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Durham, NC 27701

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April 12, 2022

BY E-MAIL

The Honorable Pam Hemminger
Mayor, Town of Chapel Hill
Town Hall, Third Floor
405 Martin Luther King Jr. Blvd
Chapel Hill, NC 27514-5705

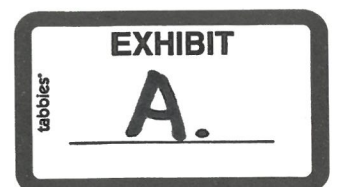
Re: *Petition to Amend Consent Judgment to Permit Annexation of Mr. Moriah Road Development by the City of Durham*

Dear Mayor Hemminger:

We represent Moriah Ridge, LLC. Our client is interested in annexing property located off of Mt. Moriah Road which is located in Orange County into the City of Durham so that it can be developed for a mix of townhomes, single-family housing and apartments ("Mt. Moriah Road Development"). An exhibit showing the property in question is enclosed. The property technically is within the extraterritorial jurisdiction ("ETJ") of the Town of Chapel Hill. The property is not environmentally significant in any way, and OWASA has confirmed that it cannot serve the property with water or sewer because of its location on the north side of I-40. A letter from OWASA to this effect is enclosed. Therefore, the property cannot be annexed by Chapel Hill because it cannot be served by Chapel Hill with water and sewer. On the other hand, the property is very well situated to be served by existing Durham water and sewer, which is located just across the street.

We asked the City of Durham if it would be willing to extend services outside its city limits to this property, so that it could be annexed by Chapel Hill, but Durham has shown no interest in doing so. For your information, in order for Durham to extend services to this property, it would have to amend its own ordinances which prohibit it from extending water and sewer to property outside its limits, except under certain limited circumstances, none of which exist here. It also would have to revamp its utility extension policies. Therefore, the only viable option for getting water and sewer to this property of which we are aware is annexing it into the City of Durham.

Even if this project is located in the City of Durham, its proximity to Chapel Hill will be an asset to the community. This project promises to deliver a substantial amount of "missing



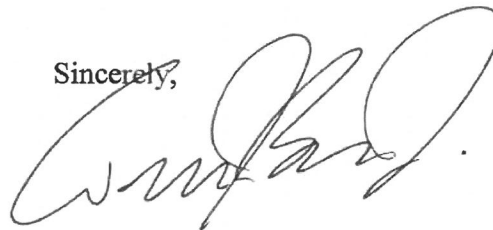
middle housing” in an area near a major transit hub, and as such fits into the Town of Chapel Hill’s stated goals for residential development. No doubt many of the residents of this project will work in Chapel Hill, and therefore this project will be an economic asset to Chapel Hill, without Chapel Hill having to be responsible for providing services to the residents of the project.

As a practical matter, this annexation only will be accomplished if both cities agree to it. There is a Consent Judgment between Chapel Hill and Durham that was entered in 1986 and later modified in 1994 in which both cities agreed that there would be no further annexation by either city into their respective counties except by mutual agreement. A copy of the Consent Judgment is enclosed. We believe the mutual agreement to make the Mt. Moriah Road Development possible should come in the form of an amendment to the existing Consent Judgment. This amended Consent Judgment will establish a new annexation boundary, but preserve the underlying agreement that neither city will annex into the other’s county in the future without mutual agreement.

Our understanding from speaking with staff and elected officials in the City of Durham is that Durham is willing to amend the Consent Judgment if Chapel Hill is willing to do the same. However, before proceeding, Durham wants Chapel Hill to clearly state its willingness to permit it to annex this property. Therefore, we hereby petition that an amendment to the Consent Judgment be put on the Chapel Hill Town Council’s agenda as soon as possible.

Please let us know if you have any questions or need any additional information. Otherwise, please let us know when this matter will go before the Chapel Hill Town Council. We look forward to the opportunity to speak to the Council in support of this petition. We will assist in this process in any way that we can and very much appreciate your assistance with this matter. We look forward to hearing from you soon.

Sincerely,



William J. Brian, Jr.

Enclosures

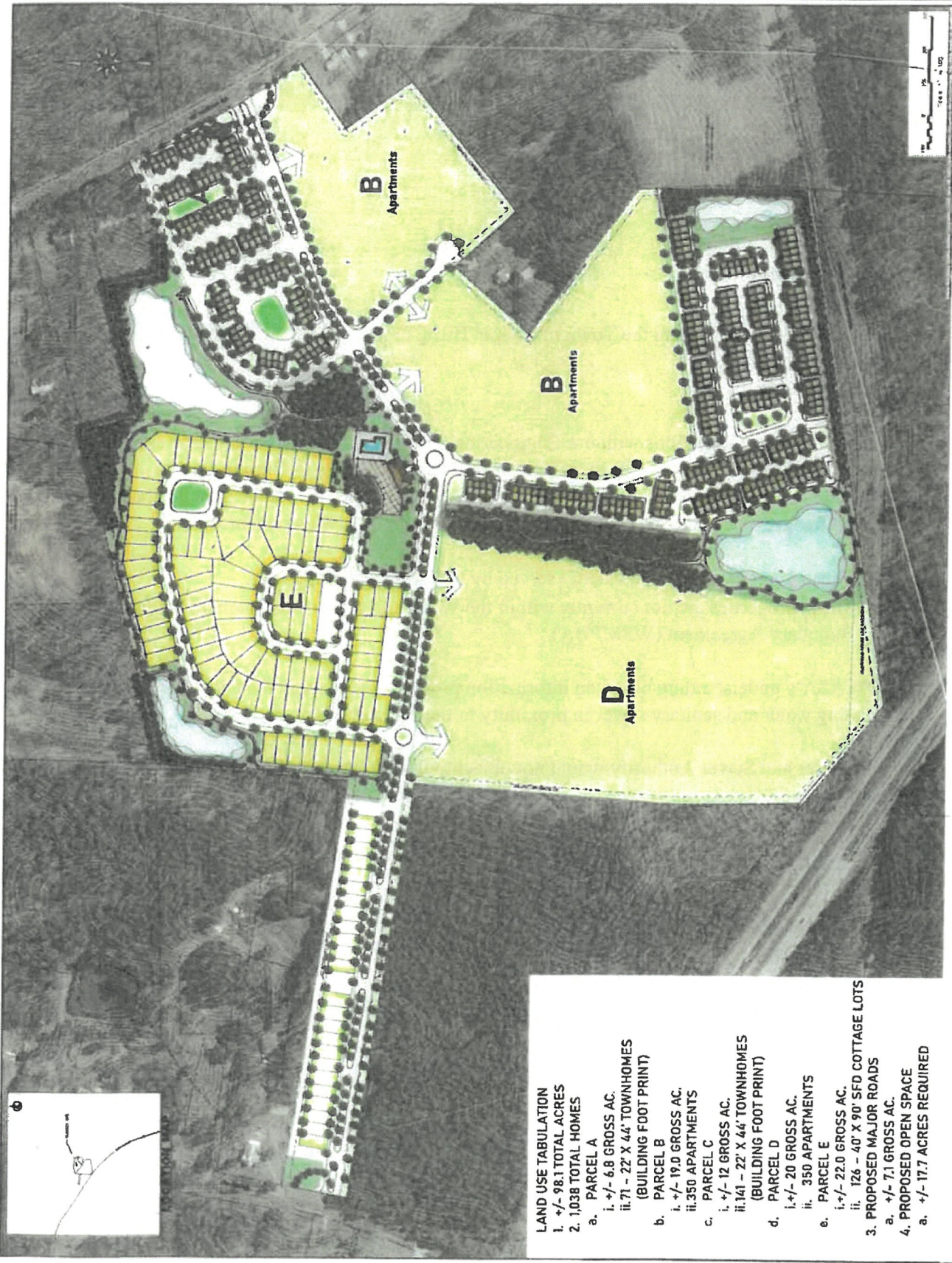
cc: The Honorable Members of the Chapel Hill Town Council
Ann Anderson, Esq., Town Attorney
Ms. Colleen R. Willger, Planning Director
Ms. Judy Johnson, Assistant Planning Direct
(all with enclosures)



MORRIS & BITCHER ASSOCIATES, INC.
 1000 W. 10TH STREET, SUITE 100
 DURHAM, NORTH CAROLINA 27601
 TEL: 919.486.1100
 FAX: 919.486.1101
 WWW.MORRISANDBITCHER.COM

MT. MORIAH TRACT
 CONCEPTUAL SITE PLAN
 DURHAM GRAVEY COUNTY, NORTH CAROLINA

DATE	12/15/10
SCALE	1" = 100'
DRAWN BY	J. MORRIS
CHECKED BY	J. MORRIS
PROJECT NO.	100000000
CLIENT	MT. MORIAH TRACT



- LAND USE TABULATION**
1. +/- 98.1 TOTAL ACRES
 2. 1,038 TOTAL HOMES
 - a. PARCEL A
 - i. +/- 6.8 GROSS AC.
 - ii. 71 - 22' X 44' TOWNHOMES (BUILDING FOOT PRINT)
 - b. PARCEL B
 - i. +/- 19.0 GROSS AC.
 - ii. 350 APARTMENTS
 - c. PARCEL C
 - i. +/- 12 GROSS AC.
 - ii. 141 - 22' X 44' TOWNHOMES (BUILDING FOOT PRINT)
 - d. PARCEL D
 - i. +/- 20 GROSS AC.
 - ii. 350 APARTMENTS
 - e. PARCEL E
 - i. +/- 22.0 GROSS AC.
 - ii. 126 - 40' X 90' SFD COTTAGE LOTS
 3. PROPOSED MAJOR ROADS
 - a. +/- 7.1 GROSS AC.
 4. PROPOSED OPEN SPACE
 - a. +/- 17.7 ACRES REQUIRED

CONTINGENT: THE LAYOUT SHOWN ON THE PLAN, THE DRAWING, THE DESIGN CONCEPT AND THE INTELLECTUAL PROPERTY USED TO DEVELOP THE SAME, ARE PROPRIETARY TO MORRIS & BITCHER ASSOCIATES OF INC. PC. AND SHALL NOT BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT THE EXPRESS WRITTEN PERMISSION FROM MORRIS & BITCHER ASSOCIATES OF INC. PC.



Orange Water and Sewer Authority

OWASA is Carrboro-Chapel Hill's not-for-profit public service agency delivering high quality water, wastewater, and reclaimed water services.

March 25, 2022

Mr. Daniel Jewell
CJTpa
111 W. Main St
Durham, NC 27701

RE: Properties associated with the Town of Chapel Hill ETJ Area North and East of Interstate 40

Dear Mr. Jewell:


Based on your communications with our Engineering Staff about potential water and sewer service to this Town of Chapel Hill Extra Territorial Jurisdiction area in Orange County generally bounded by interstate 40, Erwin Road and Mt. Moriah Road as shown on the attached Figure 1, Orange Water and Sewer Authority has come to the following conclusions:

- These properties are not currently served by OWASA water or sewer.
- These Properties are not currently within the Water and Sewer Management Planning and Boundary Agreement (WSMPBA).

It is OWASA's understanding based on information provided by you that the City of Durham has existing water and sanitary sewer in proximity to these properties.

Orange Water and Sewer Authority would not object to this area being served by the City of Durham.

Sincerely



Todd Taylor, P.E.
Executive Director

c: Jessica Godreau, Engineering Manager - Development Services

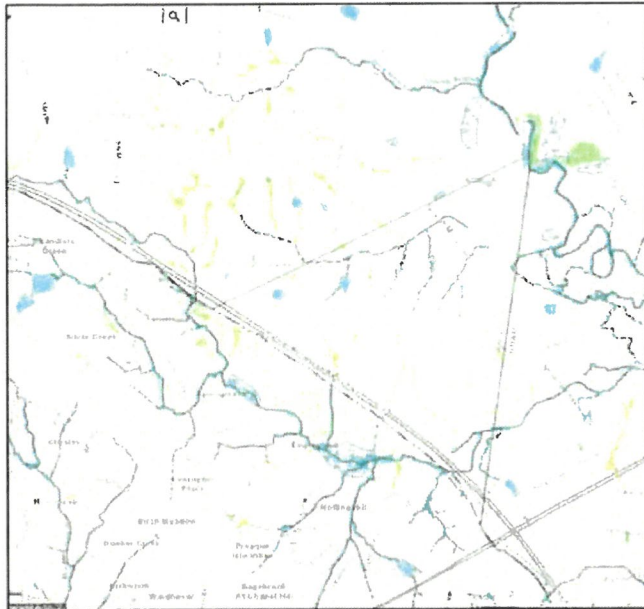


Figure 1 – Town of Chapel Hill ETJ

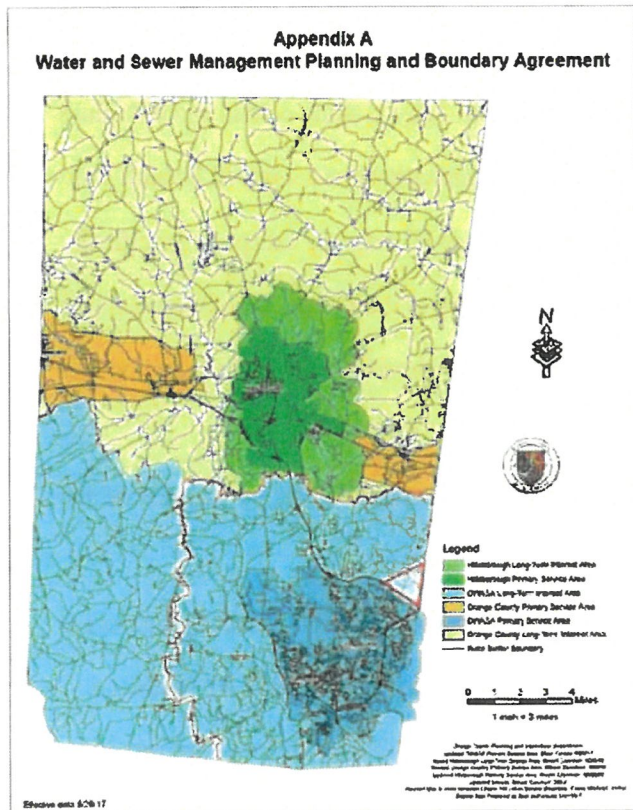


Figure 2 – WSMPBA 2017

NORTH CAROLINA
DURHAM COUNTY

FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

1984 AUG 19 AM 9:36

85 CVS 03108

TOWN OF CHAPEL HILL

Plaintiff,

v.

CITY OF DURHAM

Durham.

DURHAM
BY *[Signature]*
)
)
)
)
)
)

MODIFICATION TO CONSENT JUDGMENT

This cause coming on to be heard and being heard before the undersigned Judge Presiding and it appearing to the Court that the parties wish to modify the consent judgment entered in this matter on November 6, 1986 (the "Judgment") by making certain modifications to the line defining the parties' areas of potential future annexations as set out in Exhibit D to the Judgment while ratifying and confirming the Judgment in all respects except as specifically modified by this order and it further appearing to the Court that the Chapel Hill Town Council and the Durham City Council have adopted resolutions authorizing the amendment to the Judgment copies of which are attached hereto as Exhibits "A" and "B";

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, by consent of the parties, as follows:

1. That the line defined in Exhibit D to the December 6, 1986 consent judgment is modified to be as set out in Exhibit C attached hereto and incorporated herein by reference.
2. That absent an agreement by the parties, the Town of Chapel Hill will not extend its corporate limits, now generally located west and south of the line described in Exhibit C, to the

east and north of the line and the City of Durham will not extend its corporate limits, now located generally east and north of the line, to the west and south of the line.

3. Without prior agreement of the parties, neither party will

(a) accept or process any petition for annexation of any land on the opposite side of the line defined under Exhibit C;

(b) initiate or process any unilateral annexation of any land on the opposite side of the line defined in Exhibit C;

(c) take any other steps to annex any land on the opposite side of the line defined in Exhibit C.

4. Except as specifically modified by this order, the parties ratify and confirm the consent order of November 6, 1986 in its entirety.

Ar. Brown
Judge Presiding

Consented To:

Ralph D. Karpinos
Attorney for Town of Chapel Hill

Susan Hoewershal
*Atty Town Manager
Town of Chapel Hill

Karen A. Sindelar
Asst Attorney for City of Durham

Cecil R. Brown
City Manager, City of Durham

I certify the foregoing to be a true and correct copy of the original as the same appears on file in this office.

19 day of August 1994

Clerk Superior Court
Durham County, N.C.

Shelley Beatty
Assistant Deputy Clerk

Exhibit A to Modification to
Consent Judgement

I, Joyce A. Smith, Deputy Town Clerk, of the Town of Chapel Hill,
North Carolina, hereby certify that the attached is a true and
correct copy of Resolution 94-7-5/R-17, adopted by the Chapel Hill
Town Council on July 5, 1994.

This the 18th day of July, 1994



Joyce A. Smith
Joyce A. Smith
Deputy Town Clerk

A RESOLUTION AUTHORIZING AMENDMENT TO THE CONSENT ORDER *TOWN OF CHAPEL HILL V. CITY OF DURHAM*, 85 CVS 3108 AND APPROVING A MODIFICATION OF THE LINE REPRESENTING THE LIMITS FOR FUTURE ANNEXATIONS BY THE MUNICIPALITIES OF CHAPEL HILL AND DURHAM (94-7-5/R-17)

WHEREAS, the City of Durham and the Town of Chapel Hill entered into a consent order in *Town of Chapel Hill v. City of Durham* (85 CVS 3108, Durham County) establishing a line across which neither municipality would:

- (a) accept or process any petition or annexation of land;
- (b) initiate or process any unilateral annexation of any land;
- (c) take any other steps to annex any land; and

WHEREAS, the City of Durham and the Town of Chapel Hill, through their respective governing bodies, believe it is proper and in the best interest of the municipalities to make certain adjustments to the line established in the consent order such that Orange County Tax Map Lot 7.15..17B would be subject to annexation by the City of Durham and Durham County Tax Map Lots 479A-1-14 through 16, and a portion of 17; 479A-2-1 through 4; 479A-4-18 and 19, and a portion of 17; 479A-5-, a portion of 2; and the intervening right-of-way of Nottingham Drive and Kinsale Drive, would be subject to annexation by the Town of Chapel Hill;

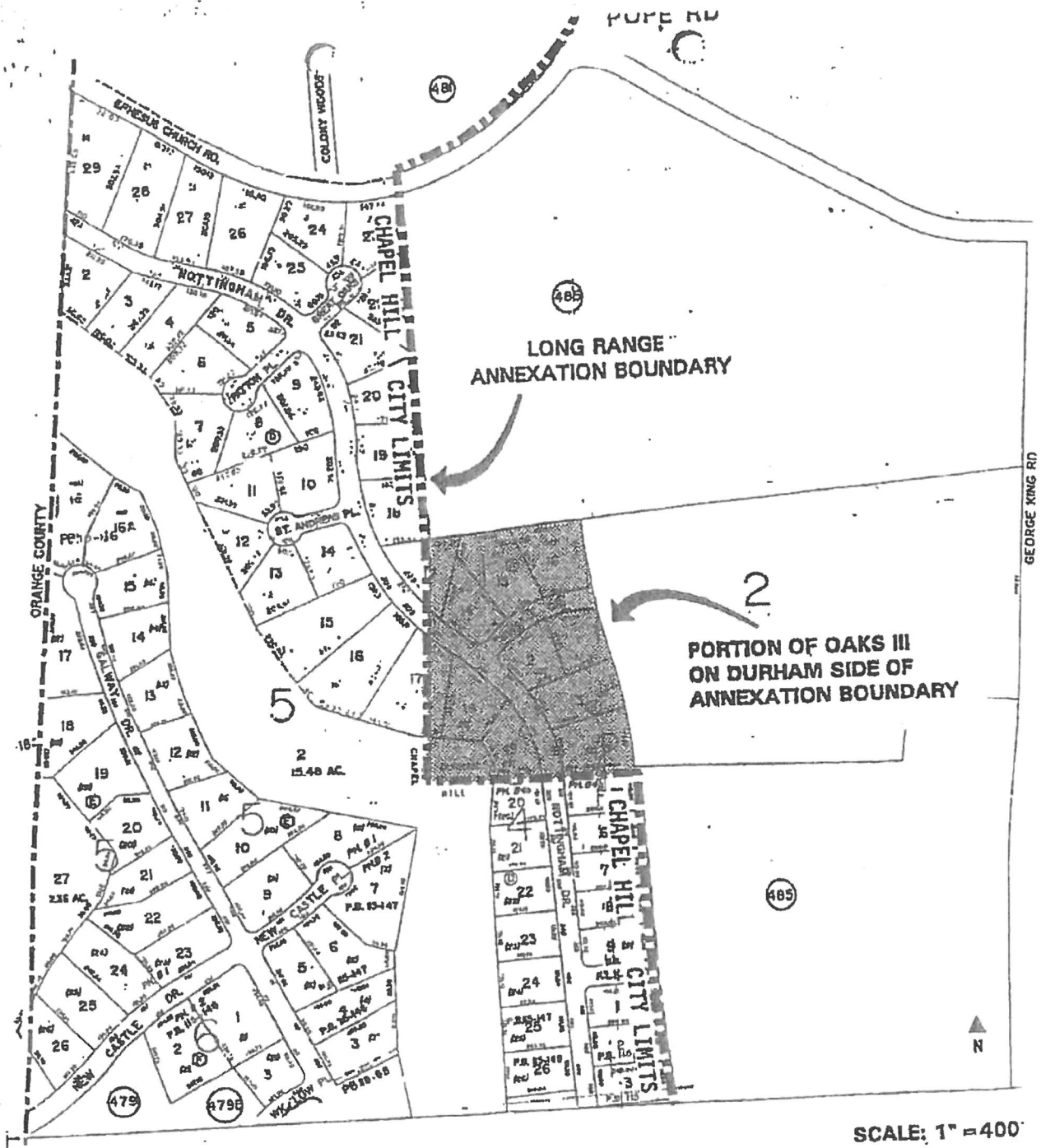
NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that it does hereby authorize the modification of the consent order in *Town of Chapel Hill v. City of Durham*, (85 Cvs 3108, Durham County) such that the line defining the long range annexation boundary between the City of Durham and the Town of Chapel Hill would be adjusted such that Orange County Tax Map Lot 7.15..17B would be subject to annexation by the City of Durham and Durham County Tax Map Lots 479A-1-14 through 16, and a portion of 17; 479A-2-1 through 4; 479A-4-18 and 19, and a portion of 17; 479A-5-, a portion of 2; and the intervening right-of-way of Nottingham Drive and Kinsale Drive, would be subject to annexation by the Town of Chapel Hill;

BE IT FURTHER RESOLVED that it is the clear and express intention of the Town of Chapel Hill by adopting this resolution and authorizing the modification of the consent judgment that both the Town of Chapel Hill and the City of Durham will remain bound and obligated by the terms of the consent judgment entered December 6, 1986, except as specifically modified pursuant to this resolution;

BE IT FURTHER RESOLVED that the Council authorizes and directs the Town Manager and Town Attorney to sign a modification of the consent judgment to carry out the terms of this resolution; and

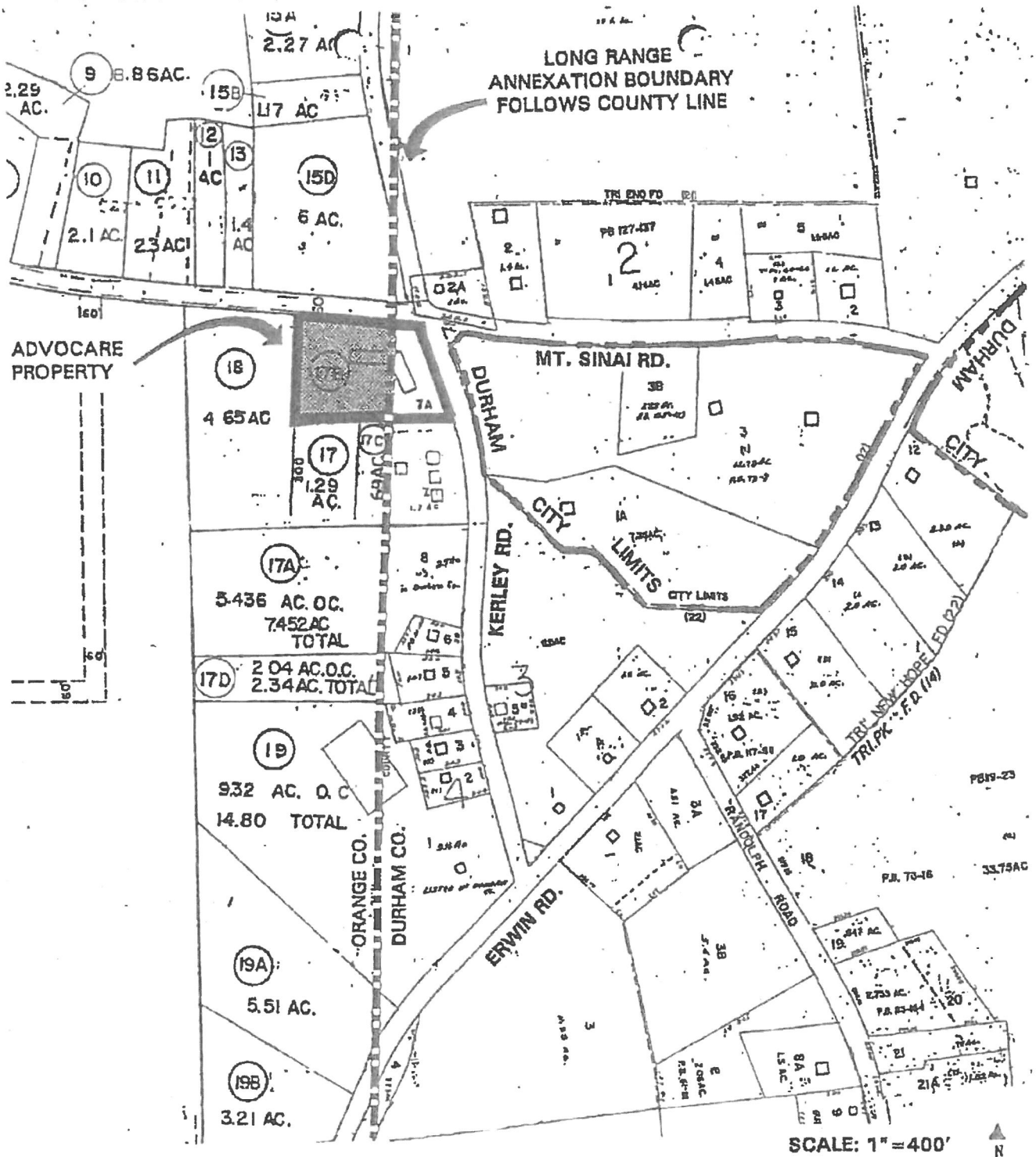
BE IT FURTHER RESOLVED that the adoption of this resolution is contingent upon the adoption of a substantially identical resolution by the Council of the City of Durham.

This is the 5th day of July, 1994.



ATTACHMENT 1

Map of the Portion of the Oaks III Subdivision on Durham's Side of the 1986 Consent Judgement Annexation Boundary Line



ATTACHMENT 2

Map of the Portion of the AdvoCare Property Located in the Rural Buffer on Chapel Hill's Side of the 1986 Consent Judgment Annexation Boundary Line

DURHAM



1 8 6 9
CITY OF MEDICINE

City of Durham
North Carolina



City Clerk
Office of Records Management
101 City Hall Plaza
Durham, NC 27701

(919) 560-4166

SUBJECT: ANNEXATION AGREEMENT AMENDMENT BETWEEN DURHAM AND CHAPEL HILL - ADVOCARE, INC.

MOTION by Council Member Lloyd seconded by Council Member Griffin to adopt a "Resolution Authorizing Amendment to the Consent Order Town of Chapel Hill V. City of Durham, 85 CVS 3108 and Approving a Modification of the Line Representing the Limits for Future Annexations by the Municipalities of Chapel Hill and Durham" as amended was approved at 5:46 p.m. by the following vote: Ayes: Mayor Kerckhoff and Council Members Clement, Engelhard, Griffin, Hyman, Larson, Lloyd, London, McKissick, Ogburn, Robinson and Seibel. Noes: None. Absent At Time of Vote: Council Member Wright.

NORTH CAROLINA
DURHAM COUNTY

I, D. Ann Gray, duly appointed Deputy City Clerk of the City of Durham, North Carolina, do hereby certify that the above action was taken by the Durham City Council at a special meeting held on June 30, 1994, which is on file [Resolution #7958] in the Office of the City Clerk at City Hall.

WITNESS my hand and the corporate seal of the City of Durham, North Carolina, this the 27th day of July 1994.

D. Ann Gray

D. Ann Gray
Deputy City Clerk



An Equal Opportunity
Affirmative Action Employer

A RESOLUTION AUTHORIZING AMENDMENT TO THE CONSENT ORDER TOWN OF CHAPEL HILL V. CITY OF DURHAM, 85 CVS 3108 AND APPROVING A MODIFICATION OF THE LINE REPRESENTING THE LIMITS FOR FUTURE ANNEXATIONS BY THE MUNICIPALITIES OF CHAPEL HILL AND DURHAM

WHEREAS, the City of Durham and the Town of Chapel Hill entered into a consent order in *Town of Chapel Hill v. City of Durham* (85 CVS 3108, Durham County) establishing a line across which neither municipality would:

- (a) accept or process any petition or annexation of land;
- (b) initiate or process any unilateral annexation of any land;
- (c) take any other steps to annex land; and

WHEREAS, the City of Durham and the Town of Chapel Hill, through their respective governing bodies, believe it is proper and in the best interest of the municipalities to make certain adjustments to the line established in the consent order such that Orange County Tax Map Lot 7.15.17B would be subject to annexation by the City of Durham and Durham County Tax Map Lots 479A-1-14 through 16, and a portion of 17; 479A-2-1 through 4; 479A-4-18 and 19 and a portion of 17; 479A-5, a portion of 2; and the intervening right-of-way of Nottingham Drive and Kinsale Drive, would be subject to annexation by the Town of Chapel Hill;

NOW, THEREFORE, BE IT RESOLVED by the Durham City Council that it does hereby authorize the modification of the consent order in *Town of Chapel Hill v. City of Durham*, (85 CVS 3108, Durham County) such that the line defining the long range annexation boundary between the City of Durham and the Town of Chapel Hill shall be as described in the metes and bounds description, attached hereto as Exhibit C.

BE IT FURTHER RESOLVED that it is the clear and express intention of the City of Durham by adopting this resolution and authorizing the modification of the consent judgment that both the Town of Chapel Hill and the City of Durham will remain bound and obligated by the terms of the consent judgment entered December 6, 1986, except as specifically modified pursuant to this resolution;

APPROVED BY
CITY COUNCIL

JUN 30 1994

D. Ann Gray
DEPUTY CITY CLERK

[Revised Portion]
ATTACHMENT #1

BE IT FURTHER RESOLVED that the Council authorizes and directs the City Manager and City Attorney to sign a modification of the consent judgment to carry out the terms of this resolution.

BE IT FURTHER RESOLVED that the adoption of this resolution is contingent upon the adoption of a substantially identical resolution by the Council of the Town of Chapel Hill.

This the 30th day of June, 1994.

Exhibit C To Amendment
To Consent Order

BEGINNING at a point on the Orange-Durham County line where the line intersects the southern right of way of Cornwallis Road; running thence along the Orange-Durham County line in a southerly direction to the intersection of the Orange-Durham County line and the southern line of Mt. Sinai Church Road, a point in the northern line of the property of Advocare, Inc. as described in Deed Book 1006, Page 160, Orange County Registry, thence along the northern line of the property of AdvocaCare, Inc. to its northwestern corner; thence along the western line of said property, South 12 degs. 15' West 336 feet to AdvocaCare, Inc.'s southwest corner, thence along AdvocaCare's southern line to its intersection with the Orange-Durham County line; thence continuing in a generally southerly direction to the intersection of the Orange-Durham County line in the southern right of way of I-40; thence along the southern right of way of I-40 in a southeasterly direction approximately 2,800 feet to the intersection of the southern right of way of I-40 and the western right-of-way of Pope Road; thence along the western right of way of Pope Road and the northern right of way of Ephesus Church Road in a southerly direction approximately 6,000 feet to a point in the northern right-of-way of Ephesus Church Road, said point being a projection of the eastern property line of tract 2 of the DuBose property as shown on the plat "Survey of David St. Pierre DuBose, Jr." dated February 12, 1986, Durham County Plat Book 110, Page 159; thence across Ephesus Church Road south 1 deg. 8' 10" West approximately 60 feet to a point in the southern right of way of Ephesus Church Road, the northeast corner of the said DuBose tract; thence along said property line South 1 deg. 8' 10" West 1,028.19 feet to a concrete monument (N.C.G.S. 792,453.51; 1,999,494.93) located in the northern line of Lot 13, Block A, Oaks III Subdivision according to the plat recorded at Plat Book 117, Page 116, Durham County Registry; along the northern lines of Lot 13, Block A Oaks III and Lots 15 and 16, Block A, Oaks III according to Plat Book 115, Page 147, Durham County Registry North 88 degs. 3' 31" East 457.4 feet to the northeast corner of Lot 16, Block B, Oaks III; thence running with the eastern line of Lot 16, Block B Oaks III along the arc of a curve having a chord bearing of South 5 degs. 59' 28" East 306.28 feet to a point in the eastern line of Lot 1, Block B, Oaks III according to the Plat Book 115, Page 147, Durham County Registry; thence along the eastern line of Lot 1, South 10 degs. 1' 45" East 103.77 feet to the northeastern corner of Lot 3, Block B, Oaks III Subdivision; thence along the arc of a curve having a chord bearing of South 5 degs. 22' 14" East a distance of 291.21 feet to a point in the eastern line of Lot 4, Oaks III Subdivision; thence South 00 degs. 42' 43" East 46.48 feet to a point, the southeastern corner of Lot 4, Block B, Oaks III, the northwest corner of the Specia Moore, Sr. lot; thence along DuBose's eastern property line South 00 degs. 46' 54" East 313.74 feet, South 00 degs. 34' 56" East 520.39 feet, and South 00 degs. 38' 45" East 345.34 feet to an iron pin, the southwest corner of the Elvie King

lot; thence along the western property line of a 16.68 acre tract as shown on Durham County Plat Book 28, Page 2 South 02 degs. 53' West 990.8 feet to the southwest corner of said 16.68 acre tract; thence continuing along the western property line of a 29.61 acre tract, Deed Book 127, Page 174, in a southerly direction approximately 1750 feet to a point on the B. Everett Jordan Dam and Lake Project, as shown on the U.S. Army Corps of Engineers Project Map, Segment "19", said point being located between stations 760 and 761; thence along the B. Everett Jordan Project western property line South 83 degs. 36' 04.9" West approximately 550 feet to a monument, station 760; thence South 30 degs. 01' 55" West 541.81 feet to a monument, station 733; thence continuing from station 733 to station 725 the following bearings and distances: South 48 degs. 59' 30.7" East 688.205 feet, South 42 degs. 04' 46.9" West 571.726 feet, South 14 degs. 03' 02.1" West 754.229 feet, South 20 degs. 41' 18.4" West 719.949 feet, South 43 degs. 14' 14.7" West 638.742 feet, South 70 degs. 55' 24.2" East 1,124.828 feet, South 47 degs. 23' 20.1" East 385.243 feet, South 87 degs. 51' 49.7" East 464.031 feet; thence continuing with said property line in a southwesterly direction to the northern right-of-way of N.C. 54; thence along the northern right-of-way line of N.C. 54 in a westerly direction to a point on said right-of-way, said point being a projection of the eastern property line of Sherwood Forest Subdivision as shown on Durham County Plat Book 30, Page 49; thence across N.C. 54 to a point on the southern right-of-way, the northeast corner of said subdivision; thence along the eastern property line of said subdivision South 02 degs. 45' West approximately 579 feet; thence along said line South 06 degs. 18' West approximately 788 feet to the southeast corner of said subdivision; thence along the southern property line of said subdivision South 78 degs. 43' West approximately 389 feet to the southwest corner of Sherwood Forest Subdivision; thence continuing in a westerly direction along the southern property line of Lots 28, 12, 23 and 24, Block 5, Durham County Tax Map 491 approximately 1650 feet to a point on the eastern right-of-way of Barbee Chapel Road; thence along the eastern right-of-way of Barbee Chapel Road in a southeasterly direction approximately 2100 feet to a point on the northeastern right-of-way, said point being a projection of eastern property line of the University of North Carolina Mason Farm property; thence across Barbee Chapel Road South 01 degs. 55" East approximately 70 feet to the southwestern right-of-way of said road, the northeast corner of the University of North Carolina Mason Farm property; thence along said eastern property line South 01 degs. 55' East 2036.72 feet to the southeast corner of said property; thence along the southern property line of said property South 88 degs. 20' West approximately 790 feet to a point where the Mason Farm property line intersects the property line of the B. Everett Jordan Dam and Lake Project, as shown on the U.S. Army Corps of Engineers Project Map, segment "18"; thence along said property line South 18 degs. 13' 51.9" East approximately 35 feet to station 593; thence continuing from station 593 to station 612 the following bearings and distances: South 25 degs. 13' 20.5" West 628.157 feet, South 25 degs. 37' 16.4" East 861.188 feet, South 24 degs 05' 45.5" West 1760.320 feet, South 08 degs. 51'

38.4" West 1094.710 feet, South 85 degs. 59' 59.6" East 474.352 feet, South 61 degs. 23' 46.3" West 993.702 feet, South 17 degs. 13' 41.0" West 377.241 feet, South 73 degs. 55' 29.3" East 264.451 feet, South 01 degs. 09' 49.3" East 688.853 feet, South 47 degs. 08' 23.7" West 410.232 feet, South 70 degs. 00' 43.3" East 398.486 feet, North 46 degs. 10' 16.2" East 423.521 feet, South 02 degs. 16' 57.8" West 1101.648 feet, South 56 degs. 36' 55.4" East 652.068 feet, South 00 degs. 37' 35.9" West 233.201 feet, North 69 degs. 12' 24.0" East 1315.976 feet, North 48 degs. 27' 28.7" East 673.841 feet, South 03 degs. 17' 26.7" East 409.549 feet, South 38 degs. 41' 45.9" West 1041.911 feet; thence continuing with said property line South 16 degs. 35' 17.7" East approximately 600 feet to a point where the B. Everett Jordan Lake property line intersects the Durham-Chatham County line, said point being located approximately 4900 feet east of the southeast corner of Orange County.

DURHAM



1 8 6 9
CITY OF MEDICINE

City of Durham
North Carolina



City Clerk
Office of Records Management
101 City Hall Plaza
Durham, NC 27701

(919) 560-4166

SUBJECT: TECHNICAL AMENDMENTS TO LEGAL DESCRIPTION IN RESOLUTION CONCERNING CHAPEL HILL/DURHAM CONSENT JUDGMENT

MOTION by Council Member Lloyd seconded by Council Member Griffin to adopt "A Resolution Authorizing Technical Amendments in the Legal Description of Resolution #7958 Concerning the Consent Order in Town of Chapel Hill V. City of Durham, 85 CVS 3108" was approved at 7:43 p.m. by the following vote: Ayes: Mayor Kerckhoff and Council Members Clement, Engelhard, Griffin, Hyman, Larson, Lloyd, London, Ogburn, Seibel and Wright. Noes: None. Absent: Council Members McKissick and Robinson.

**NORTH CAROLINA
DURHAM COUNTY**

I, D. Ann Gray, duly appointed Deputy City Clerk of the City of Durham, North Carolina, do hereby certify that the above action was taken by the Durham City Council at their regular meeting held on Monday, August 15, 1994, which is on file [Resolution #7979] in the Office of the City Clerk at City Hall.

WITNESS my hand and the corporate seal of the City of Durham, North Carolina, this the 18th day of August, 1994.

D. Ann Gray
Deputy City Clerk



An Equal Opportunity
Affirmative Action Employer

A RESOLUTION AUTHORIZING TECHNICAL AMENDMENTS IN THE LEGAL DESCRIPTION OF RESOLUTION #7958 CONCERNING THE CONSENT ORDER IN TOWN OF CHAPEL HILL V. CITY OF DURHAM, 85 CVS 8108

BE IT RESOLVED that the Durham City Council hereby approves the attached minor technical changes to the metes and bounds description, Attachment C, in Resolution #7958 concerning the consent order in *Town of Chapel Hill v. City of Durham*.

BE IT FURTHER RESOLVED that the attached legal description entitled "8/15/94 Technical Amendments in Legal Description to Resolution #7958" supercedes and is substituted for the legal description contained in Exhibit C to Resolution #7958.

This the 15th day of August, 1994.

APPROVED BY
CITY COUNCIL

AUG 15 1994

Margaret M. Bowles
CITY CLERK

8/15/94 TECHNICAL AMENDMENTS IN LEGAL DESCRIPTION TO RESOLUTION #7958
 Exhibit "C" to Amendment
 to Consent Order

BEGINNING at a point on the Orange-Durham County line where the line intersects the southern right of way of Cornwallis Road; running thence along the Orange-Durham County line in a southerly direction to the intersection of the Orange-Durham County line and the southern line of Mt. Sinai Church Road, a point in the northern line of the property of Advocare, Inc. as described in Deed Book 1006, Page 160, Orange County Registry, thence along the northern line of the property of AdvoCare, Inc. to its northwestern corner; thence along the western line of said property, South 12 degs. 15' West 336 feet to AdvoCare, Inc.'s southwest corner, thence along AdvoCare's southern line to its intersection with the Orange-Durham County line. thence continuing in a generally southerly direction to the intersection of the Orange-Durham County line in the southern right of way of I-40; thence along the southern right of way of I-40 in a southeasterly direction approximately 2,800 feet to the intersection of the southern right of way of I-40 and the western right-of-way of Pope Road; thence along the western right of way of Pope Road and the northern right of way of Ephesus Church Road in a southerly direction approximately 6,000 feet to a point in the northern right-of-way of Ephesus Church Road, said point being a projection of the eastern property line of tract 2 of the DuBose property as shown on the plat "Survey of David St. Pierre DuBose, Jr." dated February 12, 1986, Durham County Plat Book 110, Page 159; thence across Ephesus Church Road south 1 deg. 8' 10" West approximately 60 feet to a point in the southern right of way of Ephesus Church Road, the northeast corner of the said DuBose tract; thence along said property line South 1 deg. 8' 10" West 1,028.19 feet to a concrete monument (N.C.G.S. 792.453.51: 1,999,494,93) located in the northern line of Lot 13, Block A, Oaks III Subdivision according to the plat recorded at Plat Book 117, Page 116, Durham County Registry; along the northern lines of Lot 13, Block A Oaks III and Lots 15 and 16, Block A, Oaks III according to Plat Book 115, Page 147, Durham County Registry North 88 degs. 3' 31" East 457.4 feet to the northeast corner of Lot 16, Block A, Oaks III; thence running with the eastern line of Lot 16, Block A, Oaks III along the arc of a curve having a chord bearing and distance of South 5 degs. 59' 28" East 306.02 feet and an arc distance of 306.25 feet to a point in the eastern line of Lot 1, Block B, Oaks III according to the Plat Book 115, Page 147, Durham County Registry; thence along the eastern line of Lot 1, South 10 degs. 1' 45" East 103.77 feet to the northeastern corner of Lot 3, Block B, Oaks III Subdivision; thence along the arc of a curve having a chord bearing and distance of South 5 degs. 22' 14" East 290.89 feet and an arc distance of 291.21 feet to a point in the eastern line of Lot 4, Oaks III Subdivision; thence South 00 degs. 42' 43" East 46.48 feet to a point, the southeastern corner of Lot 4, Block B, Oaks III, the northwest corner of the Specia Moore, Sr. lot; thence along DuBose's eastern property line South 00 degs. 46' 54" East 313.74 feet, South 00 degs. 34' 56" East 520.39 feet, and South 00 degs. 38' 45" East 345.34 feet to an iron pin, the southwest corner of the Elvic King lot; thence along the western property line of a 16.68 acre tract as shown on Durham County Plat Book 28, Page 2 South 02 degs. 53' West 990.8 feet to the southwest corner of said 16.68 acre tract; thence continuing along the western property line of a 29.61 acre tract, Deed Book 127, Page 174, in a southerly direction approximately 1750 feet to a point on the B. Everett Jordan Dam and Lake Project, as shown on the U.S. Army Corps of Engineers Project Map, Segment "19", said point being located between stations 760 and 761; thence along the B. Everett Jordan Project western

property line South 83 degs. 36' 04.9" West approximately 550 feet to a monument, station 760; thence South 30 degs. 01' 55" West 541.81 feet to a monument, station 733; thence continuing from station 733 to station 725 the following bearings and distances: South 48 degs. 59' 30.7" East 688.205 feet, South 42 degs. 04' 46.9" West 571.726 feet, South 14 degs. 03' 02.1" West 754.229 feet, South 20 degs. 41' 18.4" West 719.949 feet, South 43 degs. 14' 14.7" West 638.742 feet, South 70 degs. 55' 24.2" East 1,124.828 feet, South 47 degs. 23' 20.1" East 385.243 feet, South 87 degs. 51' 49.7" East 464.031 feet; thence continuing with said property line in a southwesterly direction to the northern right-of-way of N.C. 54; thence along the northern right-of-way line of N.C. 54 in a westerly direction to a point on said right-of-way, said point being a projection of the eastern property line of Sherwood Forest Subdivision as shown on Durham County Plat Book 30, Page 49; thence across N.C. 54 to a point on the southern right-of-way, the northeast corner of said subdivision; thence along the eastern property line of said subdivision South 02 degs. 45' West approximately 579 feet; thence along said line South 06 degs. 18' West approximately 788 feet to the southeast corner of said subdivision; thence along the southern property line of said subdivision South 78 degs. 43' West approximately 389 feet to the southwest corner of Sherwood Forest Subdivision; thence continuing in a westerly direction along the southern property line of Lots 28, 12, 23 and 24, Block 5, Durham County Tax Map 491 approximately 1650 feet to a point on the eastern right-of-way of Barbee Chapel Road; thence along the eastern right-of-way of Barbee Chapel Road in a southeasterly direction approximately 2100 feet to a point on the northeastern right-of-way, said point being a projection of eastern property line of the University of North Carolina Mason Farm property; thence across Barbee Chapel Road South 01 degs. 55" East approximately 70 feet to the southwestern right-of-way of said road, the northeast corner of the University of North Carolina Mason Farm property; thence along said eastern property line South 01 degs. 55' East 2036.72 feet to the southeast corner of said property; thence along the southern property line of said property South 88 degs. 20' West approximately 790 feet to a point where the Mason Farm property line intersects the property line of the B. Everett Jordan Dam and Lake Project, as shown on the U.S. Army Corps of Engineers Project Map, segment "18"; thence along said property line South 18 degs. 13' 51.9" East approximately 35 feet to station 593; thence continuing from station 593 to station 612 the following bearings and distances: South 25 degs. 13' 20.5" West 628.157 feet, South 25 degs. 37' 16.4" East 861.188 feet, South 24 degs. 05' 45.5" West 1760.320 feet, South 08 degs. 51' 38.4" West 1094.710 feet, South 85 degs. 59' 59.6" East 474.352 feet, South 61 degs. 23' 46.3" West 993.702 feet, South 17 degs. 13' 41.0" West 377.241 feet, South 73 degs. 55' 29.3" East 264.451 feet, South 01 degs. 09' 49.3" East 688.853 feet, South 47 degs. 08' 23.7" West 410.232 feet, South 70 degs. 00' 43.3" East 398.486 feet, North 46 degs. 10' 16.2" East 423.521 feet, South 02 degs. 16' 57.8" West 1101.648 feet, South 56 degs. 36' 55.4" East 652.068 feet, South 00 degs. 37' 35.9" West 233.201 feet, North 69 degs. 12' 24.0" East 1315.976 feet, North 48 degs. 27' 28.7" East 673.841 feet, South 03 degs. 17' 26.7" East 409.549 feet, South 38 degs. 41' 45.9" West 1041.911 feet; thence continuing with said property line South 16 degs. 35' 17.7" East approximately 600 feet to a point where the B. Everett Jordan Lake property line intersects the Durham-Chatham County line, said point being located approximately 4900 feet east of the southeast corner of Orange County.

Exhibit "C" to Amendment
to Consent Order

BEGINNING at a point on the Orange-Durham County line where the line intersects the southern right of way of Cornwallis Road; running thence along the Orange-Durham County line in a southerly direction to the intersection of the Orange-Durham County line and the southern line of Mt. Sinai Church Road, a point in the northern line of the property of AdvoCare, Inc. as described in Deed Book 1006, Page 160, Orange County Registry, thence along the northern line of the property of AdvoCare, Inc. to its northwestern corner; thence along the western line of said property, South 12 degs. 15' West 336 feet to AdvoCare, Inc.'s southwest corner, thence along AdvoCare's southern line to its intersection with the Orange-Durham County line; thence continuing in a generally southerly direction to the intersection of the Orange-Durham County line in the southern right of way of I-40; thence along the southern right of way of I-40 in a southeasterly direction approximately 2,800 feet to the intersection of the southern right of way of I-40 and the western right-of-way of Pope Road; thence along the western right of way of Pope Road and the northern right of way of Ephesus Church Road in a southerly direction approximately 6,000 feet to a point in the northern right-of-way of Ephesus Church Road, said point being a projection of the eastern property line of tract 2 of the DuBose property as shown on the plat "Survey of David St. Pierre DuBose, Jr." dated February 12, 1986, Durham County Plat Book 110, Page 159; thence across Ephesus Church Road south 1 deg. 8' 10" West approximately 60 feet to a point in the southern right of way of Ephesus Church Road, the northeast corner of the said DuBose tract; thence along said property line South 1 deg. 8' 10" West 1,028.19 feet to a concrete monument. (N.C.G.S. 792.453.51: 1,999.494.93) located in the northern line of Lot 13, Block A, Oaks III Subdivision according to the plat recorded at Plat Book 117, Page 116, Durham County Registry; along the northern lines of Lot 13, Block A Oaks III and Lots 15 and 16, Block A, Oaks III according to Plat Book 115, Page 147, Durham County Registry North 88 degs. 3' 31" East 457.4 feet to the northeast corner of Lot 16, Block A, Oaks III; thence running with the eastern line of Lot 16, Block A, Oaks III along the arc of a curve having a chord bearing and distance of South 5 degs. 59' 28" East 306.02 feet and an arc distance of 306.25 feet to a point in the eastern line of Lot 1, Block B, Oaks III according to the Plat Book 115, Page 147, Durham County Registry; thence along the eastern line of Lot 1, South 10 degs. 1' 45" East 103.77 feet to the northeastern corner of Lot 3, Block B, Oaks III Subdivision; thence along the arc of a curve having a chord bearing and distance of South 5 degs. 22' 14" East 290.89 feet and an arc distance of 291.21 feet to a point in the eastern line of Lot 4, Oaks III Subdivision; thence South 00 degs. 42' 43" East 46.48 feet to a point, the southeastern corner of Lot 4, Block B, Oaks III, the northwest corner of the Specia Moore, Sr. lot; thence along DuBose's eastern property line South 00 degs. 46' 54" East 313.74 feet, South 00 degs. 34' 56" East 520.39 feet, and South 00 degs. 38' 45" East 345.34 feet to an iron pin, the southwest corner of the Elvie King lot; thence along the western property line of a 16.68 acre tract as shown on Durham County Plat Book 28, Page 2 South 02 degs. 53' West 990.8 feet to the southwest corner of said 16.68 acre tract; thence continuing along the western property line of a 29.61 acre tract, Deed Book 127, Page 174, in a southerly direction approximately 1750 feet to a point on the B. Everett Jordan Dam and Lake Project, as shown on the U.S. Army Corps of Engineers Project Map, Segment "19", said point being located between stations 760 and 761; thence along the B. Everett Jordan Project western

property line South 83 degs. 36' 04.9" West approximately 550 feet to a monument, station 760; thence South 30 degs. 01' 55" West 541.81 feet to a monument, station 733; thence continuing from station 733 to station 725 the following bearings and distances: South 48 degs. 59' 30.7" East 688.205 feet, South 42 degs. 04' 46.9" West 571.726 feet, South 14 degs. 03' 02.1" West 754.229 feet, South 20 degs. 41' 18.4" West 719.949 feet, South 43 degs. 14' 14.7" West 638.742 feet, South 70 degs. 55' 24.2" East 1,124.828 feet, South 47 degs. 23' 20.1" East 385.243 feet, South 87 degs. 51' 49.7" East 464.031 feet; thence continuing with said property line in a southwesterly direction to the northern right-of-way of N.C. 54; thence along the northern right-of-way line of N.C. 54 in a westerly direction to a point on said right-of-way, said point being a projection of the eastern property line of Sherwood Forest Subdivision as shown on Durham County Plat Book 30, Page 49; thence across N.C. 54 to a point on the southern right-of-way, the northeast corner of said subdivision; thence along the eastern property line of said subdivision South 02 degs. 45' West approximately 579 feet; thence along said line South 06 degs. 18' West approximately 788 feet to the southeast corner of said subdivision; thence along the southern property line of said subdivision South 78 degs. 43' West approximately 389 feet to the southwest corner of Sherwood Forest Subdivision; thence continuing in a westerly direction along the southern property line of Lots 28, 12, 23 and 24, Block 5, Durham County Tax Map 491 approximately 1650 feet to a point on the eastern right-of-way of Barbee Chapel Road; thence along the eastern right-of-way of Barbee Chapel Road in a southeasterly direction approximately 2100 feet to a point on the northeastern right-of-way, said point being a projection of eastern property line of the University of North Carolina Mason Farm property; thence across Barbee Chapel Road South 01 degs. 55" East approximately 70 feet to the southwestern right-of-way of said road, the northeast corner of the University of North Carolina Mason Farm property; thence along said eastern property line South 01 degs. 55' East 2036.72 feet to the southeast corner of said property; thence along the southern property line of said property South 88 degs. 20' West approximately 790 feet to a point where the Mason Farm property line intersects the property line of the B. Everett Jordan Dam and Lake Project, as shown on the U.S. Army Corps of Engineers Project Map, segment "18"; thence along said property line South 18 degs. 13' 51.9" East approximately 35 feet to station 593; thence continuing from station 593 to station 612 the following bearings and distances: South 25 degs. 13' 20.5" West 628.157 feet, South 25 degs. 37' 16.4" East 861.188 feet, South 24 degs 05' 45.5" West 1760.320 feet, South 08 degs. 51' 38.4" West 1094.710 feet, South 85 degs. 59' 59.6" East 474.352 feet, South 61 degs. 23' 46.3" West 993.702 feet, South 17 degs. 13' 41.0" West 377.241 feet, South 73 degs. 55' 29.3" East 264.451 feet, South 01 degs. 09' 49.3" East 688.853 feet, South 47 degs. 08' 23.7" West 410.232 feet, South 70 degs. 00' 43.3" East 398.486 feet, North 46 degs. 10' 16.2" East 423.521 feet, South 02 degs. 16' 57.8" West 1101.648 feet, South 56 degs. 36' 55.4" East 652.068 feet, South 00 degs. 37' 35.9" West 233.201 feet, North 69 degs. 12' 24.0" East 1315.976 feet, North 48 degs. 27' 28.7" East 673.841 feet, South 03 degs. 17' 26.7" East 409.549 feet, South 38 degs. 41' 45.9" West 1041.911 feet; thence continuing with said property line South 16 degs. 35' 17.7" East approximately 600 feet to a point where the B. Everett Jordan Lake property line intersects the Durham-Chatham County line, said point being located approximately 4900 feet east of the southeast corner of Orange County.

Original Consent Judgment
ATTACHMENT 4

NORTH CAROLINA

DURHAM COUNTY

TOWN OF CHAPEL HILL,

PLAINTIFFS

v.

CITY OF DURHAM,

DEFENDANT

FILED IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
1986 NOV -6 P.M. FILE NO. 85 CVS 03108
DURHAM, N.C.

[Handwritten Signature]

CONSENT JUDGMENT

This cause being heard before the undersigned Presiding Judge of Civil Superior Court, Durham County, who, having determined that the Court has jurisdiction over the parties and the subject matter of this civil action, and upon representation of Counsel for Plaintiff and Counsel for Defendant that all matters in controversy have been settled and that the Parties consent to the entry of this Judgment, finds as follows:

1.

That on March 18, 1985, the Durham City Council adopted a resolution identifying approximately 14 square miles as under consideration for annexation by the City of Durham.

2.

That on April 1, 1985, the Council of the Town of Chapel Hill adopted a resolution identifying some of the same areas identified by the Durham City Council on March 18, 1985, plus additional areas not identified by the Durham City Council as under consideration for annexation by the Town of Chapel Hill.

3.

That after April 1, 1985, the City of Durham received an annexation petition from owners of some of the properties included in the April 1, 1985 resolution adopted by the Chapel Hill Town Council.

4.

That on November 4, 1985, the Durham City Council adopted a resolution of intent to annex territory that included some of the properties identified by both Durham and Chapel Hill in their respective resolutions of consideration of March 18, 1985 and April 1, 1985, such annexation to be effective at least one year after the adoption of the annexation ordinance by the Durham City Council.

5.

That on November 4, 1985, the Durham City Council also adopted a resolution setting a public hearing concerning the annexation of the area from which the petition from property owners had been received as described in paragraph (3) above; and thereafter the Durham City Council held such public hearing on November 18, 1985 and annexed this area in Ordinance #6820, effective November 30, 1985.

6.

That the Plaintiff and Defendant have each taken other procedural annexation steps which conflict with the immediate and long-range annexation goals of the other.

7.

That by a vote of 8-0 the Chapel Hill Town Council on July 14, 1986, adopted the resolution identified as Exhibit A attached hereto.

8.

That by a vote of 13-0 the Durham City Council on July 14, 1986, adopted the resolution identified as Exhibit B attached hereto.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, by consent of the Parties, as follows:

1. That there is hereby established a line as is approximately represented on the map in Exhibit C attached hereto and incorporated herein and as is more particularly described in Exhibit D attached hereto and incorporated herein.

2. That absent agreement by the two parties the Town of Chapel Hill will not extend its corporate limits, now located generally west and south of this line, to the east and north of the line and the City of Durham will not extend its corporate limits, now located generally east and north of this line, to the west and south of the line.

3. That across this line, absent agreement by the two parties, neither municipality

(a) will accept or process any petition for annexation of any land; or

(b) will initiate or process any unilateral annexation of any land; or

(c) will take any other steps to annex any land.

4. That any actions taken in the past or future by either municipality to annex territory consistent with this line will not be challenged or interfered with by the other municipality.

5. That as part of this agreement, this lawsuit, Town of Chapel Hill vs. City of Durham, #85 CVS 3108, is dismissed with prejudice to the Plaintiff without any final judicial determination as to the merits of the legal issues raised.

6. That the findings and intent of the governing boards of the Parties as expressed in Exhibits A and B, absent the map referenced therein, are incorporated by reference and by consent made a part of this Judgment.

This the 6 day of November, 1986.

Robert H. Holcomb
Judge Presiding

APPROVED AND CONSENTED TO:

Plaintiff, Town of Chapel Hill

By Ralph D. Karpinos
Attorney for Plaintiff
Town Attorney

David R. Jugh
Town Manager

Defendant, City of Durham

By W. S. Doughty
Attorney for Defendant
City of Durham

W. W. Powell
City Manager

NORTH CAROLINA
DURHAM COUNTY

FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

1986 NOV -6 PM 1:58 FILE NO. 85 CVS 03108

TOWN OF CHAPEL HILL,)
PLAINTIFF)
v.)
CITY OF DURHAM,)
DEFENDANT)

DURHAM COUNTY, C.S.C.

CONSENT JUDGMENT

This cause being heard before the undersigned Presiding Judge of Civil Superior Court, Durham County, who, having determined that the Court has jurisdiction over the parties and the subject matter of this civil action, and upon representation of Counsel for Plaintiff and Counsel for Defendant that all matters in controversy have been settled and that the Parties consent to the entry of this Judgment, finds as follows:

1.

That on March 18, 1985, the Durham City Council adopted a resolution identifying approximately 14 square miles as under consideration for annexation by the City of Durham.

2.

That on April 1, 1985, the Council of the Town of Chapel Hill adopted a resolution identifying some of the same areas identified by the Durham City Council on March 18, 1985, plus additional areas not identified by the Durham City Council as under consideration for annexation by the Town of Chapel Hill.

3.

That after April 1, 1985, the City of Durham received an annexation petition from owners of some of the properties included in the April 1, 1985 resolution adopted by the Chapel Hill Town Council.

4.

That on November 4, 1985, the Durham City Council adopted a resolution of intent to annex territory that included some of the properties identified by both Durham and Chapel Hill in their respective resolutions of consideration of March 18, 1985 and April 1, 1985, such annexation to be effective at least one year after the adoption of the annexation ordinance by the Durham City Council.

5.

That on November 4, 1985, the Durham City Council also adopted a resolution setting a public hearing concerning the annexation of the area from which the petition from property owners had been received as described in paragraph (3) above; and thereafter the Durham City Council held such public hearing on November 18, 1985 and annexed this area in Ordinance #6820, effective November 30, 1985.

6.

That the Plaintiff and Defendant have each taken other procedural annexation steps which conflict with the immediate and long-range annexation goals of the other.

7.

That by a vote of 8-0 the Chapel Hill Town Council on July 14, 1986, adopted the resolution identified as Exhibit A attached hereto.

8.

That by a vote of 13-0 the Durham City Council on July 14, 1986, adopted the resolution identified as Exhibit B attached hereto.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, by consent of the Parties, as follows:

1. That there is hereby established a line as is approximately represented on the map in Exhibit C attached hereto and incorporated herein and as is more particularly described in Exhibit D attached hereto and incorporated herein.

2. That absent agreement by the two parties the Town of Chapel Hill will not extend its corporate limits, now located generally west and south of this line, to the east and north of the line and the City of Durham will not extend its corporate limits, now located generally east and north of this line, to the west and south of the line.

3. That across this line, absent agreement by the two parties, neither municipality

(a) will accept or process any petition for annexation of any land; or

(b) will initiate or process any unilateral annexation of any land; or

(c) will take any other steps to annex any land.

4. That any actions taken in the past or future by either municipality to annex territory consistent with this line will not be challenged or interfered with by the other municipality.

5. That as part of this agreement, this lawsuit, Town of Chapel Hill vs. City of Durham, #85 CVS 3108, is dismissed with prejudice to the Plaintiff without any final judicial determination as to the merits of the legal issues raised.

6. That the findings and intent of the governing boards of the Parties as expressed in Exhibits A and B, absent the map referenced therein, are incorporated by reference and by consent made a part of this Judgment.

This the 6 day of November, 1986.

Robert N. Notzrod
Judge Presiding

APPROVED AND CONSENTED TO:

Plaintiff, Town of Chapel Hill

By Ralph D. Karpinos
Attorney for Plaintiff
Town Attorney

David R. Taylor
Town Manager

Defendant, City of Durham

By W.S. Doughton Jr.
Attorney for Defendant
City of Durham

W. W. Powell
City Manager

RESOLUTION AUTHORIZING THE SETTLEMENT OF THE LAWSUIT TOWN OF CHAPEL HILL v. CITY OF DURHAM 85CVS3108 (DURHAM COUNTY) AND APPROVING A LINE REPRESENTING THE LIMITS FOR FUTURE ANNEXATIONS BY THE MUNICIPALITIES OF CHAPEL HILL AND DURHAM (86-7-14/R-23)

WHEREAS, there exists a dispute between the City of Durham and Town of Chapel Hill over annexation of areas between the two municipalities; and

WHEREAS, a lawsuit, Town of Chapel Hill v. City of Durham 85CVS3108 (Durham County), was initiated challenging the validity of certain annexation actions taken by the City of Durham; and

WHEREAS, the City of Durham and Town of Chapel Hill have each taken other procedural annexation steps which conflict with immediate annexation steps and long-range annexation goals of the other; and

WHEREAS, substantial unresolved legal questions remain in the pending lawsuit; and

WHEREAS, the City of Durham and Town of Chapel Hill, through their respective governing bodies, believe it is proper and in the best interests of the municipalities, their citizens, and the urbanizing areas between the two municipalities to resolve their dispute and differences in these areas by consent and agreement rather than continuing litigation and to proceed to resolve regional concerns in a spirit of cooperation; and

WHEREAS, resolution of this conflict by consent and agreement will allow owners and purchasers of land in urbanizing areas between the two municipalities to know where to look for future urban services; and

WHEREAS, resolution of this conflict will aid long-range planning efforts of the two municipalities as the unincorporated areas urbanize or otherwise become eligible for annexation to one or both municipalities;

NOW, THEREFORE, BE IT RESOLVED by the Council of the Town of Chapel Hill that the Council hereby authorizes the settlement of the pending lawsuit between the Town of Chapel Hill and City of Durham by the execution of a Consent Judgment to include the following items:

- 1) That the line shown on the map attached hereto be established as being the line across which neither municipality
 - a) will accept or process any petition for annexation of any land; or
 - b) will initiate or process any unilateral annexation of any land; or
 - c) will take any other steps to annex any land.

It is the clear and express intent of the Town of Chapel Hill by adopting this resolution and authorizing the Consent Judgment, that the corporate limits of the Town of Chapel Hill, now located

generally west and south of this line, will not cross the line to the east and north and that the corporate limits of the City of Durham, now located generally east and north of of this line, will not cross the line to the west and south;

- 2) That any actions taken in the past or future by either municipality to annex territory consistent with this line will not be challenged or interfered with by the other municipality.

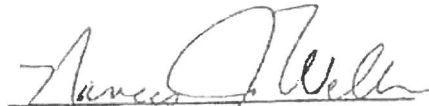
BE IT FURTHER RESOLVED that it is the express intent of the Council of the Town of Chapel Hill that the adoption of a resolution in accordance with these terms by the Councils of Durham and Chapel Hill and settlement of the pending lawsuit in accordance with these terms shall constitute a binding agreement between the Town of Chapel Hill and City of Durham regarding future annexations by both municipalities.

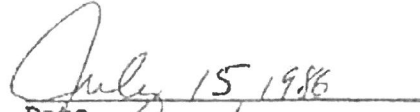
BE IT FURTHER RESOLVED that the Council hereby authorizes and directs the Manager and Attorney to sign a Consent Judgment in the pending lawsuit to carry out the terms of this resolution.

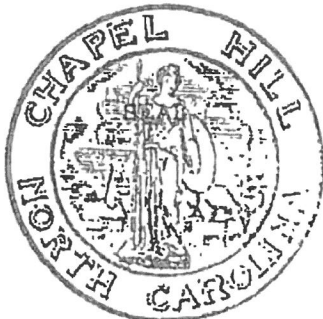
BE IT FURTHER RESOLVED that this resolution by the Council of the Town of Chapel Hill is contingent upon adoption of a substantially identical resolution by the Council of the City of Durham by July 22, 1986.

This is the 14th day of July, 1986.

I hereby certify that this is a true and correct copy of Resolution 86-7-14/R-23 as adopted by the Mayor and Council of the Town of Chapel Hill on the 14th day of July, 1986.


Nancy J. Wells
Town Clerk


Date



RESOLUTION AUTHORIZING THE SETTLEMENT OF THE LAWSUIT
TOWN OF CHAPEL HILL v. CITY OF DURHAM 85 CVS 3108 (DURHAM
COUNTY) AND APPROVING A LINE REPRESENTING THE LIMITS FOR
FUTURE ANNEXATIONS BY THE CITY OF DURHAM AND TOWN OF
CHAPEL HILL.

WHEREAS, there exists a dispute between the City of Durham and Town of Chapel Hill over annexation of areas between the two municipalities; and

WHEREAS, a lawsuit, Town of Chapel Hill v. City of Durham '85 CVS 3108 (Durham County), was initiated challenging the validity of certain annexation actions taken by the City of Durham; and

WHEREAS, the City of Durham and Town of Chapel Hill have each taken other procedural annexation steps which conflict with immediate annexation steps and long-range annexation goals of the other; and

WHEREAS, substantial unresolved legal questions remain in the pending lawsuit; and

WHEREAS, the City of Durham and Town of Chapel Hill, through their respective governing bodies, believe it is proper and in the best interests of the municipalities, their citizens, and the urbanizing areas between the two municipalities to resolve their dispute and differences in these areas by consent and agreement rather than continuing litigation and to proceed to resolve regional concerns in a spirit of cooperation; and

WHEREAS, resolution of this conflict by consent and agreement will allow owners and purchasers of land in urbanizing areas between the two municipalities to know where to look for future urban services; and

WHEREAS, resolution of this conflict will aid long-range planning efforts of the two municipalities as the unincorporated areas urbanize or otherwise become eligible for annexation to one or both municipalities;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Durham that the Council hereby authorizes the settlement of the pending lawsuit between the Town of Chapel Hill and City of Durham by the execution of a Consent Judgment to include the following items:

- (1) That the line shown on the map attached hereto be established as being the line across which neither municipality
 - (a) will accept or process any petition for annexation of any land; or

(b) will initiate or process any unilateral annexation of any land; or

(c) will take any other steps to annex any land.

It is the clear and express intent of the City of Durham by adopting this resolution and authorizing the Consent Judgment, that the corporate limits of the City of Durham, now located generally east and north of this line, will not cross the line to the west and south and that the corporate limits of the Town of Chapel Hill, now located generally west and south of this line, will not cross the line to the east and north.

(2) That any actions taken in the past or future by either municipality to annex territory consistent with this line will not be challenged or interfered with by the other municipality.

BE IT FURTHER RESOLVED that it is the express intent of the City Council of the City of Durham that the adoption of a resolution in accordance with these terms by the Councils of the City of Durham and Town of Chapel Hill and settlement of the pending lawsuit in accordance with these terms shall constitute a binding agreement between the Town of Chapel Hill and City of Durham regarding future annexations by both municipalities.

BE IT FURTHER RESOLVED that the City Council hereby authorizes and directs the City Manager and City Attorney to sign a Consent Judgment in the pending lawsuit to carry out the terms of this resolution.

BE IT FURTHER RESOLVED that this resolution by the City Council of the City of Durham is contingent upon adoption of a substantially identical resolution by the Council of the Town of Chapel Hill by July 22, 1986.

This the 14th day of July, 1986.

NORTH CAROLINA
DURHAM COUNTY

I, Margaret M. Bowers, duly appointed City Clerk of the City of Durham, do hereby certify that the above Resolution was adopted by the City Council of the City of Durham at a Special Meeting of July 14, 1986, and is on file in the office of the City Clerk at City Hall.

WITNESS my hand and the Corporate Seal of the City of Durham, this the 5th day of November, 1986.

Margaret M. Bowers
Margaret M. Bowers, CMC
City Clerk



PROPOSED LONG RANGE ANNEXATION BOUNDARY

Exhibit D

DURHAM AND CHAPEL HILL

BEGINNING at a point on the Orange-Durham County line where said line intersects the southern right-of-way of Cornwallis Road; running thence along the Orange-Durham County line in a southerly direction approximately 21,500 feet to the intersection of the Orange-Durham County line and the southern right-of-way of I-40; thence along the southern right-of-way of I-40 in a southeasterly direction approximately 2800 feet to the intersection of the southern right-of-way of I-40 and the western right-of-way of Pope Road; thence along the western right-of-way of Pope Road and the northern right-of-way of Ephesus Church Road in a southerly direction approximately 6000 feet to a point on the northern right-of-way of Ephesus Church Road, said point being a projection of the eastern property line of Tract 2 of the DuBose Property as shown on the plat "Survey of David St. Pierre DuBose, Jr." dated February 12, 1986, Durham County Plat Book 110, Page 159; thence across Ephesus Church Road S 01-08-10 W approximately 60 feet to a point on the southern right-of-way of Ephesus Church Road, the northeast corner of said DuBose tract; thence along said property line S 01-08-10 W 1028.19 feet to a concrete monument; thence along the western property line of a 29-acre tract as shown on Durham County Plat Book 37, Page 45 S 05-00-00 W 714 feet to a monument; thence along the southern property line of said 29-acre tract S 84-05 E 543 feet to an iron pin, as shown on said Plat Book 110-158, the northwest corner of the Specia Moore, Sr. lot; thence along DuBose's eastern property line S 00-46-54 E 313.74 feet, S 00-34-56 E 520.39 feet, and S 00-38-45 E 345.34 feet to an iron pin, the southwest corner of the Elvie King lot; thence along the western property line of a 16.68-acre tract as shown on Durham County Plat Book 28-02 S 02-53 W 990.8 feet to the southwest corner of said 16.68-acre tract; thence continuing along the western property line of a 29.61-acre tract, Deed Book 127, Page 174, in a southerly direction approximately 1750 feet to a point on the B. Everett Jordan Dam and Lake Project, as shown on the U. S. Army Corps of Engineers Project Map, Segment "19", said point being located between stations 760 and 761; thence along the B. Everett Jordan Project western property line S 83-36-04.9 W approximately 550 feet to a monument, station 760; thence S 30-01-55 W 541.81 feet to a monument, station 733; thence continuing from station 733 to station 725 the following bearings and distances: S 48-59-30.7 E 688.205, S 42-04-46.9 W 571.726, S 14-03-02.1 W 754.229, S 20-41-18.4 W 719.949, S 43-14-14.7 W 638.742, S 70-55-24.2 E 1124.828, S 47-23-20.1 E 385.243, S 87-51-49.7 E 464.031; thence continuing with said property line in a southwesterly direction to the northern right-of-way of N.C. 54; thence along the northern right-of-way line of N.C. 54 in a westerly direction to a point on said right-of-way, said point being a projection of the eastern property line of Sherwood Forest Subdivision as shown on Durham County Plat Book 30, Page 49; thence across N.C. 54 to a point on the southern right-of-way, the northeast corner of said subdivision; thence along the eastern property line of said

subdivision S 02-45 W approximately 579 feet; thence along said line S 06-18 W approximately 788 feet to the southeast corner of said subdivision; thence along the southern property line of said subdivision S 78-43 W approximately 389 feet to the southwest corner of Sherwood Forest Subdivision; thence continuing in a westerly direction along the southern property line of Lots 28, 12, 23 and 24, Block 5, Durham County Tax Map 491 approximately 1650 feet to a point on the eastern right-of-way of Barbee Chapel Road; thence along the eastern right-of-way of Barbee Chapel Road in a southeasterly direction approximately 2100 feet to a point on the northeastern right-of-way, said point being a projection of eastern property line of the University of North Carolina Mason Farm property; thence across Barbee Chapel Road S 01-55 E approximately 70 feet to the southwestern right-of-way of said road, the northeast corner of the University of North Carolina Mason Farm property; thence along said eastern property line S 01-55 E 2036.72 feet to the southeast corner of said property; thence along the southern property line of said property S 88-20 W approximately 790 feet to a point where the Mason Farm property line intersects the property line of the B. Everett Jordan Dam and Lake Project, as shown on the U. S. Army Corps of Engineers Project Map, segment "18"; thence along said property line S 18-13-51.9 E approximately 35 feet to station 593; thence continuing from station 593 to station 612 the following bearings and distances: S 25-13-20.5 W 628.157, S 25-37-16.4 E 861.188, S 24-05-45.5 W 1760.320, S 08-51-38.4 W 1094.710, S 85-59-59.6 E 474.352, S 61-23-46.3 W 993.702, S 17-13-41.0 W 377.241, S 73-55-29.3 E 264.451, S 01-09-49.3 E 688.853, S 47-08-23.7 W 410.232, S 70-00-43.3 E 398.486, N 46-10-16.2 E 423.521, S 02-16-57.8 W 1101.648, S 56-36-55.4 E 652.068, S 00-37-35.9 W 233.201, N 69-12-24.0 E 1315.976, N 48-27-28.7 E 673.841, S 03-17-26.7 E 409.549, S 38-41-45.9 W 1041.911; thence continuing with said property line S 16-35-17.7 E approximately 600 feet to a point where the B. Everett Jordan Lake property line intersects the Durham-Chatham County line, said point being located approximately 4900 feet east of the southeast corner of Orange County.

CITY LINE & BOUNDARY

**LONG RANGE
ANNEXATION BOUNDARY
DURHAM AND CHAPEL HILL**

