in Section 5.3.
- 18.55 Reserved
- 18.56 Home Occupation: An occupation conducted as an accessory use of a dwelling unit, provided that:
- a) No more than one person other than members of the resident family shall be engaged in such occupation;
  - b) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes, and not more than thirty-five percent (35%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
  - c) No external evidence of the conduct of the home occupation shall be visible, other than a sign as permitted in Article 6;
  - d) The home occupation shall not generate traffic volumes or parking area needs greater than would normally be expected in a residential neighborhood;
  - e) No equipment or process shall be employed that will cause noise, vibration, odor, glare, or electrical or communication interference detectable to the normal senses off the lot; in the case of detached dwelling units, or outside the dwelling unit, in the case of attached dwelling units;
  - f) The on-premises sale and delivery of goods which are not the products of the home occupation are prohibited.

- 18.57 Hospital: An institution providing physical and mental health services primarily for human in-patient medical or surgical care for the sick or injured, including related facilities such as laboratories, out-patient services, training facilities, central service facilities, and staff offices.
- 18.58 Hotel or Motel: A building or group of buildings containing in combination ten (10) or more lodging units intended primarily for rental or lease to transients by the day or week, as distinguished from residence halls, in which occupancy is generally by residents rather than transients.
- 18.59 Reserved
- 18.60 Kennel: Any lot or premises on which four (4) or more domesticated animals more than four (4) months of age are housed, groomed, bred, boarded, trained, or sold.
- 18.61 Landfill: Any lot or premises on which is deposited solid waste material, including trash, construction debris, stumps, branches and limbs, garbage, and industrial waste.
- 18.62 Livability Space: That part of total open space appropriately improved and, if necessary, located as outdoor living space and for aesthetic appeal, including natural areas, lawns and other landscaped areas, walkways, paved terraces and sitting areas, outdoor recreational areas, and landscaped portions of street rights-of-way, but not including open space used for motorized vehicles, except for incidental service, maintenance, or emergency actions.
- 18.63 Reserved
- 18.64 Loading, Off-Street: Space located outside of any street right-of-way or easement and designed to accommodate the temporary parking of vehicles used for bulk pickups and deliveries.
- 18.65 Lodging Unit: A room or group of rooms forming a separate habitable unit used or intended to be used for living and sleeping purposes by one family only, without independent kitchen facilities; or a separate habitable unit, with or without independent kitchen facilities, occupied or intended to be occupied by transients on a rental or lease basis for periods of less than one week.
- 18.66 Lot: Land bounded by lines legally established for the purpose of property division. As used in this chapter, unless the context indicates otherwise, the term refers to a zoning lot.
- 18.67 Lot Line: A line that marks the boundary of a lot.
- 18.68 Lot Line, Interior: Any lot line that is not a street lot line; a lot line separating a lot from another lot.
- 18.69 Lot Line, North: Any portion of a lot line that has an alignment within forty-five degrees (45°) of an east/west axis.
- 18.70 Lot Line, Street: Any lot line separating a lot from a street right-of-way or easement. Where a lot line is located within such street

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right-of-way or easement, the right-of-way or easement boundary adjacent to the lot shall be considered the street lot line.

18.71 Lot Width: The horizontal distance measured along a straight line connecting the points at which a line demarcating the minimum street setback required from a street lot line intersects with interior lot lines and/or other street lot lines (See Figure 5-2).

18.72 Reserved

18.73 Major Street Plan: A plan, or any portion thereof, adopted by the Chapel Hill Council, establishing goals, objectives, policies, and functional street classifications designed to manage major vehicular circulation patterns in the Chapel Hill community.

18.74 Maintenance and or Storage Facility: Land, building, or structure devoted primarily to the maintenance and/or storage of equipment and materials.

18.75 Manufacturing, Light: Manufacturing, processing, creating, renovating, painting, cleaning, assembly of goods, merchandise, and equipment, or other industrial uses which have all operations and storage within enclosed structures.

18.76 Reserved

18.77 Mobile Home: A single portable manufactured housing unit, or a combination of two (2) or more such units connected on-site, that is a) designed to be used for living, sleeping, sanitation, cooking, and eating purposes by one family only and containing independent kitchen, sanitary, and sleeping facilities; b) designed so that each housing unit can be transported on its own chassis; c) placed on a temporary or semi-permanent foundation; and d), is over thirty-two (32) feet in length and over eight (8) feet in width.

18.78 Mobile Home, Class A: A mobile home that meets the U.S. Department of Housing and Urban Development Mobile Home Construction and Safety Standards and which is certified by the Town Manager as meeting the following appearance performance criteria:

- a) The mobile home shall have a length not exceeding four (4) times its width;
- b) The pitch of the mobile home's roof shall have a minimum vertical rise of one foot for each five (5) feet of horizontal run;
- c) The exterior materials shall be of a color, material, and scale compatible with those existing in the immediate vicinity, and in no case shall the degree of reflectivity of exterior finishes exceed that of gloss white paint;
- d) A continuous permanent masonry foundation, unpierced except for required ventilation, shall be installed under the mobile home; and

e) The tongue and undercarriage chassis shall be removed subsequent to final placement.

18.79 Mobile Home, Class B: A mobile home that meets the U.S. Department of Housing and Urban Development Mobile Home Construction and Safety Standards or, after inspection by the Building Inspector, is found to be in good condition and fit and safe for human occupancy, but which is not certified as meeting the appearance performance criteria contained in Section 18.78 above.

18.80 Mobile Home Park: A combination of two (2) or more mobile homes on a single zoning lot.

18.81 Reserved

18.82 Nonconforming Feature: A physical feature or characteristic of a use, building, structure, or other development of land that was lawfully established prior to the effective date of this chapter or a subsequent chapter thereto, but does not conform to the Intensity Regulations of Article 5 or the Design Standards of Article 6 applicable to such use, building, structure, or development of land, including, but not limited to, nonconforming structures, nonconforming signs, nonconforming parking facilities, and nonconforming lighting.

18.83 Nonconforming Lot: A lot that was lawfully created prior to the effective date of this chapter or a subsequent amendment thereto, but does not conform to the minimum gross land area or minimum lot width requirements established in Article 5 for the zoning district in which it is located.

18.84 Nonconforming Use: A use of land, buildings, or structures that was lawfully established prior to the effective date of this chapter or a subsequent amendment thereto, but does not conform to the Use Regulations of Article 4 for the zoning district in which it is located.

18.85 Open Space: The total horizontal area of uncovered open space plus half the total horizontal area of covered open space.

18.86 Open Space, Covered: Usable open space closed to the sky but having two (2) clear unobstructed open or partially open sides. Partially open is construed as fifty percent (50%) open or more. The horizontal area countable as covered open space shall not exceed the number of square feet equal to the vertical areas of the open sides. Examples of covered open space are covered balconies, covered portions of improved roof areas, or spaces under buildings supported on columns or posts, or cantilevered.

18.87 Open Space, Uncovered: The total gross land area not covered by buildings, plus open exterior balconies, and roof areas improved as livability space.

18.88 Reserved

18.89 Parking, Off-Street: Space located outside of any street right-of-way or easement and designed to accommodate the parking of motor vehicles.

- 18.90 Park/Ride Terminal: An off-street parking facility designed or intended to provide peripheral collection and storage of vehicles to accommodate commuter traffic into or out from the Chapel Hill community, including accessory structures such as bus passenger shelters.
- 18.91 Personal Services: An establishment that primarily provides services generally involving the care of a person or his apparel, such as barber shops, beauty salons, seamstress shops, shoe repair shops, dry cleaning and laundry pickup facilities, and coin-operated laundry and dry cleaning facilities.
- 18.92 Place of Assembly: A place designed to accommodate the assembly of persons attending athletic events, musical performances, dramatic or terpsichorean performances, speeches or ceremonies, motion picture presentations, and other entertainment events, including stadiums, coliseums, athletic centers, theaters, concert halls, night clubs amphitheatres, and arenas.
- 18.93 Planned Development: Land that is under unified control and planned and developed as a whole in a single development operation or a definitely programmed series of development operations. A planned development include principal and accessory structures and uses substantially related to the character and purposes of the planned development. A planned development is constructed according to comprehensive and detailed plans which include not only streets, utilities, lots or building sites, and the like, but also site plans and floor plans for all buildings as intended to be located, constructed, used, and related to each other, and detailed plans for other uses and improvements on the land as related to the buildings. A planned development includes a program for the provision, operation, and maintenance of such areas, facilities, and improvements as will be for common use by some or all of the occupants of the planned development district, but which will not be provided, operated, or maintained at general public expense.
- 18.94 Reserved
- 18.95 Public Cultural Facility: The use of land, buildings, or structures by a municipal or other governmental agency to provide cultural services directly to the general public, including public libraries and museums.
- 18.96 Public Service Facility: The use of land, buildings, or structures by a public utility, railroad, or governmental agency, including water treatment plants or pumping stations, sewage treatment plants or pumping stations, non-nuclear power plants and substations, telephone exchanges, bus and railroad terminals, and other similar public service structures, but not including land, buildings, or structures devoted solely to the storage and maintenance of equipment and materials.
- 18.97 Public Use Facility: The use of land, buildings, or structures by a municipal or other governmental agency to provide protective, administrative, social, and recreational services directly to the general public, including police and fire stations, municipal buildings, community centers, public parks, and any other public facility providing the above services, but not including public land or buildings devoted solely to the storage and maintenance of equipment and materials and not including public cultural facilities or public service facilities.



- 18.98 Publishing and Printing An establishment primarily engaged in preparing, publishing, and printing newspapers, periodicals, books, and pamphlets.
  
- 18.99 Radio or Television Transmitting and/or Receiving Antenna, Accessory: An antenna designed for the above-ground transmission and/or reception of airborne radio or television signals and serving only the needs of the occupants of a single building or of a single residential development.
  
- 18.100 Radio or Television Transmitting and/or Receiving Facility: The use of land, buildings, or structures for the above-ground transmission and/or reception of airborne radio or television signals, including all transmitting and receiving towers, dishes and antennas except accessory radio or television transmitting and/or receiving antennas.
  
- 18.101 Reserved
  
- 18.102 Recreation Facility, Non-Profit: A private non-profit facility providing recreational activities, including private country clubs, golf courses, riding stables, tennis clubs, and athletic fields.
  
- 18.103 Recreation Facility, Commercial: A private profit-making facility providing recreational activities enclosed within buildings, including commercially operated indoor swimming pools and tennis courts, health clubs, gymnasiums, amusement arcades, bowling alleys, indoor skating rinks, and pool halls.
  
- 18.104 Recreation Space: That part of exterior livability space, plus enclosed floor area, which is appropriately improved for the common recreational use of residents of multi-family developments and planned developments.
  
- 18.105 Research Activities: Research, development, and testing related to such fields as chemical, pharmaceutical, medical, electrical, transportation, and engineering, provided such activities are conducted within entirely enclosed buildings and produce no noise, smoke, glare, vibration, or odor detectable outside the buildings.
  
- 18.106 Residence Hall: A building or group of buildings containing in combination ten (10) or more lodging units intended primarily for rental or lease for periods of thirty (30) days or longer, provided, however, that temporary lodging units for guests of regular tenants may be provided, with the number of such units limited to not more than ten percent (10%) of the total number of lodging units.
  
- 18.107 Reserved
  
- 18.108 Rooming House: A building or group of buildings containing in combination three (3) to nine (9) lodging units intended primarily for rental or lease for periods of longer than one week, with or without board.
  
- 18.109 School, Elementary: A facility providing a curriculum of elementary academic instruction, including kindergartens, elementary schools, junior high schools, and comparable private schools.

18.110 School, Secondary: A facility providing a curriculum of secondary academic instruction, including high schools and comparable private schools.

18.111 Service Station: An establishment where gasoline or diesel fuel is supplied and dispensed at retail and where, in addition, the following services only may be rendered and sales made:

- a) Sales and service of spark plugs, batteries, and distributor and ignition system parts;
- b) Sales, service, and repair of tires, but not recapping or regrooving;
- c) Replacement of mufflers, tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and blades, grease retainers, wheel bearings, mirrors, and the like;
- d) Radiator cleaning, flushing, and fluid replacement;
- e) Washing and polishing, and sale of automotive washing and polishing supplies;
- f) Greasing and lubrication;
- g) Providing and repairing fuel pumps, oil pumps, and lines;
- h) Minor adjustment and repair of carburetors;
- i) Emergency repair of wiring;
- j) Minor motor adjustment not involving removal of the head or crankcase;
- k) Sale of beverages, packaged foods, tobacco products, and similar convenience goods for customers, as accessory and incidental to principal operations;
- l) Provision of road maps and other travel information to customers;
- m) Provision of restroom facilities;
- n) Warranty maintenance and safety inspections.

Uses permissible at a service station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in service stations.

18.112 Reserved

- 18.113 Setback, Interior: The horizontal distance between the interior lot line of a zoning lot and any structure on such zoning lot, measured perpendicular to the interior lot line (See Figure 5-4).
- 18.114 Setback, Solar: The horizontal distance between the north lot line of a zoning lot and any structure on such zoning lot, measured along the north/south axis in a southerly direction from the north lot line (See Figure 5-4).
- 18.115 Setback, Street: The horizontal distance between the street lot line of a zoning lot and any structure on such zoning lot, measured perpendicular to the street lot line (See Figure 5-4).
- 18.116 Sign: Any device designed to inform or attract the attention of persons not on the premises on which the device is located, and which relates in its subject matter to the premises on which it is located.
- 18.117 Sign, Free-Standing: A sign attached to, erected on, or supported by a structure whose primary function is to support a sign and which is not itself an integral part of a building or other structure and including signs attached to or painted on a motor vehicle if such motor vehicle is located on a site in such a way as to serve as a sign, as defined in Section 18.116 above.
- 18.118 Sign, Projecting: A sign attached to and supported by a building and extending beyond the building to which it is attached at a right angle.
- 18.119 Sign, Wall: A sign attached to or painted on a wall of a building, with the exposed display surface of the sign in a plane parallel to the plane of the wall to which it is attached or painted, and including signs affixed to or otherwise displayed on or through a facade window.
- 18.120 Reserved
- 18.121 Special Use: A use of land, buildings, or structure that is identified in this chapter as a use that because of its inherent nature, extent, and external effects, requires special care in the control of its location, design, and methods of operation in order to ensure protection of the public health, safety, and welfare.
- 18.122 Special Use Permit: A permit issued by the Council authorizing the development of a zoning lot for a special use or a planned development.
- 18.123 Street: A right-of-way or easement greater than twenty (20) feet in width containing a roadway which provides or is used primarily for vehicular circulation.
- 18.124 Street, Private: A street consisting of a private easement and a privately maintained roadway.
- 18.125 Street, Public: A street consisting of a publicly dedicated right-of-way and a roadway maintained by the Town of Chapel Hill or the State of North Carolina.
- 18.126 Street Frontage Width: The horizontal distance measured along a straight line connecting the points at which the street lot line abutting a street intersects with interior lot lines and/or other street lot lines (See Figure 5-2).

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- 18.127 Reserved
- 18.128 Structural Alteration: Any change, except for repair or replacement, in the supporting members of a structure, such as, but not limited to, bearing walls, columns, beams, or girders.
- 18.129 Structure: Anything constructed or erected which requires location on the ground or attachment to something having a fixed location on the ground, including but not limited to principal and accessory buildings, signs, fences, walls, bridges, monuments, flagpoles, antennas, and transmission poles, towers, and cables.
- 18.130 Structure, Accessory: A subordinate structure detached from, but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.
- 18.131 Structure, Principal: A structure or, where the context so indicates, a group of structures in or on which is conducted the principal use of the lot on which such structure is located.
- 18.132 Supply Yard: A commercial establishment storing and offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods.
- 18.133 Reserved
- 18.134 Temporary Portable Building: A building intended for nonresidential use for a limited time period, consisting of one or more modules constructed off the ultimate site of use and transported to that site either on its own wheels or otherwise.
- 18.135 Temporary Portable Building, Construction-Related: A temporary portable building directly related to the development of a lot and limited in duration to a time period extending from issuance of the initial Zoning Compliance Permit for such development to issuance of the final Certificate of Occupancy for the development.
- 18.136 Tourist Home: A building or group of buildings containing in combination three (3) to nine (9) lodging units intended for rental or lease primarily to transients for daily or weekly periods, with or without board, as distinguished from rooming houses, in which occupancy is generally by residents rather than transients.
- 18.137 Use: The specific activity or function for which land, a building, or a structure is designated, arranged, intended, occupied, or maintained.
- 18.138 Use, Accessory: A use on the same lot or in the same structure with, and of a nature and extent customarily incidental and subordinate to, the principal use of the lot or structure.
- 18.139 Use, Principal: The primary use and chief purpose of a lot or structure.

- 18.140 Reserved
- 18.141 Variance: A relaxation of the strict terms of a specific provision of this chapter authorized by the Board of Adjustment in accord with the provisions of Article 15.
- 18.142 Veterinary Hospital or Clinic: An establishment used for the care, grooming, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those animals in need of medical or surgical attention.
- 18.143 Water and Wastewater Treatment Plant: The use of land, buildings, or structures by a public utility or governmental agency to provide sanitary treatment of community water supplies and wastewater discharges.
- 18.144 Zoning Compliance Permit: A permit issued by the Town Manager authorizing the recipient to make use of property in accord with the requirements of this chapter.
- 18.145 Zoning Lot: A legally subdivided lot shown on a legally recorded plat or deed, or a combination of such legally subdivided and recorded adjacent lots.

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ARTICLE 19 AMENDMENTS

19.1 Intent

In order to establish and maintain sound, stable, and desirable development within the planning jurisdiction of the Town it is intended that, this chapter shall not be amended except a) to correct a manifest error in the chapter, or b) because of changed or changing conditions in a particular area or in the jurisdiction generally, or c) to achieve the purposes of the Comprehensive Plan.

It is further intended that, if amended, this chapter be amended only as reasonably necessary to the promotion of the public health safety, or general welfare, and in conformance with the Comprehensive Plan.

19.2 Amendment Initiation

A request to amend this chapter may be initiated by:

- a) the Council, on its own motion;
- b) the Planning Board, Board of Adjustment, Historic District Commission, or Appearance Commission, on submittal of a request to the Council,
- c) the Town Manager, on submittal of a request to the Council; or
- d) any property owner or citizen, or agent thereof, on submittal of an application to the Town Manager.

All requests and applications for amendments to this chapter shall be acted on as provided in this article.

19.3 Procedures

19.3.1 Council Acceptance of Requests

On receipt of an amendment request as provided in Subsections 19.2 a) - c) above, the Council may set a date for a public hearing on the request. If the Council sets a date for a public hearing on a proposed amendment, it shall also refer the proposed amendment to the Town Manager, the Planning Board, and any other appropriate board or commission for their consideration.

19.3.2 Application Submittal Requirements

Applications for amendments to this chapter, as provided in Subsection 19.2 d), shall be filed with the Town Manager.

The Town Manager shall prescribe the form(s) on which applications are made, as well as any other material which may reasonably be required to make the determinations called for in the particular case, with sufficient copies for necessary referrals and records.

No application shall be accepted by the Town Manager unless it complies with such requirements. Applications which are not complete shall be

returned forthwith to the applicant, with a notation of the deficiencies in the application.

19.3.3 Town Manager's Analysis and Report to Planning Board

On referral of an amendment request or on receipt of a complete application for amendment, the Town Manager shall cause an analysis to be made of the request or application to determine conformity with the intent of this article, and, based on his or her findings, shall prepare a written report and recommendation for consideration by the Planning Board.

Such report and recommendation shall be submitted to the Planning Board within twenty-one (21) days of Council's referral of an amendment request or the acceptance of an application, or within such further time consented to by written notice from the applicant or by Council resolution.

Failure of the Town Manager to submit a report to the Planning Board within the prescribed time limit, or extensions thereof, shall be construed as a favorable recommendation.

19.3.4 Planning Board Review

The Planning Board shall review the request or application and the Town Manager's report and recommendations, and shall prepare and submit to the Council a written recommendation for action based on its findings as to conformity with the intent of this article.

Such recommendation shall be submitted to the Council within thirty-five (35) days of the meeting at which the Town Manager's report is submitted to the Planning Board, or within such further time as may be consented to by written notice from the applicant or by Council resolution.

Failure of the Planning Board to submit a recommendation to the Council within the prescribed time limit, or extensions thereof, shall be construed as a favorable recommendation.

19.3.5 Public Hearing

After its receipt of the Planning Board's recommendation or, if applicable, the expiration of the time limit prescribed in Subsection 19.3.4, the Council shall hold a hearing on the application at the next available regularly scheduled public hearing in order to receive comments, testimony, and exhibits pertaining to the application. Public hearings on applications for amendments to this chapter shall be held by the Council on the third Monday of January, March, May, September, and November. If two-thirds (2/3) of its total membership find that an emergency exists the Council may schedule a public hearing at a date other than the times specified above.

Notice of the date, time, and place of the public hearing shall be published in a newspaper of general circulation in the planning jurisdiction once a week for two (2) consecutive weeks, with the first notice to be published not less than ten (10) nor more than twenty-five (25) days prior to the date of the hearing.

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19.3.6 Town Manager's Report to Council

After completion of the public hearing, the Town Manager and Town Attorney shall review the record of the public hearing and the Town Manager shall prepare and submit to the Council a written report containing findings as to conformity with the intent of this article and a recommendation for action.

Such report shall be submitted to the Council within thirty (30) days after completion of the public hearing, or within such further time as may be consented to by written notice from the applicant or by Council resolution.

Failure of the Town Manager to submit a recommendation to the Council within the prescribed time limit, or extensions thereof, shall be construed as a favorable recommendation.

19.3.7 Council Action

The Council shall review the application or request for amendment, the record of the public hearing, the Planning Board's recommendation and the Town Manager's report, and shall approve or deny the application or request based on its findings as to conformity with the intent of this article.

19.3.8 Protest Petition

If a petition protesting a proposed amendment to the Zoning Atlas is filed, such amendment shall not become effective except by favorable vote of not less than seven (7) members of the Council. In order to be valid for the above purpose, a protest petition must:

- a) be signed by the owners of twenty percent (20%) or more of the land area contained in either i) the lots included in the area proposed for rezoning, or ii) the lots within one hundred (100) feet of either side or the rear of the area proposed for rezoning, or iii) the lots directly opposite the area proposed for rezoning and the lots within one hundred (100) feet from the street frontage of such opposite lots;
- b) be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed amendment;
- c) be received by the Town Clerk at least two (2) normal work days prior to the date established for the public hearing on the proposed amendment; and
- d) be on a form prescribed and provided by the Town Clerk and contain all the information requested on the form.



19.3.9 Effect of Denial or Withdrawal on Subsequent Applications

When the Council shall have denied an application for amendment or the application shall have been withdrawn, by written notice, after publication of the first public hearing notice required in Subsection 19.3.5, the Town Manager shall not accept another application for the same or similar amendment affecting the same property or a portion thereof, until the expiration of a twelve (12) month period extending from the date of denial or withdrawal, as appropriate.

19.3.10 Amended Applications

If the applicant proposes any substantial changes to the application subsequent to acceptance of the application, an amended application shall be submitted and reviewed as an original application.

19.3.11 Actions Subsequent to Decision

The Town Manager shall cause notice of the disposition of the application to be sent to the applicant and shall cause a copy of the decision to be filed in the office of the Planning Department.

In the case of approval, any necessary changes to the official Zoning Atlas shall be entered in accord with the provisions of Article 3.

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ARTICLE 20 LEGAL STATUS

20.1 Severability

It is the legislative intent of the Council in adopting this ordinance that all provisions thereof shall be liberally construed to protect and preserve the peace, health, safety, and general welfare of the inhabitants of the Town and its extraterritorial planning jurisdiction. It is the further intent of the Council that this ordinance shall stand, notwithstanding the invalidity of any part thereof, and that should any provision of this ordinance be held to be unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions.

20.2 Conflict with other Laws

When provisions of this ordinance impose higher standards than are required in any other statute or local ordinance or regulation, provisions of this ordinance shall govern. When the provisions of any other statute or local ordinance or regulation impose higher standards than are required by the provisions of this ordinance, the provisions of that statute or local ordinance or regulation shall govern.

20.3 Repeal of Existing Zoning Regulations

The existing zoning regulations entitled, "Ordinance Providing for the Zoning of Chapel Hill and Surrounding Areas," as passed on March 14, 1955 and as subsequently amended, are hereby repealed. The adoption of this ordinance, however, shall not effect nor prevent any pending or future prosecution of, or action to abate, an existing violation of said regulations.

5/11/81  
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Section II

The effective date of this ordinance shall be May 12, 1981.

Section III

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

This the 11th day of May, 1981.

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Councilmember Smith again voiced his reservations with the floor area ratio for the flood hazard district. He preferred to give credit of one house per acre for the area in the floodway. The standards should also be set so the owner did not have to obtain a variance from the Board of Adjustment. COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER BOULTON, TO AMEND THE MOTION TO DELETE ARTICLE 10 OF THE ORDINANCE UNTIL FURTHER STUDY COULD BE MADE.

Councilmember Kawalec did not want to wait to consider this portion of the ordinance. The intent of the ordinance was to extend the protection of the flood hazard district to citizens. She proposed the floor area ratio be modified to allow half the density allowed in the underlying district. If the Council discovered this density was a hardship, it could be amended at the scheduled review of the ordinance. Councilmember Smith pointed out there was no process for relief if the ordinance created a hardship at the time the hardship was worked.

Councilmember Straley agreed with Councilmember Smith that more study was needed on the subject. Councilmember Wallace indicated his support for the amendment. Councilmember Howes supported the amendment, but wanted a date set for considering this portion of the ordinance again. Mr. Jennings thought it would take one to two months for staff study. Mr. Shipman stated the staff would report back to the Council on the flood hazard district portion of the ordinance at the second meeting in July.

Councilmember Howes reminded the Council the current flood damage protection ordinance would remain in effect.

THE MOTION WAS CARRIED UNANIMOUSLY.

Councilmember Straley questioned the minimum land area requirements in Section 8.8.6.2. He had been advised by Mr. Denny this could not be changed without a public hearing and so would vote for the requirements as presented, but indicated his intention to call for a public hearing to amend this section.

COUNCILMEMBER BOULTON MOVED, SECONDED BY COUNCILMEMBER WALLACE, TO AMEND SECTION 5.5.3, PARAGRAPH 2, TO HAVE A MAXIMUM OF 20,000 SQ. FT. FOR SCATTERED SMALL SITE, LOW-INCOME HOUSING, RATHER THAN 30,000 SQ. FT. The Planning Board had indicated the smaller sites would provide a better mix in the community.

Councilmember Wallace did not want his support misconstrued as opposition to public housing. He stated the experience of those in public housing and those around public housing would be enhanced by the scattering of housing. The smaller requirement would also minimize the impact of development on established neighborhoods. Councilmember Thorpe asked why this would be misconstrued as being against public housing. Councilmember Wallace thought it might be misconstrued because of the difficulty of finding suitable sites for public housing. The tendency was to maximize the units when a site was found.

Councilmember Thorpe commented that the Council decided where the public housing would be located. Councilmember Wallace added that a public housing project must have a Special Use Permit for which a finding on property value must be made. Keeping any project small scale would help to make this finding and would leave open space on the site.

Mr. Jennings pointed out this amendment would also apply to subsidized housing. On questioning from Councilmember Smith, he clarified the application of this section.

Councilmember Straley said he would vote against this amendment. The Council could decide the appropriate size of projects when considering them for Special Use Permits.

Mayor Nassif stated he would also vote against the amendment. Contrary to some national experiences, failed public housing on a large scale did not exist in Chapel Hill. Scattering small projects across Town would cause maintenance and operating problems for the Housing Authority. The Council did not limit other developers in Town, and Mayor Nassif did not believe the Council should limit the Housing Authority. Councilmember Wallace responded this particular category of housing was unique and could possess unique regulation. Councilmember Boulton added that the density was being increased in this ordinance.

Councilmember Smith stated scattering the sites would make more difficulties in finding suitable sites.

THE MOTION FAILED BY A VOTE OF FIVE TO FOUR WITH COUNCILMEMBERS BOULTON, HOWES, THORPE, AND WALLACE SUPPORTING AND COUNCILMEMBERS HERZENBERG, KAWALEC, SMITH, STRALEY, AND MAYOR NASSIF OPPOSING.

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER STRALEY, TO DELETE SECTION 3.1.8, LIMITED AVIATION, AND TO CHANGE THE ZONING MAP TO O AND I-2 FOR HORACE WILLIAMS AIRPORT PROPERTY. Councilmember Howes stated this was not a good alternative, but the best of those offered. He added the Town should follow-up on the Chancellor's comments on limiting the airport use.

Councilmember Smith stated the County Commissioners were discussing an airport on their agenda. If the Council wanted to phase out use of the airport, it should form a group to find a site for an airport, or it could support the request for a special use permit for an airport in the county. Councilmember Kawalec offered that the Council should take action to support rezoning of county land for an airport. She suggested the Council adopt a resolution at the next meeting supporting a general rezoning of land for an airport rather than rezoning of particular property. Councilmember Smith argued that the Commissioners had a specific request before them. Councilmember Kawalec agreed to work with Councilmember Smith on wording for a resolution to support rezoning of county land.

THE MOTION WAS CARRIED UNANIMOUSLY.

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER STRALEY, TO REZONE WCHL PROPERTY TO O AND I-2. He commented the R-4 zoning appeared to be a mistake. Mr. Jennings noted that the land use plan designated the property as commercial. The R-4 zoning would not allow radio towers.

THE MOTION WAS CARRIED UNANIMOUSLY.

Mr. Baker stated he was experiencing procedural problems with the changing of the zoning ordinance. He had made application for a special use permit for 6 acres next to the Northwestern Bank on Franklin Street. Notice had been sent to the surrounding property owners of the special use application. The old zoning would allow more density than the proposed zoning. He asked that the zoning be increased from R-4 to R-5 to allow the equivalent of what was proposed in his Special Use application and the old zoning ordinance. None of the surrounding property owners had voiced any objection to the project.

Mr. Jennings stated the Planning Board had discussed the change requested by Mr. Baker but had offered a general recommendation that no rezoning requests be honored through the public hearing process for the entire ordinance based upon the fact that people not attending the public hearing would not know of the project. He added that Mr. Baker had notified owners within 500 feet of the project.

When questioned, Mr. Reeve stated the issue was one of consistency in the transition. Mayor Nassif pointed out the ordinance had been under consideration for several months.

Councilmember Smith asked what the surrounding zoning was. Mr. Baker said it was R-4 and R-5.

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Councilmember Wallace asked for the attorney's opinion regarding whether the problem was a procedural one. Mr. Denny answered it was both procedural and substantive. The question of density was substantive. The current application for a special use permit would not be possible under the proposed zoning, but would have been possible under the old ordinance.

Councilmember Wallace asked if other requests were under consideration which would have difficulties with the adoption of the new zoning ordinance. Mr. Jennings responded there was one other application for a special use permit which would not be affected because the proposed zoning would allow the proposed project.

Mr. Denny advised that the procedures followed under the old ordinance would meet requirements for procedures for the special use permit.

COUNCILMEMBER KAWALEC MOVED, SECONDED BY COUNCILMEMBER BOULTON, THAT THE ZONING MAP BE AMENDED TO ZONE TRACT 44-D-3 AND 45-A-1 FROM R-4 TO R-5.

She commented that the Council had given extensive consideration to the development of this tract, and citizens had been given an opportunity to respond to the project. Councilmember Smith took issue with this statement. He said the business community had made no comment about this particular tract with regard to changing the zoning. Councilmember Kawalec pointed out the Chamber of Commerce had recommended the tract be rezoned to Office and Institutional.

Councilmember Wallace commented that a few developers must be caught in the transition from old ordinance to new ordinance. With so few projects to consider, he thought the Council should not hurt this applicant.

Mr. Epting pointed out Mr. Baker's request was not for assistance, but one imploring the Council not to hurt him. The requirements would be changed from those under which he applied.

THE MOTION WAS CARRIED WITH A VOTE OF 7 TO 2 WITH COUNCILMEMBERS BOULTON, HERZENBERG, HOWES, KAWALEC, STRALEY, THORPE, AND WALLACE SUPPORTING AND COUNCILMEMBER SMITH AND MAYOR NASSIF OPPOSING.

Mayor Nassif asked if there were any further questions.

Councilmember Wallace asked about the existing zoning of the Coker property. Mr. Jennings stated that the existing zoning of the entire property was R-10. A portion of the property abutting North Street would be left at the equivalent of R-10. The remainder would be down-graded to R-1.

Councilmember Wallace asked how many units were permitted in the down-graded portion. Mr. Jennings stated that 170 units were permitted under the existing ordinance and that 130 under the proposed ordinance.

Councilmember Wallace asked if the ordinance was being considered now for adoption and whether the Design Manual was being considered for some time in the future. Mayor Nassif answered that the Design Manual would be considered for adoption 280 days after the adoption of the zoning ordinance. Councilmember Wallace was concerned that if the Design Manual would be substantially different from the existing standards, developers should be informed in advance that these plans for a Design Manual were nearing completion and its adoption could adversely affect their plans, as Mr. Baker's had been affected.

Further discussion by Councilmember Thorpe centered around the fact that a date for review of the Design Manual be incorporated into the ordinance under consideration. Mayor Nassif responded that the Planning Board had established a date for 9 months after the adoption of the zoning ordinance. Councilmember Thorpe wanted a specific date. Mr. Denny suggested that it would be more appropriate to consider a separate resolution for setting such a date and direct when the matter would appear on the agenda.

Councilmember Wallace noted there had been no response to his concern for possible future conflicts between current design standards and the proposed Design Manual. Mr. Jennings stated that the standards of the proposed Design Manual would have to comply with the ordinance under consideration and that he did anticipate some problems just because of the transition.

There was no further discussion of the main motion.

THE MOTION WAS CARRIED WITH A VOTE OF 7 TO 2 WITH COUNCILMEMBERS BOULTON, HERZENBERG, HOWES, KAWALEC, SMITH, STRALEY AND MAYOR NASSIF SUPPORTING, AND COUNCILMEMBERS WALLACE AND THORPE OPPOSING.

After a 5-minute recess, Mayor Nassif called the meeting to order for the second time.

A Resolution Calling a Public Hearing to Consider Amendments to the Text of the Zoning Ordinance

COUNCILMEMBER STRALEY MOVED, SECONDED BY COUNCILMEMBER BOULTON, ADOPTION OF THE FOLLOWING RESOLUTION:

A RESOLUTION CALLING A PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE TEXT OF THE ZONING ORDINANCE (81-R-67.1)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby calls for a public hearing for 7:30 P.M., Tuesday, May 26, 1981, in the Meeting Room of the Municipal Building, 306 N. Columbia Street, Chapel Hill, North Carolina. At that time, the Council will consider amendments to the Zoning Ordinance to require minimum gross land area sizes for Planned Developments-Housing as follows:

<u>District</u>	<u>Minimum Gross Land Area</u>
R-1	150,000 square feet
R-2	100,000 square feet
R-3	37,500 square feet

This the 11th day of May, 1981.

Councilmember Smith asked if it would be appropriate to request that the Planning Board meet immediately after that public hearing and make a recommendation so that action could be made on the night of the public hearing rather than carrying this over. He felt that this measure would significantly speed up making modifications of the zoning ordinance and reduce the number of problems such as those dealt with tonight. Mr. Reeves was in complete agreement with this request.

Mayor Nassif inquired about the reason for Councilmember Straley's amending the requirement for three acres. Councilmember Straley responded that he merely wanted to protect people who have 2-3 acres by encouraging them to plan larger sized developments from the beginning, thus protecting such persons from future construction plans of nearby neighbors.

There was no further discussion.

THE MOTION WAS CARRIED BY A VOTE OF 7 TO 2 WITH COUNCILMEMBERS BOULTON, HERZENBERG, HOWES, SMITH, STRALEY, THORPE, AND WALLACE SUPPORTING AND MAYOR NASSIF AND COUNCILMEMBER KAWALEC OPPOSING.

Resolution Calling for a Reevaluation of the Chapel Hill Zoning Ordinance

COUNCILMEMBER THORPE, SECONDED BY COUNCILMEMBER HERZENBERG, THAT THE FOLLOWING RESOLUTION BE ADOPTED:

A RESOLUTION CALLING FOR A REEVALUATION OF THE CHAPEL HILL ZONING ORDINANCE (81-R-67.2)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby directs the Manager and Planning Board to reevaluate the Chapel Hill Zoning Ordinance and present its recommendations to the Council by February 22, 1982.

This the 11th day of May, 1981.

Councilmember Smith suggested the changes for the Zoning Ordinance should be presented at the same time as the Design Manual. Mr. Jennings concurred.

There was no further discussion.

THE MOTION WAS CARRIED UNANIMOUSLY.

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A Resolution Granting a Special Use Permit to the Town of Chapel Hill Public Library for a Residential Parking Lot

Councilmember Straley asked why there was one vote opposing the Planning Board recommendation on the parking lot. Mr. Jennings recalled that the dissenting vote was by Don Francisco, who believed the Planning Board should not approve the plan because the existing parking lot was not exempted from the vehicle-free strip and other developers were not allowed such exemption. Mr. Jennings then explained in detail the traffic flow in this proposed lot.

Councilmember Smith asked if there were any foreseeable problems in turning from Boundary Street left into the parking area. Mr. Jennings commented that a left turn off of Boundary Street was a better alternative than using Franklin Street as an entrance and an exit. This alternative was also better than a left turn into the property from off Franklin Street. Councilmember Smith expressed concern regarding the fact that Boundary Street has only one lane, possibly causing traffic to back up to Franklin Street. Mr. Jennings felt that there was a good distance from the turn into the property on Boundary Street to the intersection on Franklin Street, and did not foresee a problem here.

COUNCILMEMBER HERZENBERG MOVED, SECONDED BY COUNCILMEMBER STRALEY, THAT THE FOLLOWING RESOLUTION BE ADOPTED:

A RESOLUTION GRANTING A RESIDENTIAL PARKING LOT SPECIAL USE PERMIT TO THE TOWN OF CHAPEL HILL FOR THE PUBLIC LIBRARY PARKING LOT ON EAST FRANKLIN STREET (81-R-68)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby finds that the residential parking lot proposed by the Town of Chapel Hill if developed in accordance with the plans submitted 2/16/81 and the stipulations and conditions set forth below:

1. will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved,
2. meets all required conditions and specifications,
3. will not substantially injure the value of adjoining or abutting property, and
4. that the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Chapel Hill and its environs.

The stipulations upon which the above findings are based are as follows:

1. That unpaved portion of the parking lot be paved by May 31, 1982.
2. That a detailed drainage plan be reviewed and approved by the Town Manager prior to issuance of a grading permit, building permit, and start of construction of improvements. In developing the drainage plan consideration shall be given to including a catch basin at the proposed Boundary St. entrance.
3. That a landscape plan and lighting plan for the parking lot be approved by the Historic District Commission prior to issuance of a grading permit and building permit.
4. That any and all planting which dies during the life of the special use permit be replaced with planting of the same species and approximately the same size by the end of the next planting season.
5. That as much significant planting as possible be retained and that such planting be shown on the landscape plan. Existing planting shall be protected during construction by appropriate fencing or barriers. Provisions for such protection shall be shown on the landscape plan.
6. That the existing part of the off-street parking area be exempted from the requirement of a 10 foot wide vehicle free strip.



- 7. That the sight lines for the existing driveway onto Boundary Street be increased to achieve the objective of allowing drivers in automobiles to see pedestrians (adults and children) using the existing sidewalk on Boundary Street.
- 8. That construction begin by May 31, 1982 and be completed by May 31, 1983.

BE IT FURTHER RESOLVED that the Council hereby grants a residential parking lot Special Use Permit in accordance with the plans as submitted and approved and the stipulations above.

This the 11th day of May, 1981.

Councilmember Straley asked Mr. Jennings if there would be any parking spaces lost by the construction. Mr. Reeves commented that all aspects of the Library parking proposals were prompted because of traffic accommodation needs for Library patrons. Mr. Reeves asserted that all other aspects of this Library had been an exception to the rule. Councilmember Smith did not feel that this was a legitimate reason (traffic accommodation needs) for the Town to violate its own ordinance.

There was no further discussion.

THE MOTION WAS CARRIED UNANIMOUSLY.

A Resolution Granting a Special Use Permit to the Alpha Delta Pi Sorority

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, TO ADOPT THE FOLLOWING RESOLUTION:

A RESOLUTION GRANTING A SORORITY HOUSE SPECIAL USE PERMIT TO ALPHA DELTA PI SORORITY FOR A SORORITY HOUSE AT 411 E. ROSEMARY STREET (81-R-69)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby finds that the Sorority House proposed by Alpha Delta Pi Sorority if developed in accordance with the plans submitted February 2, 1981 and the stipulations and conditions set forth below:

- 1. will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved,
- 2. meets all required conditions and specifications,
- 3. will not substantially injure the value of adjoining or abutting property, and
- 4. that the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located in general conformity with the plan of development of Chapel Hill and its environs.

The stipulations upon which the above findings are based are as follows:

- 1. That a paved sidewalk to Town standards be installed along the frontage of the subject property with Rosemary Street. The design of such sidewalk shall be approved by the Town Manager prior to construction.
- 2. That the driveway on Rosemary Street be constructed to Town standards. Such driveway shall be approved by the Town Manager prior to construction.
- 3. That detailed architectural elevations, and a site plan showing the location of landscaped areas, signs, lighting and other site elements be submitted to and approved by the Historic District Commission prior to issuance of a building permit. Such site plan shall show the location of all existing trees having a diameter, at breast height, of one foot.
- 4. That the off-street parking areas be screened from the abutting properties by a solid six-foot high screen consisting of vegetation, trees and/or fencing. The detailed design of such screen shall be shown on the landscape plan and shall be approved by the Historic District Commission.
- 5. That provisions for parking bicycles be provided on the property. The location and design of such facilities shall be shown on the site plan and shall be approved by the Historic District Commission.

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6. That as much significant planting as possible be retained and that such planting be shown on the landscape plan. Existing planting shall be protected during construction by appropriate fencing or barriers. Provisions for such protection shall be shown on the landscape plan.
  7. That any and all planting which dies during the life of the special use permit be replaced with planting of the same species and approximately the same size by the end of the next planting season.
  8. That all utilities be placed underground including the existing above ground electric service between the street and the sorority house.
  9. That all improvements, as shown on the approved plans or required as part of the granting of the special use permit, shall be completed prior to issuance of the certificate of occupancy.
  10. That construction begin by May 31, 1983 and be completed by May 31, 1985.

BE IT FURTHER RESOLVED that the Council hereby grants a Sorority House Special Use Permit in accordance with the plans as submitted and approved and the stipulations above.

This the 11th day of May, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

A Resolution Approving the Preliminary Sketch for Booker Creek Subdivision Phase 4

COUNCILMEMBER KAWALEC MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, THAT THE FOLLOWING RESOLUTION BE ADOPTED:

A RESOLUTION APPROVING THE PRELIMINARY SKETCH FOR BOOKER CREEK SUBDIVISION, SECTION IV (81-R-70A)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby approves the preliminary sketch dated November 25, 1980, for Booker Creek Subdivision, Section IV located on property identified as part of Chapel Hill Township Tax Map 26, Lot 20, subject to the following:

1. That the applicant revise the preliminary sketch to be consistent with the alternative plan dated November 10, 1980, showing access to most of the lots by means of a cul-de-sac street. Such cul-de-sac shall be paved with curb and gutter to Town standards.
2. That the applicant comply with the open space requirement by making a payment in lieu of the required open space. Such payment shall be made to the Town to recordation of the final plat.
3. That the number, location and installation of fire hydrants be approved by the Town Manager. A plan for such improvements shall be approved by the Town Manager prior to issuance of any building permits and prior to submission of an application for final plat approval.
4. That sewer, drainage, and utility easements be dedicated as required by the Town Manager.
5. That a detailed drainage plan and grading plan be submitted to and be approved by the Town Manager prior to issuance of a grading permit, building permit, start of construction of improvements, and prior to submission of an application for final plat approval.
6. That all lots connecting onto the sanitary sewer system be serviced by gravity flow. Individual pumps for each dwelling unit shall not be permitted.
7. That the western half of Weaver Dairy Road be widened along the entire frontage of the subject development with the road to meet the design requirements for a 53 foot wide street cross-section. Such improvements shall include curb and gutter. The detailed design shall be approved by the Town Manager prior to start of construction.

This the 11th day of May, 1981.

Councilmember Straley questioned the access to the two lots lot served by the cul-de-sac. Mr. Jennings answered that there was an "off-the-street" access. Councilmember Straley asked for further clarification. Mr. Jennings explained that other alternatives were not suitable, in light of future expansion possibilities for Weaver Dairy Road.

Councilmember Smith asked if other developers had been required to widen Weaver Dairy Road. Mr. Jennings stated that the only other such existing situation in this area was that of Timberlyne development and a requirement had been made that they widen the road on their property.

There was no further discussion.

THE MOTION WAS CARRIED UNANIMOUSLY.

An Ordinance to Amend Article III of Chapter 11 of the Code of Ordinances

Mr. Tony Lathrop was given the floor to speak to the proposed noise ordinance. Mr. Lathrop requested that Mr. Bill Maynard and Mr. Bianci also be permitted to speak regarding this ordinance.

Mr. Lathrop expressed appreciation for the amount of time and concern that had been incorporated into the current drafting of the proposed noise ordinance. He felt that under this new proposal as few people as possible would be "bothered" by the noise ordinance. He promised that sincere efforts would be put forth by other campus groups to make this proposal work. Mr. Lathrop said that all campus groups involved looked forward to working closely with Chief Stone and other officers in Chapel Hill, stating that they had set aside money to buy eight of the decimeters for campus use. He supported a possible reduction of penalties on permit violations from a 12-month use restriction to a 6-month use restriction, since there was such a large student turnover.

Mr. Behrends, a citizen, had been asked by other citizens to speak and to make it clear to the Council that the opinions of the students represented previously were by no means representative of the opinions of the entire student body. He further assured the Council that some of the students were interested in something besides partying. Some of the Townspeople also felt that they had not been represented in a formal way, but that there had been formal student input. He expressed concern that the previously submitted noise ordinance was being "watered down" in order to compromise with student wishes. He referred specifically to the penalty for permit violations. He was anxious that this ordinance be enforceable as he felt that such attempts in the past had not been successfully enforced.

Another citizen, Ms. Margaret Pfaff, expressed the opinion that people have the right not to have to listen to other persons' noises. She felt this to be true of all hours, not just between "X" hours. She encouraged cooperation to make this ordinance effective.

Mr. Dixon, a third citizen, defended what he thought to be self-evident, that this ordinance seemed to make bad-neighborliness legal to an extraordinarily high degree. He felt that certain proposed modifications would weaken the ordinance further, making bad neighbors worse neighbors. He stated that no one had the right to achieve his or her own pleasure at the expense of someone else. He requested that the proposed ordinance not be further weakened.

Mr. Bianci, of the Residents Hall Association, assured the Council of the support of the Residents Hall Association, and reassured the Council that students do, indeed, study at times.

Mr. Bill Maynard, from the Inter-Fraternity Council (IFC), remarked about the number of band parties which previously existed on the same evening, stating that, in the future, this would no longer exist, and if they did exist, one would be on the opposite side of the campus from the other, so as not to concentrate noise problems. He agreed with some of the objections that some of the citizens had voiced in this meeting, feeling that these objections had been addressed in the new proposal.

Councilmember Kawalec thought that the proposed Noise Ordinance was better than a further weakened ordinance, and stated that every incident that could possibly occur could not possibly be foreseen or dealt with. Councilmember Kawalec noted a few corrections in the proposed ordinance which had been presented to the Council two weeks prior to this meeting and she urged its adoption.

COUNCILMEMBER KAWALEC MOVED, SECONDED BY COUNCILMEMBER SMITH, THAT THE FOLLOWING ORDINANCE BE ADOPTED:

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AN ORDINANCE TO REVISE AND REWRITE PORTIONS OF CHAPTER 11, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF CHAPEL HILL (81-O-33A)

BE IT ORDAINED by the Council of the Town of Chapel Hill Article III, Chapter 11 of the Code of Ordinances is hereby amended to read as follows:

SECTION I

ARTICLE III

NOISE

SECTION 11-37: Article Designated Noise Control Code.

This Article shall be known as the "Noise Control Code for the Town of Chapel Hill."

SECTION 11-38: Terminology and Standards.

I. Terminology

All terminology used in this Article not defined below shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

- A. "A-Weighted Sound Level": The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A).
- B. "Decibel (dB)": A unit for describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter.
- C. "Sound Pressure Level": Twenty (20) times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micronewtons per square meter.
- D. "Sound Level Meter": An instrument which includes a microphone, amplifier RMS detector, integrator or time averager, output meter, and weighing network used to measure sound pressure levels.
- E. "Sound Level": The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971, or the latest approved version thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.
- F. "Emergency Work": Any work performed for the purposes of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.
- G. "Outdoor Amplified Sound": Any sound using sound amplifying equipment whose source is outside or whose source is inside and the sound propagates to the outside through open doors or windows or other openings in the building.
- H. "Sound Amplifying Equipment": Any device for the amplification of the human voice, music or any other sound, including juke boxes, stereos and radios.

II. Standards

Standards, instrumentation, personnel, measurement procedures, and reporting procedures to be used in the measurement of sound as provided for in this Section shall be those as specified herein.

- A. Sound level measurement shall be made with a sound level meter using the "A" weighting scale, set on "slow" response.
- B. Sound level meters shall be of at least Type Three meeting American National Standard Institute Incorporated (ANSI) S1.4-1971 requirements. The entire sound measurement system shall be serviced and calibrated and operated as recommended by the manufacturer. Persons using the sound level meters shall be trained in sound level measurement and the operation of sound level measurement.

- C. The Town Manager or his designee shall issue a general order adopting standards and procedures for sound level measurements and enforcement.

SECTION 11-39: Maximum Permitted Sound Levels.

- A. The use of sound amplifying equipment is limited to the conditions specified in this Section.
- B. No person or group of persons shall operate or cause to be operated by any source of sound in such a manner as to create a sound level which at its peaks exceeds the limits set forth hereinbelow when measured beyond the property line of the property from which the sound originates.
- C. No live musical group or individual using sound amplifying equipment may operate out of doors at any time other than during the hours specified under Section 11-39 and only if the business manager or an authorized agent of that business manager has been granted a permit. This permit may be secured after it is signed by an authorized agent of the musical group and by a representative of the individual organization or group retaining the services of the musical group and on whose premises the amplifying equipment is to be used.
- D. The following are established as maximum sound levels:
  1. Nighttime sound levels (after 11:00 P.M. until 8:00 A.M.) may not exceed 50 dB(A) except as noted in "3" below.
  2. Daytime/evening sound levels (between 8:00 A.M. and 11:00 P.M.) may not exceed 60 dB(A) except as noted in "3" below.
  3. Daytime/evening sound levels in excess of 60 dB(A) will be permitted as follows:

	<u>Without a Permit</u>	<u>With a Permit</u>
Thursday evening (5:00 P.M. - 11:00 P.M. Thursday)	70 dB(A)	85 dB(A)
Friday evening (5:00 P.M. - 1:00 A.M. Saturday)	70 dB(A)	85 dB(A)
Saturday (10:00 A.M. - 1:00 A.M. Sunday)	70 dB(A)	85 dB(A)

SECTION 11-40: Exceptions.

The following are exempt from the provisions of this Article:

1. Sound emanating from regularly scheduled outdoor athletic events on the campus of the University of North Carolina.
2. Construction operations from 7:00 A.M. to 9:00 P.M. on weekdays and 8:00 A.M. to 9:00 P.M. on weekends for which building permits have been issued or construction operations not requiring permits due to ownership of the project by an agency of government; providing all equipment is operated in accord with the manufacturer's specifications and with all standard equipment manufacturer's mufflers and noise-reducing equipment in use and in proper operating condition.
3. Noises of safety signals, warning devices, emergency pressure relief valves and the bells of the Bell Tower, and the bell on South Building on the UNC Campus.
4. Noises resulting from any authorized emergency vehicle when responding to any emergency call or acting in time of emergency.
5. Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the Town in accordance with the above. Regulation of noises emanating from operations under permit shall be according to the conditions and limits stated on the permit and contained above.
6. Unamplified noises at street activity (such as fairs or parades) where the participants have a permit for use of the streets.

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7. An official all-campus University of North Carolina musical event, held in Kenan Stadium, of no more than one weekend in duration, occurring no oftener than once per year.
  8. All noises coming from the normal operations of properly equipped aircraft (not including scale model aircraft).
  9. All noises coming from motor vehicles properly equipped with the manufacturer's standard mufflers and noise reducing equipment.
  10. Noise from lawful fire works and noise makers on holidays.
  11. Lawn mowers and agricultural equipment used between daylight hours 7:00 A.M. and 9:00 P.M. when operated with all the manufacturer's standard mufflers and noise-reducing equipment in use and in proper operating condition.

SECTION 11-41: Permit to Exceed Limits.

- A. Who May Apply. A person or group of persons may produce or cause to be produced sound in excess of 60 dB(A) only during the hours specified in Section 11-39, and may exceed 70 dB(A) only if permit has been obtained to exceed for the time and place of the activity has been obtained.
- B. Application for Permit. Any person or group of persons desiring a permit shall apply as provided herein, and shall provide all information required.
- C. Timeliness of Application. Any person requesting a permit to exceed the limits must notify the Town Manager or his designee at least two (2) working days prior to the date of the activity for which the permit is requested.
- D. Action by Town Manager. The Town Manager or his designee will act upon all requests for (a) a permit to exceed the limits specified during the hours specified; (b) a permit on behalf of the business manager or authorized agent of any musical group that wishes to operate out of doors during the hours specified.
- E. Consideration by Town Manager. In considering and acting on all requests for permits pursuant to this Article, the Manager shall consider, but shall not be limited to the following, in issuing or denying such permit: the timeliness of the application; the nature of the requested activity; previous experience with the applicant; the nature of the event; the time of the event; other activities in the vicinity of the location proposed; the frequency of the application; the cultural or social benefit of the proposed activity; the effect of the activity on the residential areas of the Town; previous violations, if any, of the applicant.
- F. Requirements by Town Manager. The Town Manager or his designee:
  - (a) Will require the payment of a \$5.00 administrative fee to the Town.
  - (b) May require that no sound speakers shall be set up more than 10-feet off the ground.
  - (c) May require that the permit holders change the set-up of loud speakers or the sound instruments so as to minimize the disturbance of others.
- G. Cooperation with Police. Permit holders agree to cooperate with the Police Department in enforcing the Noise Control Code by having the signers of the permit available at the site of the event during the entire time for which a permit has been issued and capable of assisting the police in enforcing the Noise Control Code.

SECTION 11-42: Violation.

Violation of any of the standards set forth in this Article shall be unlawful, and punishable under the Code as provided therein, and is cause for immediate revocation of a permit to exceed limits. The Town Manager or his designee will deny a request to exceed the limits or to operate sound amplifying equipment to any individual, group, organization, or musical group who has held a permit to exceed noise levels within the previous 12 months, and has violated the conditions of said permit, or who has violated any condition of this Article within the previous 12 months, with or without a permit. All permit issues pursuant to this Article shall contain a statement of the penalties for violations set forth herein.

SECTION II

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

SECTION III

This Ordinance shall be effective from and after the first day of July 1981.

This the 11th day of May, 1981.

COUNCILMEMBER STRALEY MOVED, SECONDED BY COUNCILMEMBER BOULTON, THE ADOPTION OF A SUBSTITUTE ORDINANCE AS FOLLOWS:

AN ORDINANCE TO REVISE AND REWRITE PORTIONS OF CHAPTER II, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF CHAPEL HILL (81-O-33B)

BE IT ORDAINED by the Council of the Town of Chapel Hill Article III, Chapter II of the Code of Ordinances is hereby amended to read as follows:

SECTION I

ARTICLE III

NOISE

SECTION 11-37: Article Designated Noise Control Code.

This Article shall be known as the "Noise Control Code for the Town of Chapel Hill."

SECTION 11-38: Terminology and Standards.

I. Terminology

All terminology used in this Article not defined below shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

- A. "A-Weighted Sound Level": The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A).
- B. "Decibel (dB)": A unit for describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter.
- C. "Sound Pressure Level": Twenty (20) times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micronewtons per square meter.
- D. "Sound Level Meter": An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighing network used to measure sound pressure levels.
- E. "Sound Level": The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971, or the latest approved version thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.
- F. "Emergency Work": Any work performed for the purposes of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.
- G. "Outdoor Amplified Sound": Any sound using sound amplifying equipment whose source is outside or whose source is inside and the sound propagates to the outside through open doors or windows or other openings in the building.
- H. "Sound Amplifying Equipment": Any device for the amplification of the human voice, music or any other sound, including juke boxes, stereos and radios.

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II. Standards

Standards, instrumentation, personnel, measurement procedures, and reporting procedures to be used in the measurement of sound as provided for in this Section shall be those as specified herein.

- A. Sound level measurement shall be made with a sound level meter using the "A" weighting scale, set on "slow" response.
- B. Sound level meters shall be of at least Type Three meeting American National Standard Institute Incorporated (ANSI) S1.4-1971 requirements. The entire sound measurement system shall be serviced and calibrated and operated as recommended by the manufacturer. Persons using the sound level meters shall be trained in sound level measurement and the operation of sound level measurement.
- C. The Town Manager or his designee shall issue a general order adopting standards and procedures for sound level measurements and enforcement consistent with this Article.

SECTION 11-39: Maximum Permitted Sound Levels.

- A. The use of sound amplifying equipment is limited to the conditions specified in this Section.
- B. No person or group of persons shall operate or cause to be operated by any source of sound in such a manner as to create a sound level which at its peaks exceeds the limits set forth hereinbelow when measured beyond the property line of the property from which the sound originates.
- C. A live musical group or individual using sound amplifying equipment may operate out of doors only if the business manager or an authorized agent of that business manager has been granted a permit. This permit may be secured after it is signed by an authorized agent of the musical group and by a representative of the individual organization or group retaining the services of the musical group and on whose premises the amplifying equipment is to be used.
- D. The following are established as maximum sound levels:
  1. Nighttime sound levels (after 11:00 P.M. until 8:00 A.M.) may not exceed 50 dB(A) except as noted in "3" below.
  2. Daytime/evening sound levels (between 8:00 A.M. and 11:00 P.M.) may not exceed 60 dB(A) except as noted in "3" below.
  3. Daytime/evening sound levels in excess of 60 dB(A) will be permitted as follows:

	<u>Without a Permit</u>	<u>With a Permit</u>
Thursday evening (5:00 P.M. - 11:00 P.M. Thursday)	70 dB(A)	85 dB(A)
Friday evening (5:00 P.M. - 1:00 A.M. Saturday)	70 dB(A)	85 dB(A)
Saturday (10:00 A.M. - 1:00 A.M. Sunday)	70 dB(A)	85 dB(A)

SECTION 11-40: Exceptions.

The following are exempt from the provisions of this Article:

1. Sound emanating from regularly scheduled outdoor athletic events on the campus of the University of North Carolina.
2. Construction operations from 7:00 A.M. to 9:00 P.M. on weekdays and 8:00 A.M. to 9:00 P.M. on weekends for which building permits have been issued or construction operations not requiring permits due to ownership of the project by an agency of government; providing all equipment is operated in accord with the manufacturer's specifications and with all standard equipment manufacturer's mufflers and noise-reducing equipment in use and in proper operating condition.



3. Noises of safety signals, warning devices, emergency pressure relief valves, all church bells, and the bells of the Bell Tower, and the bell on South Building on the UNC Campus.
4. Noises resulting from any authorized emergency vehicle when responding to any emergency call or acting in time of emergency.
5. Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the Town in accordance with the above. Regulation of noises emanating from operations under permit shall be according to the conditions and limits stated on the permit and contained above.
6. Unamplified noises at street activity (such as fairs or parades) where the participants have a permit for use of the streets.
7. An official all-campus University of North Carolina musical event, held in Kenan Stadium, of no more than one weekend in duration, occurring no oftener than once per year.
8. All noises coming from the normal operations of properly equipped aircraft (not including scale model aircraft).
9. All noises coming from motor vehicles properly equipped with the manufacturer's standard mufflers and noise reducing equipment.
10. Noise from lawful fire works and noise makers on holidays.
11. Lawn mowers and agricultural equipment used between daylight hours 7:00 A.M. and 9:00 P.M. when operated with all the manufacturer's standard mufflers and noise-reducing equipment in use and in proper operating condition.

SECTION 11-41: Permit to Exceed Limits.

- A. Who May Apply. A person or group of persons may produce or cause to be produced sound in excess of 60 dB(A) only during the hours specified in Section 11-39, and may exceed 70 dB(A) only if permit has been obtained to exceed for the time and place of the activity has been obtained.
- B. Application for Permit. Any person or group of persons desiring a permit shall apply as provided herein, and shall provide all information required.
- C. Timeliness of Application. The business manager or authorized agent of any person or group of persons desiring a permit for a live musical group or individual to perform out of doors using sound amplifying equipment must apply at least forty-eight (48) hours prior to the activity for which the permit is requested. A person applying for a permit to exceed 70 dB(A) during the hours stated in Section 11-39 D(3) may apply jointly with the business manager or authorized agent of the aforementioned live musical group or individual if live music is to be provided.

A person desiring a permit to exceed 70 dB(A) during this stated time period where live music is not to be provided may apply at a time less than forty-eight hours prior to the event. The granting of permission to exceed 70 dB(A) under these circumstances will require the payment of a larger administration fee as stated in (F) below.

- D. Action by Town Manager. The Town Manager or his designee will act upon all requests for (a) a permit to exceed the limits specified during the hours specified; (b) a permit on behalf of the business manager or authorized agent of any musical group that wishes to operate out of doors during the hours specified.
- E. Consideration by Town Manager. In considering and acting on all requests for permits pursuant to this Article, the Manager shall consider, but shall not be limited to the following, in issuing or denying such permit: the timeliness of the application; the nature of the requested activity; previous experience with the applicant; the nature of the event; the time of the event; other activities in the vicinity of the location proposed; the frequency of the application; the cultural or social benefit of the proposed activity; the effect of the activity on the residential areas of the Town; previous violations, if any, of the applicant.

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F. Requirements by Town Manager.

- (a) A permit granted 48 hours in advance of an event will require the payment of a \$5.00 administration fee. If a permit to exceed 70 dB(A) is requested and granted later than 48 hours prior to the event an administration fee of \$25.00 will be required.
- (b) The Town Manager or his designee may require that no sound speakers shall be set up more than 10 feet off the ground.
- (c) The Town Manager or his designee may require that the permit holders change the set up of loud speakers or the sound instruments so as to minimize the disturbance to others resulting from the position or orientation of the speakers or from atmospherically or geographically caused dispersal of sound beyond the property lines.

G. Cooperation with Police. Permit holders agree to cooperate with the Police Department in enforcing the Noise Control Code by having the signers of the permit available at the site of the event during the entire time for which a permit has been issued and capable of assisting the police in enforcing the Noise Control Code. Failure of such a signer of a permit to be present or to assist the Police Department in complying with this ordinance will be cause for revocation of said permit.

SECTION 11-42: Violation.

Violation of any of the standards set forth in this Article shall be unlawful, and punishable under the Code as provided therein, and is cause for immediate revocation of a permit to exceed limits. The Town Manager or his designee will deny a request to exceed the limits or to operate sound amplifying equipment to any individual, group, organization, or musical group who has held a permit to exceed noise levels within the previous months, and has violated the conditions of said permit, or who has violated any condition of this Article within the previous 6 months, with or without a permit. All permit issues pursuant to this Article shall contain a statement of the penalties for violations set forth herein.

SECTION II

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

SECTION III

This Ordinance shall be effective from and after the first day of July 1981.

This the 11th day of May, 1981.

Councilmember Straley stated that he was proposing a series of amendments to the proposed ordinance. He felt that each of these amendments to the original ordinance had been drafted with deliberation with both students and Townspeople and UNC faculty. He further wished to defend each of these amendments separately:

Regarding one amendment, Councilmember Straley stated that Council should not speak to something that they could not enforce, specifically, that amplified music from the Pit at noontime not be permitted, even though it was not bothering anyone. He further stated that anyone wishing to obtain a permit for use of amplifying equipment should be required to obtain such a permit 48 hours prior to the activity for which the permit was requested. This application could be combined with another permit to exceed 70 dB. Any spontaneous activity would require a larger fee (\$25.00 for a special permit rather than \$5.00 for a regular permit).

Permit holders would also be expected, according to the ordinance, to change the location of speakers when requested to do so by, presumably, police officers, whether or not the dB level was being exceeded.

The language of the ordinance also proposed that the permit holder must be present to assist the Police Department with enforcement of the ordinance and if any such permit holder was not present, he would be guilty of violation of the ordinance and would be subject to a penalty, that being revocation of the permit.

Regarding the 6 months penalty, Councilmember Straley stated that the originally proposed 12 months penalty was entirely too long for a constantly changing student body and for such young persons to have to wait in order to receive a reenactment of their permit use. He concluded that 6 months should be the required penalty, not 12 months.

Councilmember Boulton stated that the mechanics of actual enforcement of the Noise Ordinance could be done by students' willingness to monitor their own noise. She further stated that citizens should not be called upon to locate the source of the noise, but that Council should have some kind of knowledge of the procedure that police officers would use in the future in locating noise sources.

Mayor Nassif felt that a stiffer penalty for Noise Ordinance violation was necessary to assure compliance with the ordinance. Nothing had been successful in the past, except that more noise had occurred, this being ample evidence that past attempts at noise reduction enforcement had been unsuccessful.

He further stated that a penalty of only 6 months would cause a recurring problem of enforcement not only for the police officers, but also for the Administration. He felt that other compromises had already been made (raising the dB level, extending the allowable time for such noise levels, and increasing the number of weekdays that such noise could occur.

Councilmember Straley argued that the dB levels had not been raised. This ordinance was an improvement over previous attempts.

Councilmember Boulton commented the 6 months penalty would be sufficient especially in light of the fact the Manager had the discretion as to whether another permit should be issued at a later time.

Councilmember Smith wanted the penalty to remain at 12 months to make the ordinance effective. The student leaders at the meeting tonight would not always be on campus when the parties were occurring to help enforce the ordinance.

THE MOTION TO SUBSTITUTE FAILED BY A VOTE OF FOUR TO FIVE WITH COUNCILMEMBERS BOULTON, STRALEY, THORPE, AND WALLACE SUPPORTING AND COUNCILMEMBERS HERZENBERG, HOWES, KAWALEC, SMITH, AND MAYOR NASSIF OPPOSING.

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER WALLACE, TO AMEND THE ORDINANCE BY CHANGING THE PENALTY FROM 12 MONTHS TO 6 MONTHS.

THE MOTION TO AMEND WAS CARRIED BY A VOTE OF SIX TO THREE WITH COUNCILMEMBERS BOULTON, HERZENBERG, HOWES, STRALEY, THORPE, AND WALLACE SUPPORTING AND COUNCILMEMBERS KAWALEC, SMITH AND MAYOR NASSIF OPPOSING.

THE MOTION TO ADOPT THE FOLLOWING ORDINANCE WAS CARRIED BY A VOTE OF FIVE TO FOUR WITH COUNCILMEMBERS HERZENBERG, HOWES, KAWALEC, STRALEY, AND WALLACE SUPPORTING AND COUNCILMEMBERS BOULTON, SMITH, THORPE, AND MAYOR NASSIF OPPOSING.

AN ORDINANCE TO REVISE AND REWRITE PORTIONS OF CHAPTER 11, ARTICLE III OF THE CODE OF ORDINANCES OF THE TOWN OF CHAPEL HILL (81-O-33A)

BE IT ORDAINED by the Council of the Town of Chapel Hill Article III, Chapter 11 of the Code of Ordinances is hereby amended to read as follows:

SECTION I

ARTICLE III

NOISE

SECTION 11-37: Article Designated Noise Control Code.

This Article shall be known as the "Noise Control Code for the Town of Chapel Hill."

SECTION 11-38: Terminology and Standards.

I. Terminology

All terminology used in this Article not defined below shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

- A. "A-Weighted Sound Level": The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A).
- B. "Decibel (dB)": A unit for describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter.
- C. "Sound Pressure Level": Twenty (20) times the logarithm to the base 10 of the ratio of the RMS sound pressure to the reference pressure of 20 micronewtons per square meter.
- D. "Sound Level Meter": An instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighing network used to measure sound pressure levels.
- E. "Sound Level": The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971, or the latest approved version thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.
- F. "Emergency Work": Any work performed for the purposes of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.
- G. "Outdoor Amplified Sound": Any sound using sound amplifying equipment whose source is outside or whose source is inside and the sound propagates to the outside through open doors or windows or other openings in the building.
- H. "Sound Amplifying Equipment": Any device for the amplification of the human voice, music or any other sound, including juke boxes, stereos and radios.

## II. Standards

Standards, instrumentation, personnel, measurement procedures, and reporting procedures to be used in the measurement of sound as provided for in this Section shall be those as specified herein.

- A. Sound level measurement shall be made with a sound level meter using the "A" weighting scale, set on "slow" response.
- B. Sound level meters shall be of at least Type Three meeting American National Standard Institute Incorporated (ANSI) S1.4-1971 requirements. The entire sound measurement system shall be serviced and calibrated and operated as recommended by the manufacturer. Persons using the sound level meters shall be trained in sound level measurement and the operation of sound level measurement.
- C. The Town Manager or his designee shall issue a general order adopting standards and procedures for sound level measurements and enforcement.

### SECTION 11-39: Maximum Permitted Sound Levels.

- A. The use of sound amplifying equipment is limited to the conditions specified in this Section.
- B. No person or group of persons shall operate or cause to be operated by any source of sound in such a manner as to create a sound level which at its peaks exceeds the limits set forth hereinbelow when measured beyond the property line of the property from which the sound originates.

C. No live musical group or individual using sound amplifying equipment may operate out of doors at any time other than during the hours specified under Section 11-39 and only if the business manager or an authorized agent of that business manager has been granted a permit. This permit may be secured after it is signed by an authorized agent of the musical group and by a representative of the individual organization or group retaining the services of the musical group and on whose premises the amplifying equipment is to be used.

D. The following are established as maximum sound levels:

1. Nighttime sound levels (after 11:00 P.M. until 8:00 A.M.) may not exceed 50 dB(A) except as noted in "3" below.
2. Daytime/evening sound levels (between 8:00 A.M. and 11:00 P.M.) may not exceed 60 dB(A) except as noted in "3" below.
3. Daytime/evening sound levels in excess of 60 dB(A) will be permitted as follows:

	<u>Without a Permit</u>	<u>With a Permit</u>
Thursday evening (5:00 P.M. - 11:00 P.M. Thursday)	70 dB(A)	85 dB(A)
Friday evening (5:00 P.M. - 1:00 A.M. Saturday)	70 dB(A)	85 dB(A)
Saturday (10:00 A.M. - 1:00 A.M. Sunday)	70 dB(A)	85 dB(A)

SECTION 11-40: Exceptions.

The following are exempt from the provisions of this Article:

1. Sound emanating from regularly scheduled outdoor athletic events on the campus of the University of North Carolina.
2. Construction operations from 7:00 A.M. to 9:00 P.M. on weekdays and 8:00 A.M. to 9:00 P.M. on weekends for which building permits have been issued or construction operations not requiring permits due to ownership of the project by an agency of government; providing all equipment is operated in accord with the manufacturer's specifications and with all standard equipment manufacturer's mufflers and noise-reducing equipment in use and in proper operating condition.
3. Noises of safety signals, warning devices, emergency pressure relief valves and the bells of the Bell Tower, and the bell on South Building on the UNC Campus.
4. Noises resulting from any authorized emergency vehicle when responding to any emergency call or acting in time of emergency.
5. Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the Town in accordance with the above. Regulation of noises emanating from operations under permit shall be according to the conditions and limits stated on the permit and contained above.
6. Unamplified noises at street activity (such as fairs or parades) where the participants have a permit for use of the streets.
7. An official all-campus University of North Carolina musical event, held in Kenan Stadium, of no more than one weekend in duration, occurring no oftener than once per year.
8. All noises coming from the normal operations of properly equipped aircraft (not including scale model aircraft).
9. All noises coming from motor vehicles properly equipped with the manufacturer's standard mufflers and noise reducing equipment.
10. Noise from lawful fire works and noise makers on holidays.
11. Lawn mowers and agricultural equipment used between daylight hours 7:00 A.M. and 9:00 P.M. when operated with all the manufacturer's standard mufflers and noise-reducing equipment in use and in proper operating condition.

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SECTION 11-41: Permit to Exceed Limits.

- A. Who May Apply. A person or group of persons may produce or cause to be produced sound in excess of 60 dB(A) only during the hours specified in Section 11-39, and may exceed 70 dB(A) only if permit has been obtained to exceed for the time and place of the activity has been obtained.
- B. Application for Permit. Any person or group of persons desiring a permit shall apply as provided herein, and shall provide all information required.
- C. Timeliness of Application. Any person requesting a permit to exceed the limits must notify the Town Manager or his designee at least two (2) working days prior to the date of the activity for which the permit is requested.
- D. Action by Town Manager. The Town Manager or his designee will act upon all requests for (a) a permit to exceed the limits specified during the hours specified; (b) a permit on behalf of the business manager or authorized agent of any musical group that wishes to operate out of doors during the hours specified.
- E. Consideration by Town Manager. In considering and acting on all requests for permits pursuant to this Article, the Manager shall consider, but shall not be limited to the following, in issuing or denying such permit: the timeliness of the application; the nature of the requested activity; previous experience with the applicant; the nature of the event; the time of the event; other activities in the vicinity of the location proposed; the frequency of the application; the cultural or social benefit of the proposed activity; the effect of the activity on the residential areas of the Town; previous violations, if any, of the applicant.
- F. Requirements by Town Manager. The Town Manager or his designee:
- (a) Will require the payment of a \$5.00 administrative fee to the Town.
  - (b) May require that no sound speakers shall be set up more than 10-feet off the ground.
  - (c) May require that the permit holders change the set-up of loud speakers or the sound instruments so as to minimize the disturbance of others.
- G. Cooperation with Police. Permit holders agree to cooperate with the Police Department in enforcing the Noise Control Code by having the signers of the permit available at the site of the event during the entire time for which a permit has been issued and capable of assisting the police in enforcing the Noise Control Code.

SECTION 11-42: Violation.

Violation of any of the standards set forth in this Article shall be unlawful, and punishable under the Code as provided therein, and is cause for immediate revocation of a permit to exceed limits. The Town Manager or his designee will deny a request to exceed the limits or to operate sound amplifying equipment to any individual, group, organization, or musical group who has held a permit to exceed noise levels within the previous 6 months, and has violated the conditions of said permit, or who has violated any condition of this Article within the previous 6 months, with or without a permit. All permit issues pursuant to this Article shall contain a statement of the penalties for violations set forth herein.

SECTION II

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

SECTION III

This Ordinance shall be effective from and after the first day of July 1981.

This the 11th day of May, 1981.

As the ordinance had not received a 2/3 vote on first reading, it would be considered at the next meeting as well.

Resolution Confirming the Sale of Bonds for Fire Station North

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER THORPE, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION CONFIRMING SALE OF BONDS (FOR FIRE STATION NORTH) (81-R-71)

WHEREAS, the Local Government Commission of North Carolina has informed the Council that it has sold in the manner prescribed by law the Town's \$450,000 Fire Fighting Facilities Bonds, dated May 1, 1981, and that the contract of sale contemplates that the bonds shall bear interest as hereinafter provided;

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

- 1. The Bonds hereinbefore described shall bear interest as follows:  
 Bonds payable in each of the years 1982 to 1988, inclusive, 8.60% per annum;  
 Bonds payable in the year 1989, 8.7% per annum; and  
 Bonds payable in the year 1990, 8.90% per annum.
- 2. This resolution shall become effective upon its adoption.

This the 11th day of May, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

Resolution Setting Public Hearings on the Manager's Recommended Annual Budget for 1981-82 and Capital Improvements Program for 1981-86

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION SETTING PUBLIC HEARINGS ON THE MANAGER'S RECOMMENDED BUDGET AND CAPITAL IMPROVEMENT PROGRAM (81-R-72)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby sets public hearings on the Manager's recommended budget for 1981-82 and Capital Improvement Program for 1981-86 for 7:30 P.M. on May 26, 1981, and 7:30 P.M. on June 15, 1981, in the Meeting Room of the Municipal Building, 306 North Columbia Street.

This the 11th day of May 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

Resolution Designating First Citizens Bank & Trust Company as Depository for Town Funds

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER SMITH, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION DESIGNATING FIRST CITIZENS BANK AND TRUST COMPANY AS DEPOSITORY OF TOWN FUNDS FOR THE PERIOD FROM JULY 1, 1981 THROUGH JUNE 30, 1983 (81-R-73)

BE IT RESOLVED by the Council of the Town of Chapel Hill that First-Citizens Bank & Trust Company (Bank) be and it hereby is designated a depository of the Town with authority to accept at any time and from time to time for the credit of the Town checking, savings, and all other types of deposits by whomsoever made of funds in whatever form and in whatever manner endorsed, and said Bank be and it hereby is authorized and directed to pay or otherwise honor or apply without inquiry and without regard to the application of the proceeds thereof, checks drafts, notes, bills of exchange, acceptances, undertakings, and other instruments or orders for the payment, transfer or withdrawal of money for whatever purpose and to whomsoever payable including those drawn to the individual order of a signer whether tendered for cashing, in payment of individual obligations of such signer, or for deposit to his individual account or any other use or disposition and further said Bank is given authority to honor the endorsement of checks, drafts, notes or all other types of instruments payable or belonging to the Town, whether such endorsement be made manually, by endorsement stamp or otherwise and whether for deposit, for collection or otherwise and to receive cash or part cash for same or to make "less cash" deposits, receiving cash for part or all of the amount of such checks and depositing the balance, if any, when such instruments are signed, accepted or endorsed whether by stamp, manual or facsimile signatures by any of the following indicated officers or persons from time to time holding the following indicated officers of the Town and the Town assumes full responsibility for any and all payments made by Bank in reliance upon the manual stamp or facsimile signatures of said officers and agrees to indemnify and hold harmless Bank against any and all loss, cost, damage or expense suffered or incurred by said Bank arising out of the misuse or unlawful or unauthorized use by any person of such stamp or facsimile signature or signatures, the current officers being shown hereinafter.

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Town Manager

Finance Director

and

Assistant Town Manager

Revenue Collector

BE IT FURTHER RESOLVED that any of the following indicated officers as is or persons from time to time holding the following officers of the Town and they hereby are authorized for the account of the Town to apply for and receive letters of credit and from time to time to increase the amount, extend the date of expiration or amend the terms of any outstanding letters of credit; to execute and deliver all necessary and proper documents in connection with any transaction with said Bank; to execute and deliver indemnity agreements, acceptance agreements, guarantees for missing documents or other guaranties, acceptances, trust receipts and other forms of security agreements; to order payments against receipt of shipping and other documents; to purchase certificates of deposit, bonds and all other types of intangible personal property from Bank, to enter into any and all other types of transactions with Bank for which Bank is authorized to transact in its normal course of business and to contract with Bank for the rendition of any services offered by Bank:

Town Manager

Finance Director

and

Assistant Town Manager

Revenue Collector

BE IT FURTHER RESOLVED that the Town recognizes and agrees that maintenance and service charges pursuant to the rules and regulations of Bank, except as modified by the banking bid submitted by First Citizens Bank and Trust Company to the Town, may be charged and deducted from the Town's account and that Bank shall have the right of setoff as to any and all indebtedness and liability of Town to Bank however and whenever incurred or evidenced, whether direct or indirect, absolute or contingent due or to become due and said setoff authority may be exercised without prior notice and when charges or other deductions are made from said account, Bank shall not be liable for dishonoring items where the making of such a charge, setoff or other deduction results in there being insufficient funds in Town's account to honor such items; and

BE IT FURTHER RESOLVED that the Clerk of the Town shall certify to Bank the names of the presently duly elected and qualified officers of the Town and shall from time to time hereafter as changes in the personnel of said officers are made, immediately certify such changes to Bank, and said Bank shall be fully protected in relying on the certifications of the Clerk and shall be indemnified and saved harmless from any claims, demands, expenses, loss or damage resulting from or growing out of honoring the signature of any officer so certified or refusing to honor any signature not so certified and the Town shall be bound by Bank's honoring the signature of any corporate employee or agent as maker, endorser, drawer or in any other capacity unless bank receives written notice of any claim, dispute or difference with regard to said signature, endorsement or other transactions within the time prescribed by the Uniform Commercial Code or sixty (60) days, whichever is shorter, after the first statement, notice, or items showing the irregularity shall have been sent or made available to the Town. The Town shall not be relieved of the duty to examine and report or of the stated consequences thereof by reason of the fact that the statement, notice of any item or items were not sent or made available unless the Town notifies Bank of that fact within thirty (30) days of the date upon which the same are customarily so sent or made available and the Town shall be bound by the contents of such statements and items forwarded to the corporate address of the Town; and

BE IT FURTHER RESOLVED that the foregoing resolutions shall remain in full force and effect until written notice of their amendment or rescission has been received by Bank and that receipt of such notice shall not affect any action taken by Bank prior thereto; and

BE IT FURTHER RESOLVED that the foregoing authority shall not be above-identified or described officers or other representatives of the Town but shall extend to such additional or different individuals as are named as being so authorized in any letter, form or notice signed by any officer or other representative of the Town identified or described above in each category or who is allowed to make said transactions by the Town; and

BE IT FURTHER RESOLVED that all transactions by any of the officers, employees, or other representatives of the Town, in its name and for its account or within the authority herein given if said authority had been in effect prior to this meeting be and the same is hereby approved and ratified; and



BE IT FURTHER RESOLVED that the Clerk of the Town be, and hereby is authorized and directed to certify to First-Citizens Bank & Trust Company the foregoing resolution or resolutions and that the provisions thereof are in conformity with the charter and bylaws of the Town and that the foregoing resolutions and authority thereby conferred shall remain in full force and effect until the Town officially notifies Bank to the contrary in writing and Bank may conclusively presume that such resolves are in effect and that the persons identified from time to time as officers of the Town by certificate of the Clerk, have been duly elected or appointed and to and continue to hold such offices; and

BE IT FURTHER RESOLVED that all previous banking resolutions in conflict herewith relating to First-Citizens Bank & Trust Company heretofore approved by the Board of Directors be, and the same hereby are, superceded.

This the 11th day of May, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

Resolution Regarding S.B.441

Consideration of the resolution was deferred until the next meeting.

Resolution Endorsing an Application by the Inter-Faith Council to HUD

Ms. Adelaide Walters reminded the Council of the need for low cost housing for the elderly and handicapped. She asked for the Council's support for the application to HUD. Councilmember Boulton inquired whether the Inter-Faith Council had chosen any site for the housing. Ms. Walters said they were considering at least three sites.

COUNCILMEMBER KAWALEC MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION ENDORSING AN APPLICATION BY THE INTER-FAITH COUNCIL TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (81-R-75)

WHEREAS, a community-wide need exists for the construction of affordable housing for low and moderate income persons; and

WHEREAS, the Town has established a goal to construct 24 units of low and moderate income housing for the elderly and handicapped persons in its 1979-1982 Housing Assistance Plan;

NOW THEREFORE BE IT RESOLVED that the Council of the Town of Chapel Hill supports the application of the Inter-Faith Council to build 24 units of housing under the Section 202 program; and endorses in principle the use of the Town's Community Development Small Cities land acquisition fund for a loan to assist the Inter-Faith Council with land-related costs, subject to verification of the need for such assistance and consistency with the Town's adopted Housing Assistance Plan, HUD certification that environmental standards have been met.

This the 11th day of May, 1981.

THE MOTION WAS CARRIED BY UNANIMOUS VOTE WITH MAYOR NASSIF ABSTAINING BECAUSE OF A CONFLICT OF INTEREST.

Community Development

COUNCILMEMBER STRALEY MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION CALLING A PUBLIC HEARING (APPLICATION FOR 1981-82 SMALL CITIES COMMUNITY DEVELOPMENT GRANT) (81-R-76)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby calls a public hearing at 7:30 p.m. on June 8, 1981 in the Meeting Room of the Chapel Hill Municipal Building, 306 North Columbia Street, to consider the application of the Town of Chapel Hill for a 1981-82 Community Development Small Cities Program grant in the amount of \$700,000.

This the 11th day of May, 1981.

Councilmember Smith asked that the Council be given information on the application as soon as possible. THE MOTION WAS CARRIED UNANIMOUSLY.

COUNCILMEMBER STRALEY MOVED, SECONDED BY COUNCILMEMBER THORPE, ADOPTION OF THE FOLLOWING RESOLUTION.

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A RESOLUTION APPROVING PRIVATE SALE OF CD LAND TO MR. AND MRS. LOUIS EDWARDS  
(81-R-77)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council, following a public hearing duly advertised as required by Chapter 346, Session Laws 1973, hereby finds that the sale of parcel number 93-1-2 to Mr. Louis Edwards (and wife Christine) for the sum of \$1,000 is "necessary in order to facilitate the relocation of persons displaced by a redevelopment project or other governmental action"; and that Mr. Edwards (and wife Christine) is the only available, qualified, and willing redeveloper for the contemplated use; and that the Council hereby approves the consideration of \$1,000.00 for the parcel as fair, actual value of the property as based on competent appraisal.

This the 11th day of May, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

Ordinance to Annex by Petition Public Housing Development on Legion Road

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER THORPE, ADOPTION OF THE FOLLOWING ORDINANCE.

AN ORDINANCE TO ANNEX BY PETITION (Public Housing Development on Legion Road) (81-O-35)

WHEREAS, a petition for annexation has been received by the Council of the Town of Chapel Hill, signed by 100% of the property owners covered by the petition; and

WHEREAS, the Town Clerk has certified the sufficiency of said petition; and

WHEREAS, a public hearing on the matter of this annexation was duly advertised and held by the Council on the 16th of March, 1981; and

WHEREAS, the Council finds that said petition for annexation meets the requirements of the North Carolina General Statutes and has concluded and hereby declares that the annexation of the area described herein is desirable for the orderly growth and development of the Town of Chapel Hill.

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

SECTION I

That from and after midnight, June 30, 1981, the effective date of this annexation, the following territory shall be annexed and become part of the Town of Chapel Hill, and the corporate limits of the Town of Chapel Hill shall on said date be extended to include said territory more particularly described as follows:

All that certain tract of land, situate, lying and being in Chapel Hill Township, Orange County, State of North Carolina, being bound now or formerly on the North by the southern right-of-way of Legion Road, (SR1787, having a 60' right-of-way); on the East by Richard Bell; on the South by Colony Woods Subdivision and American Legion Post #6; on the West by J.E. Ammons, and more particularly described as follows:

Beginning at an iron pipe, said pipe being in the southern right-of-way of Legion Road (SR1787) and being the northwest corner of the Richard Bell property:

Thence S 28°15'00" E 1537.14 feet to an iron pipe in the northern boundary of Colony Woods Subdivision;

Thence along said boundary of Colony Woods Subdivision N 84°37'42" W 266.22 feet to an iron stake;

Thence N 57°53'11" W 417.38 feet to an iron pipe at the southeastern corner of the J.E. Ammons property;

Thence N 31°01'15" W 957.26 feet to an iron pipe in the southern Right-of-Way of Legion Road;

Thence N 51°30'50" E 207.53 feet to an iron pipe set in the Right-of-Way of Legion Road at the point of curvature of a simple curve with a radius of 2536.16 feet;

Thence along the arc of the simple curve 272.37 feet to an iron pipe, said pipe being the point or place of beginning and containing, 13.42 acres more or less; according to a survey made by Pridgen Consultants, Inc., on April 24, 1979.

SECTION II

That from and after the effective date of this annexation, the territory annexed and its citizens and properties will be subject to the debts, laws, ordinances, and regulations in force in the Town of Chapel Hill and shall be entitled to the same privileges and benefits as other parts of the Town.

This the 11th day of May, 1981.

THE MOTION WAS CARRIED BY UNANIMOUS VOTE WITH MAYOR NASSIF ABSTAINING BECAUSE OF A CONFLICT OF INTEREST.

Transportation

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER HOWES, ADOPTION OF THE FOLLOWING ORDINANCE.

AN ORDINANCE TO AMEND CHAPTER 20 OF THE CODE OF ORDINANCES (81-O-36)

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

SECTION I

The Council hereby amends Section 20-20 of the Code of Ordinances as follows:

Notwithstanding any of the above provisions, an operator's permit shall become invalid without action of the Council if the holder of the permit fails to provide taxi service in accordance with the franchise within the corporate limits of Chapel Hill for a period of one-hundred twenty (120) or more days.

SECTION II

This amendment shall take effect on July 1, 1981.

SECTION III

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

This the 11th day of May, 1981.

Councilmember Straley asked how the administration would know when a company ceased to operate. Mr. Shipman responded the drivers must register with the police.

Councilmember Smith moved to amend the ordinance to become effective immediately. The amendment was accepted.

THE FOLLOWING ORDINANCE WAS ADOPTED BY UNANIMOUS VOTE.

AN ORDINANCE TO AMEND CHAPTER 20 OF THE CODE OF ORDINANCES (81-O-36)

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

SECTION I

The Council hereby amends Section 20-20 of the Code of Ordinances as follows:

Notwithstanding any of the above provisions, an operator's permit shall become invalid without action of the Council if the holder of the permit fails to provide taxi service in accordance with the franchise within the corporate limits of Chapel Hill for a period of one-hundred twenty (120) or more days.

SECTION II

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

This the 11th day of May, 1981.

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COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER SMITH, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION REGARDING CONTINUATION OF FEDERAL ASSISTANCE FOR PUBLIC TRANSIT SERVICE (81-R-77.1)

WHEREAS, the Town of Chapel Hill has promoted efficiency and energy conservation in the development of an effective public transportation service, and

WHEREAS, the Federal Government has participated in the development of such service through both capital and operating assistance,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that Council hereby requests the support of the North Carolina Congressional Delegation in

- Opposing the elimination of Section 18 Operating Assistance for Small Urban and Rural Areas.
- Opposing the elimination of Section 5 Operating Assistance for Urbanized Areas.
- Supporting the continuation of Section 5 assistance through the development of an alternative distribution formula based on service levels, which would provide for more efficient utilization of these funds.
- Supporting the distribution of Section 5 Operating Assistance to all Urbanized Areas identified in the 1980 Census.

This the 11th day of May, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

Report on Parking Needs in Central Business District

Mr. Shipman had distributed the report. There were no questions.

Bids

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION ACCEPTING BIDS AND AWARDING OF CONTRACT FOR OFFICE AND COURT ROOM FURNISHINGS (81-R-78)

WHEREAS, the Town of Chapel Hill has solicited formal bids on April 19, 1981 and the following bids have been received:

## BIDDERS AND BIDS

Item	Alfred Williams and Co.	Brame Office Products	Carolina Office Supply Co., Inc.	Contract Furnishings	J.P. Redington and Co.	Ossit Church Furniture Co.	Triangle Office Equipment, Inc.
<u>I. DESKS:</u>							
A. 1 Executive Desk	\$ 272.46	\$ 255.00	\$ 276.00	No Bid	No Bid	No Bid	\$ 255.40
B. 2 Secretarial Desks	600.78	<u>561.90</u>	610.00	No Bid	No Bid	No Bid	<u>534.70</u>
<u>II. CHAIRS</u>							
A. 1 Executive Swivel Chair	No Bid	No Bid	204.00	No Bid	No Bid	No Bid	182.00
B. 6 Executive Swivel Chairs	1,450.08	No Bid	1,464.00	1,436.52	No Bid	No Bid	<u>1,139.70</u>
C. 12 Jury-Base Executive Swivel Chairs	3,345.36	No Bid	3,444.00	3,059.40	No Bid	No Bid	<u>2,748.00</u>
D. 2 High-Backed Executive Swivel Chairs	550.62	No Bid	558.00	539.90	No Bid	No Bid	465.10
E. 1 Arm Chair	177.84	No Bid	97.00	181.46	No Bid	No Bid	150.50
F. 1 Steno Chair	128.82	No Bid	97.00	136.96	No Bid	No Bid	115.75
G. 2 Steno Chairs	No Bid	No Bid	194.00	No Bid	No Bid	No Bid	<u>355.00</u>
H. 38 Stacking Chairs	<u>1,053.36</u>	<u>1,316.70</u>	<u>1,292.00</u>	No Bid	1,310.24	No Bid	<u>1,071.60</u>
<u>III. BOOKCASES, TABLES AND METAL SHELVING</u>							
A. 4 6-Tier Bookcases	672.12	628.00	680.00	No Bid	No Bid	No Bid	690.60
B. 1 Conference Table	914.85	<u>857.85</u>	790.00	No Bid	No Bid	No Bid	763.90
C. 4 Conference Tables	1,028.28	961.96	944.00	No Bid	No Bid	No Bid	956.20
D. 1 Work Table	176.13	164.70	<u>178.00</u>	No Bid	No Bid	No Bid	184.15
E. 1 Set Metal Shelving	No Bid	<u>158.55</u>	<u>117.50</u>	No Bid	No Bid	No Bid	158.55
<u>IV. WOOD PEWS</u>							
A. 13 Pews Fully Installed	No Bid	No Bid	No Bid	No Bid	6,843.20	5,391.00	No Bid

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill, that the Town accepts the bid of Alfred Williams and Co. for the underlined items in the amount of \$1,053.36, the bid of Brame Office Products for the underlined items in the amount of \$1,047.70, the bid of Carolina Office Supply Co., Inc. for the underlined items in the amount of \$1,061.50, the bid of Winebarger Church Furniture for the underlined items in the amount of \$5,158.50, and the bid of Triangle Office Equipment, Inc. for the underlined items in the amount of \$6,454.65.

This the 11th day of May 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

COUNCILMEMBER THORPE MOVED, SECONDED BY COUNCILMEMBER SMITH, ADOPTION OF THE FOLLOWING RESOLUTION.

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A RESOLUTION ACCEPTING BIDS AND AWARDING OF CONTRACT FOR ONE (1) CRAWLER TRACTOR WITH BLADE AND RIPPER (81-R-79)

WHEREAS, the Town of Chapel Hill has solicited formal bids on April 13, 1981 and the following bids have been received:

<u>BIDDERS AND BIDS</u>					
<u>ITEM</u>	<u>E.F. Craven Co., Greensboro, N.C.</u>	<u>Gregory Poole Equipment Co., Raleigh, N.C.</u>	<u>L.B. Smith, Inc., Raleigh, N.C.</u>	<u>Mitchell Distributing Co., Raleigh, N.C.</u>	<u>N.C. Equipment Co., Cary, N.C.</u>
<u>Main Proposal</u>					
<u>Alternate I</u>					
Tractor	\$122,573	\$147,170	\$131,987	\$178,706	\$141,000
Less Trade-In Allowance	<u>26,533</u>	<u>22,000</u>	<u>16,987</u>	<u>57,432</u>	<u>47,500</u>
TOTAL BID	\$ 96,040	\$125,170	\$115,000	\$121,274	\$ 93,500
<u>Alternate II</u>					
Tractor	\$122,573	\$147,170	\$131,987	\$137,774	\$129,000
<u>Additional Proposals</u>					
<u>Alternate I (Proposal 2)</u>					
Tractor	\$120,842	-	-	\$167,960	\$145,000
Less Trade-In Allowance	<u>26,533</u>	-	-	<u>54,381</u>	<u>47,500</u>
TOTAL BID	\$ 94,309	-	-	\$113,579	\$ 97,500
<u>Alternate II (Proposal 2)</u>					
Tractor	\$120,843	-	-	\$130,000	\$133,000
<u>Alternate I (Proposal 3)</u>					
Tractor	\$121,706	-	-	-	-
Less Trade-In Allowance	<u>26,533</u>	-	-	-	-
TOTAL BID	\$ 195,173	-	-	-	-
<u>Alternate II (Proposal 3)</u>					
Tractor	\$121,706	-	-	-	-

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Town accepts the bid of North Carolina Equipment Co. for Alternate I in the amount of \$93,500.

This the 11th day of May 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION DECLARING SURPLUS AND DIRECTING THE SALE OF ONE CRAWLER TRACTOR TO NORTH CAROLINA EQUIPMENT CO. AS A PORTION OF THE PURCHASE PRICE OF A NEW TRACTOR (81-R-80)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby declares surplus and directs the sale of one 1973 International tractor, Model TD20C, Serial #27221 to North Carolina Equipment Co. for the trade-in allowance of \$47,500 as bid.

This the 11th day of May 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

Surplus Property

COUNCILMEMBER HERZENBERG MOVED, SECONDED BY COUNCILMEMBER SMITH, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION DECLARING TWO HUNDRED AND EIGHT ARTICLES OF PERSONAL PROPERTY SURPLUS AND AUTHORIZING THE SALE OF THE SAID PROPERTY BY PUBLIC AUCTION AND DIRECTING THE SALE OF SAID PROPERTY (81-R-81)

WHEREAS, Article 12 of General Statutes 160A and Section 4.144 of the Charter of the Town of Chapel Hill authorizes the Town to dispose of surplus personal property; and

WHEREAS, the Town desires to dispose of certain articles of personal property no longer needed for Town purposes;

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

SECTION I

That the following articles of personal property are hereby declared surplus property:

<u>Item</u>	<u>Units</u>	<u>Minimum Acceptable Bid</u>
1979 Plymouth sedans (2 wrecked)	3	1 @ \$ 150
1978 Plymouth sedan (wrecked)	1	
1977 Plymouth sedan	1	150
1976 Plymouth sedan	1	150
1975 Plymouth sedans	2	150 each
1974 Plymouth sedan	1	150
1979 Toyota SW (wrecked)	1	
1968 Ford SW	1	50
1973 Dodge sedan	1	100
1975 Ford Courier truck	1	50
1971 Dodge pickup truck	1	150
1970 Chevrolet pickup truck	1	100
1970 Chevrolet dump trucks	2	1,000 each
1973 GMC garbage truck	1	200
1971 GMC garbage truck (scrap)	1	
1969 GMC garbage truck (scrap)	1	
1968 GMC garbage truck (scrap)	1	
1969 Cushman Scooter	1	
1958 GMC bus (scrap)	1	
1944 Fire Truck	1	400
1972 Elgin Pelican sweeper	1	1,000
Steam Cleaner	1	
Buffalo type riveter	1	
Murphy 30 ton press	1	
Heavy duty vise	1	
Hoist engine	1	
Tar kettle	1	
Paint sprayer	1	
Schramer air compressor	1	
Snapper mower	1	
Sand spreaders	2	

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8,000 gal. storage tank	1	
10,000 gal. storage tank	1	
Air conditioners	7	
Soccer table	1	
Dental Equipment Set-up	1	250
Air hockey table	1	
Billiard table	1	
Table tennis tables	6	
Hobby car	1	
Built-in oven	1	
Round exhaust fan	1	
Air compressor with electric motor	1	
Respirator with oxygen bottles & case	1	
Traffic signal lights	2	
Ford Courier pickup truck beds	2	
AM - FM car radio	1	
Pine boards, 2" x 18" in varying lengths	7	
9-pane windows, 56" x 70"	6	
6-pane windows, 35½" x 70"	3	
2-pane window, 22½" x 36"	1	
Double swinging wood doors with metal bumper guards & metal frames 63" x 90"	2	
Wooden doors, 30" x 90"	4	
Wall light fixtures without shades	6	
Fire helmets	60	
Record player	1	
Stereo television	1	
Intercom	2	
Refrigerator	1	
APF Calculator	1	
Texas Instrument Calculator	1	
Burroughs adding machine	1	
Bruning drafting machine	1	
Time Master dictaphone	1	
3M 107 Copier & paper dispenser	1	
Royal electric typewriters	3	
Royal manual typewriters	3	
Smith Corona manual typewriter	1	
Opaque projector	1	
Desks	2	
Steno chairs	4	
Easy chairs	4	
High stools	3	
4-seat metal chair	1	
Couches	2	
Bookcase	1	
Typewriter table	1	
End table	1	
6-drawer card file	1	
6-drawer file	1	
Small lockers	4	
Large lockers	10	

## SECTION II

That the Town Purchasing Agent be, and is hereby authorized to dispose of any and all articles according to the applicable procedures by Public Auction thereof, with sales made to the highest bidder and designated final on the day of the auction. For those items for which a minimum price has been designated, such sales shall be mad to the highest bidders and designated final on the day of the auction if the bid pric equals or exceeds the minimum acceptable amount specified for each.

## SECTION III

BE IT FURTHER RESOLVED by the Council of the Town of Chapel Hill that if any of the above vehicles for which minimum prices had been established are not sold at the Town auction, the Purchasing Agent of the Town of Chapel Hill is hereby authorized to include the unsold vehicles in the next City of Durham Public Auction with sales made to the highest bidder and designated final on the day of the auction. If any of the remaining surplus property is not sold at the auction, the Purchasing Agent of



the Town of Chapel Hill is hereby authorized to sell such surplus property either by advertisement for sealed bids under the provisions of General Statute 160A-268, or by private negotiated sale under the provisions of General Statute 160A-267, choice of method to be determined by the value and sales potential of the leftover items.

This the 11th day of May, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION DECLARING SURPLUS AND DIRECTING THE SALE OF ONE 1975 FORD COURIER TRUCK TO THE CHAPEL HILL HOUSING AUTHORITY (81-R-82)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby declares surplus and directs the Purchasing Agent to sell to the Chapel Hill Housing Authority one 1975 Ford Courier truck, Serial #SGTARY 203467 for the price of \$1.00.

This the 11th day of May 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

Ordinance to Amend Section 2-3 of the Code of Ordinances

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER KAWALEC, ADOPTION OF THE FOLLOWING ORDINANCE.

AN ORDINANCE AMENDING SECTION 2-3 (81-O-37)

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

SECTION I

The Council hereby amends Section 2-3 of the Code of Ordinances to read as follows:

Sec. 2-3. Regular meetings of Council.

Regular meetings of the Council shall be held in the second and fourth Mondays of each month at 7:30 P.M. except that the second meeting in May shall be held on Tuesday following the fourth Monday, the meetings in July shall be on the first and second Monday, the only regular meeting in August shall be on the fourth Monday and the only regular meeting in December shall be on the second Monday. All meetings shall be held in the Meeting Room of the Municipal Building, 306 North Carolina Street.

SECTION II

The Council hereby reschedules the meeting of November 9, 1981 for November 4, 1981.

SECTION III

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

This the 11th day of May, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

Ordinance to Amend the "Ordinance Concerning Appropriations and the Raising of Revenue for the Fiscal Year Beginning July 1, 1980"

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER BOULTON, ADOPTION OF THE FOLLOWING ORDINANCE.

AN ORDINANCE TO AMEND "THE ORDINANCE CONCERNING APPROPRIATIONS AND THE RAISING OF REVENUE FOR THE FISCAL YEAR BEGINNING JULY 1, 1980" (81-O-38)

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, 1980" as duly adopted on June 16, 1980, be and the same is hereby amended as follows:

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ARTICLE I

<u>Appropriation</u>	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
Town Manager - Administration	140,609	1,000	-	141,609
Sundry Contingency	7,358	-	1,000	6,358

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

This the 11th day of May, 1981.

Councilmember Wallace suggested consideration of this ordinance be postponed until the Council had decided what change would be made for the Attorney and Clerk. The Council was not sure when their anniversary dates were.

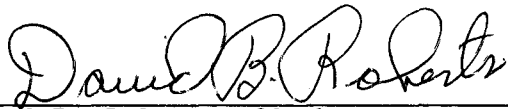
The problem of the anniversary dates was discussed by Council. THE MOTION WAS CARRIED UNANIMOUSLY.

Future Agenda Items

The Council discussed and rearranged its budget worksession schedule.

There being no further business to come before the Council, the meeting was adjourned at 11:30 p.m.

  
\_\_\_\_\_  
Joseph L. Nassif, Mayor

  
\_\_\_\_\_  
David B. Roberts, Clerk

**ATTACHMENT 7**

**1981 Council Minutes Discussing Airport Hazard District**

MINUTES OF A REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE TOWN OF CHAPEL HILL, MUNICIPAL BUILDING, MONDAY, FEBRUARY 23, 1981, 7:30 P.M.

Mayor Nassif called the meeting to order. Present were:

- Joe Herzenberg
- Jonathan Howes
- Beverly Kawalec
- R. D. Smith
- Joe Straley
- Bill Thorpe
- Jim Wallace

Also present were Assistant Town Manager A. Hooper and Town Attorney E. Denny. Councilmember Boulton was excused.

Petitions

Ms. Andresen asked to speak on item 7, Coker Hills West Subdivision. The Council agreed.

Mr. Hawley asked to speak on item 10, Clayton Road traffic. Mr. Lindall requested to speak on the same item. The Council agreed.

Mr. Delmar requested to speak on item 6, Laurel Hills Subdivision. The Council agreed.

Councilmember Howes pointed out that as Councilmember Boulton was absent, the vote on the Drive-in Business Standards would be tied again. He asked that this item be deferred. Councilmember Howes moved, seconded by Councilmember Wallace, that the matter not be considered until all councilmembers were present. The motion was carried unanimously.

Councilmember Thorpe informed the Council there was a vacant position in the Clerk's office. He wanted the Manager to discuss the position with the Council before filling it. The employee was to serve the Council. There had been problems setting an adequate salary to retain qualified personnel. He asked that an ordinance to reclassify the position be drafted. No councilmembers objected.

Minutes

The attorney had suggested a different form for the ordinance eliminating Council committees which had been adopted at the meeting of February 9. COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER STRALEY, THAT THE FOLLOWING ORDINANCE BE SUBSTITUTED FOR THAT ELIMINATING COUNCIL COMMITTEES AS SHOWN IN THE MINUTES OF FEBRUARY 9, 1981.

AN ORDINANCE TO AMEND CHAPTER 2 OF THE CODE OF ORDINANCES TO ELIMINATE COMMITTEES OF THE COUNCIL (SECTION 2-5) (81-0-15a)

BE IT ORDAINED by the Council of the Town of Chapel Hill that Chapter 2, Code of Ordinances, Town of Chapel Hill, be amended to read as follows:

Section I

The Mayor and Council may appoint such Committees of the Council as deemed appropriate or necessary from time to time, and may assign to such Committees such duties, functions, and responsibilities as it deems fit, or Council may act as a Committee of the whole.

Section II

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

This the 9th day of February, 1981.

THE MOTION WAS CARRIED BY A VOTE OF SIX TO TWO WITH COUNCILMEMBERS HOWES, KAWALEC, SMITH, STRALEY, WALLACE AND MAYOR NASSIF SUPPORTING AND COUNCILMEMBERS HERZENBERG AND THORPE OPPOSING.

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On motion by Councilmember Straley, seconded by Councilmember Wallace, the minutes of February 9, 1981, were approved as corrected.

Resolution Regarding Execution of an Agreement Regarding Joint Planning

COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER KAWALEC, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION REGARDING EXECUTION OF AN AGREEMENT REGARDING JOINT PLANNING (81-R-20)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby authorizes the Mayor to execute an agreement concerning joint planning.

This the 23rd day of February, 1981.

Councilmember Wallace thought adoption of the resolution wrong. The Committee had been commissioned to draw a line which it had not done. He asked that the report of the Committee be given at the second meeting in March.

THE MOTION WAS CARRIED BY A VOTE OF SEVEN TO ONE WITH COUNCILMEMBERS HERZENBERG, HOWES, KAWALEC, SMITH, STRALEY, THORPE, AND MAYOR NASSIF SUPPORTING AND COUNCILMEMBER WALLACE OPPOSING.

Councilmember Thorpe asked if the same Councilmembers, Howes and Kawalec, would continue to serve on the committee. He asked that they be given a fresh mandate to serve. COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER THORPE, THAT COUNCILMEMBERS HOWES AND KAWALEC CONTINUE SERVING. THE MOTION WAS CARRIED UNANIMOUSLY.

Resolution Approving the Preliminary Sketch for Laurel Hill Subdivision, Section IV, Phase I

Mr. Reeve stated the proposal being presented to the Council was the result of the best efforts of the staff, board, developer and citizens of the area to work out the traffic problems.

Mr. Delmar stated the issues had been addressed repeatedly. He thought the temporary access was undesirable. The connection to Bayberry would require tons of fill across the culvert. Once done, this would be irrevocable. The Council had been presented with two alternatives for the temporary access. Mr. Delmar asked that the Council deny this subdivision with the access across the arboretum, or in the alternative to approve the recommendation of the Planning Board to remove the temporary access when another access existed.

Mr. Jennings pointed out the location of the property and the proposed access across the arboretum. The staff had attempted to provide a road which could be looped in the future to provide two means of access to the area. The applicant at this time, had only one access across the arboretum. Recognizing that this was the only access, the staff had recommended that it be temporary to be eliminated when two other accesses existed. The Planning Board recommendation was that the temporary access be eliminated when one other means of access existed. The other issue with respect to the project was the open space. The applicant proposed two acres next to the arboretum. The staff, Planning Board and Recreation Commission recommended the open space be at the northeast corner of the property where it could be added to in the future for a possible neighborhood park. Although the applicant's proposal met the requirements, Mr. Jennings said the Council was not limited to considering only the strict requirements.

COUNCILMEMBER KAWALEC MOVED, SECONDED BY COUNCILMEMBER HOWES, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION APPROVING THE PRELIMINARY SKETCH FOR LAUREL HILL SUBDIVISION, SECTION IV, PHASE I (81-R-22B)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby approves the preliminary sketch dated November 18, 1980 for Laurel Hill, Section IV, Phase 1 located on property identified as Chapel Hill Township Tax Map 66, Lot 8, subject to the following:

1. That Bayberry Drive be paved to a minimum paved cross section of 33 feet back-to-back of curb with curb and gutter except for the temporary portion of the Bayberry Drive connection to Arboretum Drive which shall be paved to standards as set forth by the Town Manager. Plans for such improvements shall be approved by the Town Manager and the North Carolina Department of Transportation, if applicable, prior to start of construction.
2. That Bayberry Drive and Rhododendron Drive be exempted from the maximum grade standards due to the steep topography in the area.
3. That Rhododendron Drive be exempted from the cul-de-sac maximum length standard.
4. That prior to paving streets, utility service lines and laterals shall be installed and stubbed-out to each lot. A letter from the owner or owner's representative shall be presented to the Town Engineer prior to paving any street certifying that all utilities are in place.
5. That prior to the sale of any lots within the development, signs indicating that the "stubbed-out" streets are subject to future extension shall be erected.
6. That the number, location and installation of fire hydrants be approved by the Town Manager. A plan for such improvements shall be approved by the Town Manager prior to the approval of the final plat.
7. That sewer, drainage, and utility easements be dedicated as required by the Town Manager.
8. That a detailed drainage plan and grading plan be submitted to and be approved by the Town Engineer prior to issuance of a grading permit, building permit, start of construction of improvements, and prior to **submission of an application for final plat approval.**
9. That all lots connecting onto the sanitary sewer system be serviced by gravity flow. Individual pumps for each dwelling unit shall not be permitted.
10. That a utility easement be dedicated between lots 4 and 5 and between lots 11 and 12.
11. That the open space be relocated in the area identified as lots 17, 18, 19 and part of 20. That the open space be dedicated to the public use and be deeded to the Town subject to the acceptance by the developer and approval by the Council after receiving the recommendation of the Recreation Commission. The applicant may revise the lot layout and alignment of Rhododendron Drive prior to the final plat if necessary to adjust for this change in open space location.
12. That the connection of Bayberry Drive across the Hunt Arboretum to Arboretum Drive shall be a temporary connection which shall be closed to motorized vehicles when there are two means of access to the subject subdivision other than the temporary connection to Arboretum Drive via Bayberry Drive. The final plat shall reflect the temporary status of the connection of Bayberry Drive to Arboretum Drive and shall state basis upon which the temporary connection shall be closed to motorized vehicles as described above. At such time as the temporary connection is closed the portion of Bayberry Drive east of Arboretum Drive shall be renamed.
13. Should access by means of Rhododendron be available before this subdivision is started that access be by Rhododendron and not by an extension of Bayberry Drive across the Hunt Arboretum.

This the 23rd day of February, 1981.

Councilmember Straley asked for comment from the Recreation Commission on the neighborhood park concept. He thought the open space proposed by the applicant suitable for active open space. He suggested that having small parcels of open space in different areas of the neighborhood would offer more accessibility to residents. Ms. White responded the five acre recommendation was in the

Community Facilities Plan. Both proposed parcels of open space were suitable. The applicant's proposal would be next to the arboretum which could be disturbed by those engaging in active recreation. More people could congregate in a five acre tract.

Councilmember Wallace was concerned about the temporary access. He thought the sooner it was eliminated, the better for the residents. Mayor Nassif preferred two access for emergency services.

Mr. Secrist pointed out the arboretum was used for research. He suggested the active open space if located next to it might cause interference with the research.

Councilmember Straley did not think the connection to Bayberry would be temporary if paved. He did not want the subdivision approved with the traffic going through a residential community. Councilmember Smith asked what the standards for the street would be. Mr. Jennings said they would be constructed to state standards.

Councilmember Kawalec withdrew her motion. SHE MOVED ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION APPROVING THE PRELIMINARY SKETCH FOR LAUREL HILL SUBDIVISION, SECTION IV, PHASE I (81-R-22B)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby approves the preliminary sketch dated November 18, 1980 for Laurel Hill, Section IV, Phase 1 located on property identified as Chapel Hill Township Tax Map 66, Lot 8, subject to the following:

1. That Bayberry Drive be paved to a minimum paved cross section of 33 feet back-to-back of curb with curb and gutter except for the temporary portion of the Bayberry Drive connection to Arboretum Drive which shall be paved to standards as set forth by the Town Manager. Plans for such improvements shall be approved by the Town Manager and the North Carolina Department of Transportation, if applicable, prior to start of construction.
2. That Bayberry Drive and Rhodendron Drive be exempted from the maximum grade standards due to the steep topography in the area.
3. That Rhododendron Drive be exempted from the cul-de-sac maximum length standard.
4. That prior to paving streets, utility service lines and laterals shall be installed and stubbed-out to each lot. A letter from the owner or owner's representative shall be presented to the Town Engineer prior to paving any street certifying that all utilities are in place.
5. That prior to the sale of any lots within the development, signs indicating that the "stubbed-out" streets are subject to future extension shall be erected.
6. That the number, location and installation of fire hydrants be approved by the Town Manager. A plan for such improvements shall be approved by the Town Manager prior to the approval of the final plat.
7. That sewer, drainage, and utility easements be dedicated as required by the Town Manager.
8. That a detailed drainage plan and grading plan be submitted to and be approved by the Town Engineer prior to issuance of a grading permit, building permit, start of construction of improvements, and prior to submission of an application for final plat approval.
9. That all lots connecting onto the sanitary sewer system be serviced by gravity flow. Individual pumps for each dwelling unit shall not be permitted.
10. That a utility easement be dedicated between lots 4 and 5 and between lots 11 and 12.

- 11. That the connection of Bayberry Drive across the Hunt Arboretum to Arboretum Drive shall be a temporary connection which shall be closed to motorized vehicles when there is a means of access to the subject subdivision other than the temporary connection to Arboretum Drive via Bayberry Drive. The final plat shall reflect the temporary status of the connection of Bayberry Drive to Arboretum Drive and shall state basis upon which the temporary connection shall be closed to motorized vehicles as described above. At such time as the temporary connection is closed the portion of Bayberry Drive east of Arboretum Drive shall be renamed.
- 12. Should access by means of Rhododendron be available before this subdivision is started that access be by Rhododendron and not by an extension of Bayberry Drive across the Hunt Arboretum.

This the 23rd day of February, 1981.

The motion died for lack of a second.

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER HOWES, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION APPROVING THE PRELIMINARY SKETCH FOR LAUREL HILL SUBDIVISION, SECTION IV, PHASE I (81-R-22B)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby approves the preliminary sketch dated November 18, 1980 for Laurel Hill, Section IV, Phase 1 located on property identified as Chapel Hill Township Tax Map 66, Lot 8, subject to the following:

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- 2. That Bayberry Drive and Rhododendron Drive be exempted from the maximum grade standards due to the steep topography in the area.
- 3. That Rhododendron Drive be exempted from the cul-de-sac maximum length standard.
- 4. That prior to paving streets, utility service lines and laterals shall be installed and stubbed-out to each lot. A letter from the owner or owner's representative shall be presented to the Town Engineer prior to paving any street certifying that all utilities are in place.
- 5. That prior to the sale of any lots within the development, signs indicating that the "stubbed-out" streets are subject to future extension shall be erected.
- 6. That the number, location and installation of fire hydrants be approved by the Town Manager. A plan for such improvements shall be approved by the Town Manager prior to the approval of the final plat.
- 7. That sewer, drainage, and utility easements be dedicated as required by the Town Manager.
- 8. That a detailed drainage plan and grading plan be submitted to and be approved by the Town Engineer prior to issuance of a grading permit, building permit, start of construction of improvements, and prior to submission of an application for final plat approval.
- 9. That all lots connecting onto the sanitary sewer system be serviced by gravity flow. Individual pumps for each dwelling unit shall not be permitted.
- 10. That a utility easement be dedicated between lots 4 and 5 and between lots 11 and 12.



11. That the open space be relocated in the area identified as lots 17, 18, 19 and part of 20. That the open space be dedicated to the public use and be deeded to the Town subject to the acceptance by the developer and approval by the Council after receiving the recommendation of the Recreation Commission. The applicant may revise the lot layout and alignment of Rhododendron Drive prior to the final plat if necessary to adjust for this change in open space location.
12. That the connection of Bayberry Drive across the Hunt Arboretum to Arboretum Drive shall be a temporary connection which shall be closed to motorized vehicles when there is a means of access to the subject subdivision other than the temporary connection to Arboretum Drive via Bayberry Drive. The final plat shall reflect the temporary status of the connection of Bayberry Drive to Arboretum Drive and shall state basis upon which the temporary connection shall be closed to motorized vehicles as described above. At such time as the temporary connection is closed the portion of Bayberry Drive east of Arboretum Drive shall be renamed.
13. Should access by means of Rhododendron be available before this subdivision is started that access be by Rhododendron and not by an extension of Bayberry Drive across the Hunt Arboretum.

This the 23rd day of February, 1981.

Councilmember Howes agreed with Councilmember Straley that the development was untimely, but did not think this sufficient reason for voting against it. He requested Mr. Denny's opinion.

Mr. Denny stated the subdivision ordinance provided for standards and procedures to be followed. In the absence of amendments to the ordinance, the Council was required to judge the subdivision in terms of the overall ordinance. If a subdivision met the requirements, then the Council must approve the subdivision.

Mayor Nassif objected to requiring the applicant to change the location of the open space. Mayor Wallace responded the arboretum had been recognized in the zoning ordinance as having special significance. The open space should be away from the arboretum.

Councilmember Straley asked if Rhododendron would violate the cul-de-sac standard when completed. Mr. Denny said it would not as Rhododendron was not legally a cul-de-sac.

THE MOTION WAS CARRIED BY A VOTE OF FIVE TO THREE WITH COUNCILMEMBERS HERZENBERG, HOWES, KAWALEC, THORPE, AND WALLACE SUPPORTING AND COUNCILMEMBERS SMITH, STRALEY, AND MAYOR NASSIF OPPOSING.

Resolution Approving the Preliminary Sketch for Coker Hills West, Phase 10

Mr. Jennings explained that this subdivision had been considered by the Council before, but had been referred to the Manager for further study. The Council had requested information on the flight path of planes and helicopters. There were approximately 408 houses in the flight path. There were two to three helicopter landings per month.

Mr. Phil Post said the development would have no impact on the airport. It would not exceed the obstruction standards for the air space of the airport. The developer had authorized a noise study by Bolt, Berenek and Newman. Mr. Post gave the result of the study. The construction standards would be included in the deed of covenants for the houses in the subdivision. The houses would have extra insulation to reduce noise.

Mr. Andresen represented the Citizens for Airport Planning. They did not object to the development but were concerned about the impact of the airport on the development. He said that residents a mile away from the airport noticed the noise of planes landing and taking off. Classes at Philips School were interrupted by planes. Mr. Andresen asked that the Council consider the impact of the airport.

Councilmember Straley pointed out that although the average level of noise in the study was not excessive, individual noise could be much louder. He said the Council must accept the responsibility for future complaints if the subdivision was approved.

Councilmember Kawalec asked if the Council was not faced with the problem of subdivision by right. Mr. Denny responded that he had no evidence that the subdivision was not in compliance with regulations. Although the Council had considered adopting an airport hazard zone, it had not yet done so. Mayor Nassif pointed out that land had been left for an airport hazard zone. The developer had been allowed greater density in the developed area for leaving the space.

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER THORPE, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION APPROVING THE PRELIMINARY SKETCH FOR COKER HILLS WEST, PHASE 10, LOCATED OFF ESTES DRIVE (81-R-27)

BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby approves the preliminary sketch dated September 5, 1979 for Coker Hills West, Phase 10, located on property identified as Chapel Hill Township Tax Map 29, part of Lot 3, subject to the following:

1. That drainage and utility easements and the design and specifications for water and sewer line improvements be approved by the Town Engineer.
2. That all lots connecting onto the sanitary sewer system be serviced by gravity flow. Individual pumps for each dwelling unit shall not be permitted.
3. That a 10-foot wide pedestrian and non-motorized vehicle easement be dedicated along the side yard line of Lot #52, such side yard being the joint side yard line of Lots #52 and #16, connecting the Huntington Drive right-of-way to the property of the Chapel Hill Board of Education.
4. That the number, location, and installation of fire hydrants be approved by the Town Manager. A plan for such improvements shall be approved by the Town Manager prior to issuance of any building permits within this section of Coker Hills West.
5. That prior to paving streets, utility service lines and laterals shall be stubbed-out to the front property line of each lot. Sanitary sewer laterals shall be capped-off above ground. A letter from the owner or owner's representative shall be presented to the Town Engineer prior to paving any street certifying that all utilities are in place.
6. That the 8-inch water line be extended along Somerset Drive to connect the 8-inch line within the Huntington Drive right-of-way to the 8-inch water line within the Estes Drive right-of-way.

This the 23rd day of February, 1981.

Councilmember Smith said it was the duty of the Council to protect the citizens of the Town. The noise of the planes would be loud at the houses in the subdivision. This property should be left as an airport hazard district. If the Council approved the subdivision, the airport should be relocated.

THE MOTION WAS CARRIED BY A VOTE OF SIX TO TWO WITH COUNCILMEMBERS HERZENBERG, HOWES, KAWALEC, THORPE, WALLACE AND MAYOR NASSIF SUPPORTING AND COUNCILMEMBERS SMITH AND STRALEY OPPOSING.

Resolution Authorizing the Filing of an Application with the Department of Transportation, for a Grant Under the Urban Mass Transportation Act of 1964 and Resolution Stating the Rights of Employees

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, ADOPTION OF THE FOLLOWING RESOLUTION.

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A RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE DEPARTMENT OF TRANSPORTATION, UNITED STATES OF AMERICA, FOR A GRANT UNDER THE URBAN MASS TRANSPORTATION ACT OF 1964, AS AMENDED, AND WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (81-R-28)

WHEREAS, the United States and North Carolina Secretaries of Transportation are authorized to make grants for mass transportation projects;

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

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

WHEREAS, it is the goal of the Applicant that minority business enterprise be utilized in connection with this project, and that definitive procedures shall be established and administered to ensure that minority businesses shall have the maximum feasible opportunity to compete for contracts when procuring construction contracts, supplies, equipment contracts, or consultant and other services:

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

1. That the Town Manager is authorized to execute and file an application on behalf of the Town of Chapel Hill, North Carolina with the U.S. Department of Transportation and with the North Carolina Department of Transportation, to aid in the financing of the purchase of seven transit vehicles and related equipment;
2. That the Town Manager is authorized to execute and file with such application an assurance or any other document required by the North Carolina Department of Transportation or the U.S. Department of Transportation effectuating the purposes of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, or any other applicable legislation;
3. That the Town Manager is authorized to furnish such additional information as the North Carolina Department of Transportation or the U.S. Department of Transportation may require in connection with the application of the project;
4. That the Town Manager is authorized to set forth and execute affirmative minority business policies in connection with the project's procurement needs;
5. That the Town Manager is authorized to accept and execute grant contract agreements on behalf of the Town of Chapel Hill with the U.S. Department of Transportation and the North Carolina Department of Transportation for aid in the financing of a capital project in response to this application.

This the 23rd day of February, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION STATING THE RIGHTS OF EMPLOYEES AS PROTECTED BY SECTION 13(C) OF THE URBAN MASS TRANSPORTATION ACT OF 1964 (81-R-29)

WHEREAS the Town of Chapel Hill wishes to submit a Capital Grant Application to the Urban Mass Transportation Administration, under the Urban Mass Transportation Act of 1964, and

WHEREAS the Town of Chapel Hill recognizes that Section 13(c) of said Act requires, as a condition of any assistance thereunder, that fair and equitable arrangements be made as determined by the Secretary of Labor and specified in the Contract of assistance to protect the interests of employees;

NOW, THEREFORE, to implement this requirement, the Town Council of the Town of Chapel Hill, as a condition of its participation in the Project, hereby agrees to meet the requirements of Section 13(c) of the Act, and in so doing agrees to accept obligations for performance of the following terms and conditions which shall be binding and enforceable against the Town of Chapel Hill by the employees covered by these terms and conditions and any representatives of such employees:

The Town of Chapel Hill agrees to assure the protection of all such employees affected by Federal assistance to the Project by agreeing upon the following arrangements:

- (1) The Project will be carried out in such a manner and upon such terms and conditions as will be fair and equitable to employees covered by this arrangement.
- (2) The rights, privileges and benefits contained in the AMTRACK conditions, as certified by the Secretary of Labor under Section 405(b) of the Rail Passenger Service Act of 1970, on April 16, 1971, will apply to any employee covered by this resolution whose position with respect to his employment is worsened as a result of the Project. The Town of Chapel Hill will be financially responsible for the application of these conditions, and will make the necessary arrangements so that any employee affected as a result of the Project may file a claim with it under this paragraph. The Town of Chapel Hill will either honor the claim by making payment in accordance with these conditions or give notice to the claimant and his representative of its basis for failing to honor such claim, giving reasons therefore. In the event the Town of Chapel Hill fails to honor such claim, the employee involved may invoke the following procedures for further joint investigation of the claim, by giving notice in writing of his desire to pursue such procedures. Within ten (10) days from the receipt by the Town of Chapel Hill of such notice, the parties shall exchange such factual information as may be available to them relevant to the disposition of the claim and shall jointly take such steps as may be necessary or desirable to obtain from any third parties such additional factual information as may be relevant. As soon as practicable thereafter, the parties shall meet and attempt to agree upon the proper disposition of the claim. If no such agreement is reached and the Town of Chapel Hill decides to reject the claim, it shall give written notice of its final rejection of the claim detailing its reasons therefore. In the event the claim is so rejected by the Town of Chapel Hill, the claim may be processed to determine as hereinafter provided. Throughout the claims handling and determination procedures, the Town of Chapel Hill shall have the burden of affirmatively establishing that any deprivation of employment, or other worsening of employment position, has not been a result of the Project, by proving that only factors other than the Project affected the employee.

An employee shall be regarded as having been placed in a worse position with respect to his employment within the meaning of this paragraph:

- (a) When the position he holds is abolished or materially changed adversely to the employee and he is unable to obtain, by the normal exercise of his seniority rights, another reasonably comparable position, earning a rate of pay and producing compensation equal to or exceeding the rate of pay and compensation of his former position; or
- (b) When the position he holds is not abolished or materially changed, but he is bumped from that position directly or indirectly as a result of the exercise of seniority rights by another employee whose position is so abolished or materially changed, if he is unable, by the exercise of his seniority rights to secure another reasonably comparable position producing compensation equal to or exceeding the rate of pay and compensation of his former position.

An employee shall not be regarded as having been placed in a worsened position with respect to his employment within the meaning of this paragraph in the case of his resignation, death, retirement, dismissal for cause, or failure to work due to disability or discipline, or failure to obtain such a reasonably comparable position available to him in the exercise of his seniority rights in accordance with existing agreements.

The phrase "As a result of the Project," within the meaning of this paragraph, shall include the acquisition and use of the new transit buses and any other changes or events occurring in anticipation of, during, and subsequent to the Project.

- (3) Any dispute or controversy arising between any employee and the Town of Chapel Hill Transit System or between his representative and the Town of Chapel Hill Transit System, regarding the application, interpretation, or enforcement of the provisions of this arrangement, which cannot be settled within thirty (30) days after the dispute or controversy first arises, may be submitted at the written request of the Town of Chapel Hill Transit System, the employee or designed representative to any final and binding disputes procedure acceptable to the parties, or in the event they cannot agree upon such procedure, to the Department of Labor or its designee for purposes of final and binding determination of all matters in dispute. The Town of Chapel Hill Transit System will post in a prominent and accessible place where employees of the Town of Chapel Hill Transit System are employed, a notice informing such employees that the System is a recipient of federal assistance under the Act and that the System has agreed to comply with the provisions of Section 13(c). The notice shall also include a copy of this resolution and specifically inform employees of their right to refer claims and disputes arising thereunder to the Department of Labor for determination. The Town of Chapel Hill Transit System shall maintain and keep on file all relevant books and records in sufficient detail as to provide the basic information necessary to the determination of claims arising under these conditions.
- (4) Nothing in this resolution shall be construed as depriving any employee of any rights or benefits which such employee may have under existing employment or collective bargaining agreements, nor shall this agreement be deemed a waiver of any rights of any labor organization or represented employee derived from any other arrangement or agreement or provision of federal, state, or local law. However, no employee entitled to monetary benefits under this arrangement and any other agreement or agreements will be paid more than the compensation afforded by the most favorable agreement or arrangement.
- (5) This resolution shall be binding upon the successors and assigns of the parties hereto and they shall agree to be bound by the terms of this arrangement and accept the responsibility for full performance of these conditions.
- (6) In the event any provision of the resolution is held to be invalid or otherwise unenforceable under federal, state, or local law, such provision shall be re-negotiated for purpose of adequate replacement under Section 13(c) of the Act. If such negotiations shall not result in mutually satisfactory arrangement, the Town of Chapel Hill agrees that any person affected by this project may invoke the procedure set forth herein to determine substitute fair and equitable employee protection arrangements which shall be incorporated in this resolution, and/or any other appropriate action, remedy, or relief.
- (7) In the event this Project is approved for assistance under the Act, the foregoing terms and conditions shall be made part of the Contract of Assistance, provided, however, that this resolution shall, nevertheless, be independently binding and enforceable by and upon the parties hereto, in accordance with its terms.
- (8) Any employee covered by this resolution who has been terminated or laid off for lack of work, shall be granted priority of employment to fill any vacant position in the Town of Chapel Hill's transit system for which he is, or by training or retraining can become, qualified. In the event training or retraining is required by such employment or reemployment, the Town of Chapel Hill, or other operator of the transit system, shall provide or provide for such training or re-training at no cost to the employee, and such employee shall be paid, while training or re-training, the salary or hourly rate of his former job classification or the training rate of the classification for which he is training, whichever is higher.

- (9) The Town of Chapel Hill recognizes and agrees that Federal financial assistance to this Project will be extended in reliance on these conditions and agrees to assume responsibility for performance of these conditions.
- (10) No employee covered by these terms and conditions shall be denied employment, nor any right, privilege, or benefit pertaining thereto, by reason of membership or non-membership in a labor organization, or by reason of representation or non-representation by such labor organization, except as may be provided by applicable laws.
- (11) The foregoing terms and conditions shall apply only in the event the Project is approved for assistance under the Act.

This the 23rd day of February, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

Resolution Authorizing the Filing of A Grant Application to the Governor's Highway Safety Program

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER KAWALEC, ADOPTION OF THE FOLLOWING RESOLUTION.

LOCAL GOVERNMENTAL RESOLUTION (81-R-30)

WHEREAS, the Chapel Hill Town Council herein called the "Applicant" has thoroughly considered the problem addressed in the application entitled Selective Traffic Enforcement Planning and Development grant and has reviewed the project described in the application; and

WHEREAS, under the terms of Public Law 89-564 as amended, the United States of America has authorized the Department of Transportation, through the North Carolina Governor's Highway Safety Program to make federal grants to assist local governments in the improvement of highway safety,

NOW THEREFORE BE IT RESOLVED by the Chapel Hill Town Council in open meeting assembled in the city of Chapel Hill, North Carolina. This the 23rd day of February, 1981, as follows:

- 1. That the project referenced above is in the best interest of the applicant and the general public.
- 2. That Chief Herman Stone/B. J. Campbell be authorized to file, in behalf of the applicant, an application in the form prescribed by the Governor's Highway Safety Program for federal funding in the amount of \$5,000 to be made to the Applicant to assist in defraying the cost of the project described in the application.
- 3. That the Applicant has formally appropriated the cash contribution of -0- (local cash appropriation) as required by the project.
- 4. That the project director designated in the application form shall furnish or make arrangements for other appropriate persons to furnish such information, data, documents and reports pertaining to the project, if approved, as may be required by the Governor's Highway Safety Program.
- 5. That certified copies of this resolution be included as part of the application referenced above.
- 6. That this resolution shall take effect immediately upon its adoption.

This the 23rd day of February, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

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Ordinances Revising Traffic control Measures in the Clayton Road and Curtis Road Area

Mr. Hawley spoke to the recommendations of the residents of the 400 block of Clayton Road as presented in a petition to the Council in April 1980. In August 1980, the residents submitted a second petition. They had then met with the Transportation Board and the Streets and Public Safety Committee to study the issue of traffic. The petition requested a stop sign at either end of the 400 block of Clayton Road. Mr. Hawley discussed the traffic problems and in his opinion their causes. The residents wanted the Council to try to eliminate some of the traffic through their neighborhood.

Mr. Lindall represented many of the residents on the 300 block of Clayton Road who opposed the stop sign at the intersection of Clayton and Audobon. They did not think the stop sign would change the driving habits of people going through the community. The stop sign at the bottom of the hill would create a problem for residents in snow and ice. They would not be able to drive up the hill to reach their homes.

Mr. Hooper reviewed the recommendation of the staff to alleviate the traffic problems in this area. The Town Engineer believed a stop sign and Curtis and Clayton would cause additional problems.

Councilmember Smith asked if the staff was planning a crosswalk across Elliott at the intersection with Curtis. Mr. Hooper said they staff would prefer to wait to see what difference improving the sight distances made. Councilmember Smith thought that by not installing the stop signs the Town would be encouraging traffic. Mr. Hooper did not think the Town would be encouraging more traffic.

Councilmember Howes did not think the proposed solutions were going to make much difference in the amount of traffic using Clayton Road. He did not think a 4-way stop at the end of 2 cul-de-sacs was a good idea. COUNCILMEMBER HOWES MOVED, SECONDED BY COUNCILMEMBER STRALEY, ADOPTION OF THE FOLLOWING ORDINANCE.

AN ORDINANCE AMENDING CHAPTER 21 (81-O-4)

BE IT ORDAINED by the Town Council of the Town of Chapel Hill that Chapter 21 of the Code of Ordinances, Town of Chapel Hill, be amended as follows:

ADD: Section 21-6

- (f) It shall be unlawful to operate a truck on Clayton Road between Curtis Road and Audubon Road, and on Audubon Road between Clayton Road and Elliott Road, except local delivery trucks making deliveries to houses in the area; it being the intent of the subsection to close portions of said streets to through trucks.

This the 23rd day of February, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

Mr. Lathrop said the Transportation Board had discussed the matter at length. He noted that stop sign and traffic signals installed where they were not needed nor expected caused accidents. Mr. Lathrop did not think stop signs on Clayton Road would make much difference. He thought the recommendations of the Transportation Board would restore normalcy to the intersection of Curtis and Elliott and that of Clayton and Curtis.

Councilmember Straley suggested the 15 MPH "suggested speed" sign be installed at the intersection of Curtis and Clayton. Mr. Denny objected as this would have no effect. He advised the Council to either lower the speed limit to 15 MPH or not to install a sign. Councilmember Smith objected as the 15 MPH would only apply to turning traffic.

COUNCILMEMBER SMITH MOVED, SECONDED BY COUNCILMEMBER STRALEY, THAT THE MANAGER BE INSTRUCTED TO DRAFT AN ORDINANCE FOR INSTALLING STOP SIGNS AT THE WESTERN END OF CLAYTON ROAD AT CURTIS, AND AT THE END OF CLAYTON ROAD AT AUDOBON. THE MOTION WAS DEFEATED BY A VOTE OF SIX TO TWO WITH COUNCILMEMBERS SMITH AND STRALEY SUPPORTING AND COUNCILMEMBERS HERZENBERG, HOWES, KAWALEC, WALLACE, THORPE AND MAYOR NASSIF OPPOSING.

Ordinance to Amend Section 21-27 Revising Parking Restrictions on Colony Court

COUNCILMEMBER HERZENBERG MOVED, SECONDED BY COUNCILMEMBER SMITH, ADOPTION OF THE FOLLOWING ORDINANCE.

AN ORDINANCE TO AMEND SECTION 21-27 (REPEAL PRESENT NO PARKING RESTRICTION AT ALL TIMES ON SOUTH SIDE OF COLONY COURT) (81-O-18)

BE IT ORDAINED by the Council of the Town of Chapel Hill that the Council hereby amends Section 21-27 of the Code of Ordinances of the Town of Chapel Hill as follows:

DELETE:

<u>Street</u>	<u>Side</u>	<u>From</u>	<u>To</u>
Colony Court	Both	Mallette	East End

ADD:

Colony Court	North	Mallette	East End
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This the 23rd day of February, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

COUNCILMEMBER HERZENBERG MOVED, SECONDED BY COUNCILMEMBER SMITH, ADOPTION OF THE FOLLOWING ORDINANCE.

AN ORDINANCE TO AMEND SECTION 21-27.1 (a) (PARKING RESTRICTION ON THE SOUTH SIDE OF COLONY COURT 8 A.M. - 5 P.M. DAILY) (81-O-19)

BE IT ORDAINED by the Council of the Town of Chapel Hill that the Council hereby amends Section 21-27.1 (a) of the Code of Ordinances of the Town of Chapel Hill as follows:

ADD:

<u>Street</u>	<u>Side</u>	<u>From</u>	<u>To</u>
Colony Court	South	Mallette	East End

This the 23rd day of February, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

Monthly Reports

Mr. Shipman had submitted the monthly financial report and CIP report to the Council. There were no questions.

Ordinance Amending the Budget

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER KAWALEC, ADOPTION OF THE FOLLOWING ORDINANCE.

AN ORDINANCE AMENDING THE "ORDINANCE CONCERNING APPROPRIATIONS AND THE RAISING OF REVENUES FOR THE FISCAL YEAR BEGINNING JULY 1, 1980" (81-O-20)



ARTICLE I

<u>Appropriation</u>	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
GENERAL FUND				
Town Manager --Administration	139,204	1,405	---	140,609
Finance --Administration	100,341	6,250	---	106,591
GENERAL REVENUE SHARING FUND	547,289	6,250	---	553,539

ARTICLE II

<u>Revenue</u>	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
GENERAL FUND				
Other Revenues	26,300	1,405	---	27,705
Interfund Transfer	677,789	6,250	---	684,039
GENERAL REVENUE SHARING FUND	547,289	6,250	---	553,539

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

This the 23rd day of February, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

Report Concerning Community Watch Program

The Manager had submitted a report on allowing Community Watch signs on the right-of-way as requested by the Council. Mayor Nassif disagreed with the recommendation not to allow the signs on the right-of-way. The State and other cities permitted this.

Councilmember Howes agreed and moved, seconded by Councilmember Thorpe, that the Manager be instructed to prepare an ordinance to this effect. The motion was carried by a vote of seven to one with Councilmembers Howes, Kawalec, Smith, Straley, Thorpe, Wallace and Mayor Nassif supporting and Councilmember Herzenberg opposing.

Report Concerning Operation of W. Franklin Street Parking Lot

The report had been submitted to the Council. there were no questions.

Resolution Authorizing the Housing Authority to Record Moderate Rehabilitation Agreements

COUNCILMEMBER WALLACE MOVED, SECONDED BY COUNCILMEMBER HERZENBERG, ADOPTION OF THE FOLLOWING RESOLUTION.

A RESOLUTION AUTHORIZING AND DIRECTING THE CHAPEL HILL HOUSING AUTHORITY TO ACT IN BEHALF OF THE TOWN OF CHAPEL HILL WITH RESPECT TO CERTAIN PROPERTY COVENANTS (81-R-31)

THAT WHEREAS, the Town of Chapel Hill in connection with certain loans and grants to property owners to improve housing accommodations within the Town of Chapel Hill, is requiring that said owners covenant and agree to devote said properties available for certain purposes consistent with the program for a number of years; and

WHEREAS, said program is being administered by the Chapel Hill Housing Authority in behalf of the Town of Chapel Hill; and

WHEREAS, the Town of Chapel Hill desires to designate the Chapel Hill Housing Authority as the proper party in interest to execute said agreements with said property owners for and in behalf of itself, and the Town of Chapel Hill;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CHAPEL HILL, that the Chapel Hill Housing Authority be and it is hereby designated as the proper party to execute all covenants and agreements with property owners, who are receiving assistance from the Town in the repair, improvement, and rehabilitation of their properties, and that as a condition to said grant or loan for said purposes, it is required that the property owner make available said property for the purposes consistent with the program and to execute and record a covenant dedicating and restricting said use as aforesaid, and for the time set forth therein.


This the 23rd day of February, 1981.

THE MOTION WAS CARRIED UNANIMOUSLY.

There being no further business to come before the Council, the meeting was adjourned at 10:15 p.m.



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Joseph L. Nassif, Mayor



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David B. Roberts, Clerk