

RESOLUTION REQUESTING CLARIFICATION OF THE 2001 WATER AND SEWER
MANAGEMENT, PLANNING AND BOUNDARY AGREEMENT AMONG CARRBORO,
CHAPEL HILL, HILLSBOROUGH, ORANGE COUNTY, AND OWASA
Draft Resolution No. 73/2010-11

WHEREAS, Jordan Lake is a future water supply source for Carrboro, Chapel Hill, the University of North Carolina at Chapel Hill, Hillsborough, and portions of Orange County; and

WHEREAS, OWASA, with the support of Carrboro, Chapel Hill, and Orange County, applied for and received a Jordan Lake water supply storage allocation from the North Carolina Environmental Management Commission (EMC) in 1988, for which OWASA has since paid more than \$200,000; and

WHEREAS, Orange County has a million gallon per day allocation from the Jordan Lake water supply for which the County has paid more than \$31,000 since 1997 and from which the County intends to draw in the future; and

WHEREAS, Hillsborough intends to request a million gallon per day allocation from the Jordan Lake water supply for future emergency water supply and potential growth; and

WHEREAS, Jordan Lake's importance as a future supply source was confirmed in OWASA's 2001 *Comprehensive Water and Sewer Master Plan* and re-affirmed in its 2010 *Long-Range Water Supply Plan*, which stated that "It is essential that OWASA retain and acquire access to its [Jordan Lake] allocation"; and

WHEREAS, OWASA, Hillsborough, and Orange County are playing an active role in the Jordan Lake Partnership, which is facilitating coordinated applications to the EMC by Triangle Area utilities who must justify their need for increasing or retaining their Jordan Lake water supply storage allocations; and

WHEREAS, unimpeded access to OWASA's, Hillsborough's, and Orange County's allocations will be an important consideration in obtaining the EMC's approval to retain or secure those allocations; and

WHEREAS, the Towns of Carrboro, Chapel Hill, and Hillsborough, Orange County, and OWASA adopted a Water and Sewer Management, Planning and Boundary Agreement (the Agreement) in 2001; and

WHEREAS, language in the Agreement is unclear about OWASA's, Hillsborough's, and Orange County's ability to access their respective Jordan Lake water supply storage allocations for use by OWASA, Hillsborough, and Orange County customers; and

WHEREAS, this lack of clarity may jeopardize OWASA's, Hillsborough's, and Orange County's ability to obtain the EMC's approval to retain or secure their allocations; and

WHEREAS, this contributes to greater uncertainty in OWASA's, Hillsborough's, and Orange County's long-range water supply and capital investment planning; and

WHEREAS, any change to the Agreement requires approval by all parties to the Agreement.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO:

That the Agreement be clarified with the addition of the following language as a new Subsection 3 to Section VII.A (Emergency Water Transfers), and that said language also be added to the existing text of Section VII.B (Non-Emergency Water Transfers):

“The provisions in this subsection do not apply to the treatment of and transfer of water available through OWASA’s, Hillsborough’s, or Orange County’s Jordan Lake water supply storage allocations for use by OWASA, Hillsborough, or Orange County customers. Nothing herein shall be construed to prevent OWASA, Hillsborough, or Orange County from entering into agreements as necessary to provide for water transfers to afford OWASA, Hillsborough, or Orange County access to their respective Jordan Lake allocation.”



ORANGE WATER AND SEWER AUTHORITY

*A public, non-profit agency providing water, sewer and reclaimed water services
to the Carrboro-Chapel Hill community.*

December 9, 2010

Bernadette Pelissier, Chair
Orange County Commissioners
P.O. Box 8181
Hillsborough, NC 27278

Mark Chilton, Mayor
Town of Carrboro
301 West Main Street
Carrboro, NC 27510

Mark Kleinschmidt, Mayor
Town of Chapel Hill
405 Martin Luther King Jr. Blvd.
Chapel Hill, NC 27514

Tom Stevens, Mayor
Town of Hillsborough
137 North Churton Street
Hillsborough, NC 27278

**SUBJECT: REQUEST TO CLARIFY CERTAIN LANGUAGE IN THE 2001
WATER AND SEWER MANAGEMENT, PLANNING AND
BOUNDARY AGREEMENT (WSMPBA)**

Dear Chair Pelissier, Mayor Chilton, Mayor Kleinschmidt, and Mayor Stevens:

I am writing on behalf of the OWASA Board of Directors to request your respective Boards' approval of a clarifying amendment to the *2001 Water and Sewer Management, Planning and Boundary Agreement* (WSMPBA).

We believe that this clarification is needed to implement important elements of OWASA's recently adopted *Long-Range Water Supply Plan* and to meet our future obligations to the Towns of Chapel Hill and Carrboro and to the University of North Carolina as specified in our Sales and Purchase Agreements with those entities.

We wish to assure you and your elected Boards that OWASA remains fully committed to the spirit and intent of the WSMPBA and to making decisions that are consistent and compatible with the Towns' and County's land use plans and growth management policies.

You may recall that our *Long-Range Water Supply Plan* recommends that OWASA develop water purchase/sale agreements with neighboring utilities that will secure the permanent ability to cost-effectively purchase water (especially through our Jordan Lake water supply storage allocation) under appropriate conditions of supply and demand consistent with the long-term performance objectives of:

1. Avoiding future Water Shortage declarations through temporary purchases of treated water from neighboring utilities. This offers the most cost-effective way to supplement our local supply during the infrequent times of severe drought, equipment failure,

Request to Clarify Certain Language in the WSMPBA

December 9, 2010

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natural or manmade disaster, or other unforeseen circumstance. Purchasing water also reduces (unbudgeted) revenue losses that result from a declared Water Shortage and would have to be recovered through subsequent rate increases; avoids higher customer bills from surcharges imposed during a declared Water Shortage; and lessens the hardship and inconvenience to customers who have already reduced their water use through diligent and ongoing conservation efforts; and

2. Providing additional flexibility and redundancy in the event of critical facility failure, extreme weather, or other unforeseen/ emergency circumstances.

The *Long-Range Water Supply Plan* also recommends that OWASA work cooperatively with the local elected boards to amend the *2001 Water and Sewer Management, Planning, and Boundary Agreement* – only as needed – to resolve any unnecessary constraints on access to our Jordan Lake allocation and to ensure a reliable and sustainable water supply for the future.

In its present form, we believe the WSMPBA may be construed as impeding OWASA's access to Jordan Lake by its broad prohibition of all cross-jurisdictional water transfers except in times of emergency. In fact, our *Long-Range Water Supply Plan* identifies OWASA's Jordan Lake water supply allocation as an important insurance policy for times of special need, but some of those circumstances may not qualify as "emergencies" under current language of the WSMPBA. The purpose of the proposed clarifying language is to avoid any future misunderstandings or disagreements that might impede the timely access to our Jordan Lake allocation, and to provide greater certainty for OWASA's water supply planning and management efforts.

We recommend that the WSMPBA be clarified with the addition of the following language as a new Subsection 3 to Section VII.A (Emergency Water Transfers), and that this language also be added to the existing text of Section VII.B (Non-Emergency Water Transfers):

"These provisions do not apply to the treatment of and transfer of water available through OWASA's Jordan Lake water supply storage allocation for use by OWASA customers. Nothing herein shall be construed to prevent OWASA from entering into agreements as necessary to provide for water transfers to afford OWASA access to its Jordan Lake allocation."

Because any change to the WSMPBA requires approval by all signatory parties, we respectfully request that you support the proposed clarifying language.

We have experienced the two worst droughts on record since the WSMPBA was first adopted in 2001; and also since that time, the necessary infrastructure has been put in place to treat and deliver water to OWASA customers from our Jordan Lake allocation via Cary and Durham. Full access to that allocation will further reduce our community's risk to water supply shortages, and that access is vital to OWASA's overall mission.

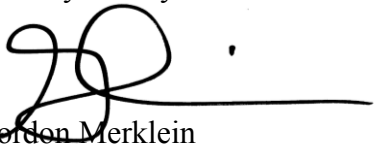
Request to Clarify Certain Language in the WSMPBA

December 9, 2010

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We welcome any further questions or comments you may have. Please contact Ed Kerwin, Executive Director, at ekerwin@owasa.org (919-537-4211) or me at gmerklein@owasa.org (919-962-6172) if you have questions, need more information, or would like us to make a presentation at one of your upcoming meetings.

Thank you very much.



Gordon Merklein
Chair, OWASA Board of Directors

- Attachments: 1. *Adopted Resolution Requesting Clarification of the 2001 Water and Sewer Management, Planning and Boundary Agreement among Carrboro, Chapel Hill, Hillsborough, Orange County and OWASA*
2. Potential Questions About OWASA's Proposed Clarifying Language to the Water Sewer Management, Planning and Boundary Agreement (December 9, 2010)

- c: Mr. Frank Clifton, Manager, Orange County
Mr. Roger L. Stancil, Manager, Town of Chapel Hill
Mr. Steven Stewart, Manager, Town of Carrboro
Mr. Eric Peterson, Manager, Town of Hillsborough
Ms. Carolyn Elfland, University of North Carolina at Chapel Hill
OWASA Board of Directors
Ed Kerwin, Executive Director
Robert Epting, General Counsel

RESOLUTION REQUESTING CLARIFICATION OF THE 2001 WATER AND SEWER MANAGEMENT, PLANNING AND BOUNDARY AGREEMENT AMONG CARRBORO, CHAPEL HILL, HILLSBOROUGH, ORANGE COUNTY, AND OWASA

WHEREAS, Jordan Lake is a future water supply source for Carrboro, Chapel Hill, and the University of North Carolina at Chapel Hill; and

WHEREAS, OWASA, with the support of Carrboro, Chapel Hill, and Orange County, applied for and received a Jordan Lake water supply storage allocation from the North Carolina Environmental Management Commission (EMC) in 1988, for which OWASA has since paid more than \$200,000; and

WHEREAS, Jordan Lake's importance as a future supply source was confirmed in OWASA's 2001 *Comprehensive Water and Sewer Master Plan* and re-affirmed in its 2010 *Long-Range Water Supply Plan*, which stated that "It is essential that OWASA retain and acquire access to its [Jordan Lake] allocation"; and

WHEREAS, OWASA is playing an active role in the Jordan Lake Partnership, which is facilitating coordinated applications to the EMC by Triangle Area utilities who must justify their need for increasing or retaining their Jordan Lake water supply storage allocations; and

WHEREAS, unimpeded access to OWASA's allocation will be an important consideration in obtaining the EMC's approval to retain that allocation; and

WHEREAS, the Towns of Carrboro, Chapel Hill, and Hillsborough, Orange County, and OWASA adopted a Water and Sewer Management, Planning and Boundary Agreement (the Agreement) in 2001; and

WHEREAS, language in the Agreement is unclear about OWASA's ability to access its Jordan Lake water supply storage allocation for use by OWASA customers; and

WHEREAS, this lack of clarity may jeopardize OWASA's ability to obtain the EMC's approval to retain its allocation; and

WHEREAS, this contributes to greater uncertainty in OWASA's long-range water supply and capital investment planning; and

WHEREAS, any change to the Agreement requires approval by all parties to the Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF ORANGE WATER AND SEWER AUTHORITY:

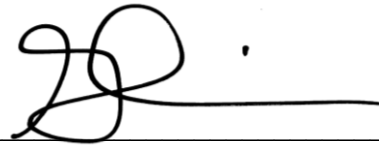
1. That the Agreement be clarified with the addition of the following language as a new Subsection 3 to Section VII.A (Emergency Water Transfers), and that said language also be added to the existing text of Section VII.B (Non-Emergency Water Transfers):

AGENDA
December 9, 2010
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“These provisions do not apply to the treatment of and transfer of water available through OWASA’s Jordan Lake water supply storage allocation for use by OWASA customers. Nothing herein shall be construed to prevent OWASA from entering into agreements as necessary to provide for water transfers to afford OWASA access to its Jordan Lake allocation.”

2. That the Board of Directors respectfully requests that this clarification be approved by the Carrboro Board of Aldermen, Chapel Hill Town Council, Hillsborough Town Board, and the Orange County Board of Commissioners.

Adopted this the 9th day of December, 2010.



Gordon Merklein, Chair

ATTEST:



Braxton Foushee, Secretary

**Potential Questions About OWASA's Proposed Clarifying Language to the Water and Sewer Management, Planning and Boundary Agreement (WSMPBA)
December 9, 2010**

Why is it necessary to change the WSMPBA?

Although we do not believe that the WSMPBA was intended to prevent or restrict access to OWASA's Jordan Lake water supply storage allocation, the Agreement can be interpreted that way in its present form.

We believe that a simple clarification is needed to implement OWASA's recently adopted *Long-Range Water Supply Plan* and to meet our future obligations to Chapel Hill, Carrboro, and the University as specified in our Sale and Purchase Agreements with those entities. The proposed clarification will help avoid future misunderstandings or disagreements that could impede the timely access to OWASA's Jordan Lake water and will provide greater certainty for our water supply planning efforts.

The WSMPBA may be construed as impeding access to Jordan Lake by its broad prohibition of all cross-jurisdictional water transfers except in times of emergency. Our *Long-Range Water Supply Plan* identifies Jordan Lake as an important insurance policy for times of special need, but some of the circumstances when it may be appropriate to purchase water may not qualify as "emergencies" under a strict interpretation of current language in the WSMPBA.

What change is OWASA proposing?

We recommend adding the following language to Sections VII.A and B., which define Emergency and Non-Emergency Water Transfers:

"These provisions do not apply to the treatment and transfer of water available through OWASA's Jordan Lake water supply storage allocation for use by OWASA customers. Nothing herein shall be construed to prevent OWASA from entering into agreements as necessary to provide for water transfers to afford OWASA access to its Jordan Lake allocation."

Doesn't this simply represent another means to "promote new growth and development?"

No. It is a means to accommodate, rather than promote, new growth and development already anticipated in the comprehensive plans and policies of Carrboro, Chapel Hill, and UNC. It is a means by which OWASA can best serve the needs of our current and future customers, and it is consistent with our *Mission Statement* regarding local growth and development: "We will manage our responsibilities in a manner consistent and compatible with the adopted growth management policies and land use plans of the Town of Carrboro, the Town of Chapel Hill, and Orange County." OWASA's core mission is to meet the water and sewer utility needs of the Carrboro/Chapel Hill/UNC community. We believe it is necessary to clarify language in the WSMPBA in order to fulfill that mission.

WSMPBA Clarification – Potential Questions

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With access to its Jordan Lake allocation, won't OWASA be expected to sell water to others?

Nothing in the proposed WSMPBA clarification or in OWASA's existing agreements with Cary, Durham, and Hillsborough commits OWASA to sell water when it is not available. The *Long-Range Water Supply Plan* recommends that we “develop water purchase/sale agreements with neighboring utilities that will secure the permanent ability to cost-effectively purchase water under appropriate conditions of supply and demand . . .” The *Statewide Drought Preparedness and Response Act (HB 2499)*, adopted by the NC General Assembly in 2008, already empowers the Secretary of the NC Department of Environment and Natural Resources to require water systems to transfer water to other systems if the Governor declares a water shortage emergency.

How is this proposed change related to OWASA's intent to purchase water before declaring Water Shortage restrictions and imposing customer surcharges in the future?

It is vital that we retain the flexibility to obtain water from neighboring jurisdictions in a manner that is operationally and financially most beneficial to our customers – whether before, after, or during the implementation of Water Shortage restrictions and rate surcharges. The *Long-Range Water Supply Plan* identified Jordan Lake as the most economical and environmentally desirable source of supplemental water beyond our existing University Lake/Cane Creek/Quarry Reservoir system. The only currently viable access to our Jordan Lake water is through the Town of Cary and City of Durham treatment/transmission systems. A strict interpretation of current “emergency” and “non-emergency” language in the WSMPBA may constrain access to our Jordan Lake water at times when it would be most beneficial to our customers.

Does OWASA still believe it is necessary to purchase water before declaring Water Shortage restrictions and customer surcharges?

Yes, but we would notify our customers and local elected boards in advance of an impending need to purchase water if reservoir and storage conditions do not improve.

We continue to believe this strategy offers the most cost-effective way to temporarily supplement our local supply during infrequent times of extended drought, equipment failure, natural or man-made disaster, or other unforeseen circumstances. It avoids substantially higher customer bills that would result from water rate surcharges in effect during a declared shortage, and it reduces the likelihood that OWASA will have to recover lost revenues (resulting from mandatory restrictions) through subsequent rate increases. This approach also lessens the hardship and inconvenience to customers who have already reduced their water use through diligent and ongoing conservation efforts.

OWASA customers have reduced their water use by 25 percent since 2002. As our community becomes even more water-efficient in the future through additional conservation efforts, including the increased use of reclaimed and other non-potable water sources, customer demand will become more “hardened;” i.e., it will become more and more difficult to reduce demands during times of extended droughts or other shortage events. Nevertheless, we will continue to promote water conservation and efficiency through customer awareness and education, targeted technical assistance, and support for increased water efficiency standards in new and renovated buildings.

WSMPBA Clarification – Potential Questions

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How will OWASA get water from Jordan Lake?

For the foreseeable future, water from OWASA's Jordan Lake storage allocation will be withdrawn and treated by the Town of Cary and delivered to OWASA customers through existing pipeline interconnections with Cary and Durham. Further in the future, OWASA might obtain its Jordan Lake water through additional intake and treatment facilities that may be developed by Durham, Chatham County, and others.

Will Jordan Lake be any more reliable or “drought-proof” during drought conditions when OWASA’s reservoirs are being drawn down to critical levels?

Jordan Lake proved to be a robust and reliable source during the record droughts of 2001-02 and 2007-08. The NC Division of Water Resources Cape Fear Basin Hydrologic Model will provide a new assessment of Jordan Lake's water supply yield under extreme conditions of drought and demand as the model is updated as part of the current allocation process. Expanding OWASA's water supply portfolio will better prepare us to meet the community's water needs under a wide range of supply and demand scenarios, especially in an era of increasing climatic uncertainty.

Why can't we “live within our own means” and not have to depend on Jordan Lake in the future?

It is likely that we will need supplemental water to avoid (or reduce the frequency and duration of) mandatory Water Shortage restrictions and costly drought surcharges for our customers before the expanded Quarry Reservoir becomes available around 2035. According to the *Long-Range Water Supply Plan*, our existing Cane Creek/University Lake/Quarry Reservoir system will have to be at least 75% to 85% full in May to avoid Water Shortage declarations under the demand conditions projected for 2035. Because Jordan Lake is the most economical and environmentally acceptable source of supplemental water, using the allocation that OWASA has retained since 1989 is in fact “living within our means.”

Why is it necessary to change the WSMPBA now, rather than later?

Modifying the WSMPBA is one of the primary recommendations of OWASA's *Long-Range Water Supply Plan*. We believe it is important to proceed now – in advance of the next serious water shortage. We also believe that current members of the OWASA Board, as well as current elected officials on the Carrboro, Chapel Hill, and Orange County governing boards, are all familiar with relevant details of our *Long-Range Water Supply Plan*, and that they have a good understanding of the basis of our request. Additionally, the Jordan Lake Partnership, in which OWASA is playing an active role, is facilitating coordinated, region-wide applications to the NC Environmental Management Commission to justify increasing or retaining the Jordan Lake water supply storage allocations of some JLP members. Reasonable and unimpeded access will be an important consideration in OWASA's ability to retain our current allocation, which the *Long-Range Water Supply Plan* identified as vital to cost-effectively meeting our community's future water needs.

Page 18 (Option 6: Purchase Water from Neighboring Jurisdictions)

“OWASA is a party to the 2001 *Water and Sewer Management, Planning and Boundary Agreement* adopted by the Towns of Carrboro, Chapel Hill, Hillsborough, and Orange County. In its present form, the Agreement constrains the purchase and sale of water across jurisdictional boundaries and could impede the timely access to OWASA’s Jordan Lake water supply allocation . . . We will work with the signatories to make any modifications to the Agreement that may be needed to resolve unnecessary constraints on our access to Jordan Lake.

“ . . . *It is further recommended that OWASA continue to keep the Carrboro, Chapel Hill, and Orange County elected boards up to date about these efforts and to work cooperatively in amending the 2001 Water and Sewer Management, Planning, and Boundary Agreement as may be needed to ensure a reliable and sustainable future water supply.*”

Page 25 (Supplemental Supply and Demand Reduction Options, Key Actions)

- “Work cooperatively with the elected boards of Carrboro, Chapel Hill, and Orange County to modify as necessary the 2001 *Water and Sewer Management, Planning, and Boundary Agreement* to better reflect the important role that water purchases may play in ensuring the long-term reliability and sustainability of our water supply.”

Page 27 (Summary and Recommendations, Key Recommendation #5)

5. “Work cooperatively with the elected boards of Carrboro, Chapel Hill, and Orange County to amend the 2001 *Water and Sewer Management, Planning, and Boundary Agreement* – only as needed – to resolve any unnecessary constraints on access to OWASA’s Jordan Lake allocation and to ensure a reliable and sustainable water supply for the future.”

The following resolution was introduced by Alderman Dan Coleman and duly seconded by Alderman Joal Hall Broun.

A RESOLUTION ACCEPTING THE REPORT ON THE
OWASA DRAFT LONG-RANGE WATER SUPPLY PLAN UPDATE
Resolution No. 77/2009-10

WHEREAS, the Board of Aldermen requests periodic updates on any changes to OWASA's draft Long-Range Water Supply Plan, and

WHEREAS, OWASA requested to present the highlights and recommendations of the draft Water Supply Plan Update to each affected governing board and receive feedback before the end of the calendar year; and

WHEREAS, the staff of OWASA did make such a presentation to the Board of Aldermen on November 10, 2009; and

NOW THEREFORE BE IT RESOLVED, that the Board of Aldermen of the Town of Carrboro do hereby accept the report given to them at the November 10, 2009 meeting, except for the following:

Section 1. Option 6 on page 17 of the draft plan reads as follows:

It is more cost-effective to reduce the drawdown of OWASA's reservoirs (equivalent to supplementing the supply) by purchasing available water [from Cary via Durham] than by implementing additional water use restrictions. Purchases offer an additional degree of fiscal control by enabling the supplemental source to be effectively turned on or off as needed, in contrast to mandatory restrictions, whose residual effects on customer behavior (and on water/sewer revenues) persist substantially longer than the temporary need for reduced consumption. ... *If sufficient water is available from other sources, it is recommended in the future that OWASA purchase water before declaring a Water Supply Shortage in order to minimize the inconvenience and potential hardship of additional use restrictions and rate surcharges on OWASA customers and to moderate the financial effects on OWASA.*

The Board of Aldermen is opposed to this option. The Board is of the opinion that this practice sends an inaccurate and confusing message to OWASA customers. This practice implies that during times of shortage, rather than conserving, a "financial fix" would be to purchase water from a neighboring jurisdiction.

Section 2. Given the outstanding work done by OWASA and the jurisdictions in Orange County to protect the University Lake and Cane Creek water supply, the Board currently supports purchasing water from Cary via Durham only in extreme situations, as has been done on occasion in the past.

Section 3. This resolution shall become effective upon adoption.

The foregoing resolution having been submitted to a vote received the following vote and was duly adopted this 8th day of December 2009:

Ayes: Dan Coleman, Sammy Slade, Lydia Lavelle, Mark Chilton, Joal Hall Broun, Jacquelyn Gist, Randee Haven-O'Donnell

Noes: None

Absent or Excused: None

BERNADETTE PELISSIER, CHAIR
 STEVE YUHASZ, VICE CHAIR
 VALERIE P. FOUSHEE
 ALICE M. GORDON
 PAM HEMMINGER
 BARRY JACOBS
 EARL MCKEE

ORANGE COUNTY BOARD OF COMMISSIONERS
 POST OFFICE BOX 8181
 200 SOUTH CAMERON STREET
 HILLSBOROUGH, NORTH CAROLINA 27278



January 26, 2011

Mark Kleinschmidt, Mayor
 Town of Chapel Hill
 405 Martin Luther King Jr. Blvd.
 Chapel Hill, NC 27514

Mark Chilton, Mayor
 Town of Carrboro
 301 West Main Street
 Carrboro, NC 27510

Tom Stevens, Mayor
 Town of Hillsborough
 137 North Churton Street
 Hillsborough, NC 27278

Gordan Merklein, Chair
 OWASA Board of Directors
 400 Jones Ferry Road
 Carrboro, NC 27510

SUBJECT: Water and Sewer Management, Planning, and Boundary Agreement

Dear Mayor Kleinschmidt, Mayor Chilton, Mayor Stevens, and Chair Merklein:

This letter is in response to OWASA's letter dated December 9, 2010 regarding proposed changes to the Water and Sewer Management, Planning, and Boundary Agreement (WASMPBA). OWASA proposed amendments to the WASMPBA to clarify that the Agreement does not prevent OWASA from entering into agreements as necessary to provide for water transfers to access its Jordan Lake allocation.

The Orange County Board of Commissioners (BOCC) discussed this issue at its January 20, 2011 meeting. Orange County and Town of Hillsborough staffs had suggested revisions to OWASA's amendments because the same clarifying language pertains to Orange County and the Town (see attachment). The BOCC directed staff to provide more context for the proposed amendment and to confer with the staffs of the Towns prior to potential adoption of the text amendment. As you review the amendments, please note the BOCC and Town of Hillsborough would like you to consider our inclusion within the provisions and language.

Orange County Planning staff will contact your staffs to discuss the proposed amendments further at the staff level before bringing the item forward for adoption consideration. If you have questions, please contact Craig Benedict, Orange County Planning Director, at (919) 245-2592 or via e-mail at cbenedict@co.orange.nc.us.

Sincerely,

Bernadette Pelissier, Chair
 Orange County Board of Commissioners

cc: Frank Clifton, Manager, Orange County
 Roger Stancil, Manager, Town of Chapel Hill
 Steven Stewart, Manager, Town of Carrboro

www.co.orange.nc.us

Protecting and preserving – People, Resources, Quality of Life
 Orange County, North Carolina – You Count!
 (919) 245-2130 • FAX (919) 644-0246

Eric Peterson, Manager, Town of Hillsborough
Ed Kerwin, Executive Director, OWASA

www.co.orange.nc.us

*Protecting and preserving – People, Resources, Quality of Life
Orange County, North Carolina – You Count!
(919) 245-2130 • FAX (919) 644-0246*

Attachment A

**WATER AND SEWER MANAGEMENT, PLANNING
AND BOUNDARY AGREEMENT**

THIS AGREEMENT, made and entered into this 3rd day of December, 2001, by and between the COUNTY OF ORANGE, a political subdivision of the State of North Carolina; the TOWN OF CARRBORO, the TOWN OF CHAPEL HILL, and the TOWN OF HILLSBOROUGH, municipal corporations duly created and existing under the laws of North Carolina; and the ORANGE WATER AND SEWER AUTHORITY, a public water and sewer authority duly created and existing under Chapter 162A, Article 1 of the North Carolina General Statutes.

WITNESSETH:

In consideration of mutual benefits regarding the definition of water and sewer service boundaries and the management and planning thereof, the parties to this agreement hereby mutually agree as follows:

I. PREAMBLE

A. Charge to the Water and Sewer Boundary Task Force

Since the mid-1980's, several attempts to define water and sewer service boundaries for Orange County and the municipalities of Chapel Hill, Carrboro and Hillsborough have been undertaken. In 1994, a Task Force was formed consisting of elected officials from Carrboro, Chapel Hill, Hillsborough and Orange County, as well as two members of the Orange Water and Sewer Authority Board of Directors. The charge to the Water and Sewer Service Boundary Task Force is attached as Appendix B.

B. Purpose of Water and Sewer Boundary Agreement

1. To provide a comprehensive, County-wide system of service areas for future utility development and interest areas for dealing with private water and wastewater system problems in areas without public water and sewer service.

2. To complement growth management objectives, land use plans and annexation plans in existing agreements, such as the Orange County-Chapel Hill-Carrboro Joint Planning Agreement and Joint Planning Area Land Use Plan
 3. To resolve in advance and preclude future conflicts about future service areas and annexation areas.
 4. To provide for predictable long-range water and sewer capital improvement planning and financing.
 5. To provide for limitations on water and sewer service in certain areas, as defined.
-

II. HOW THE AGREEMENT WORKS

A. Effective Date of the Agreement

This agreement shall become effective upon execution by all of the parties and signature by the chief elected or appointed official.

B. Term of Agreement

This agreement shall remain in effect for ten (10) years from its execution, and shall be renewable as provided in the following subsection.

C. Procedure for renewal

At the end of each ten year term, the agreement shall renew automatically, unless written notice is provided of intent to withdraw as noted in subsection E below.

D. Procedure for proposing and acting on changes in agreement including boundaries

1. Any change to the agreement (including boundaries) requires approval of all parties to the agreement.

2. The addition of other parties to this agreement shall be by consent of the current parties.

E. Procedure for withdrawal from/decision not to renew the agreement

1. A party may not withdraw from the agreement, until it holds a public hearing on the proposed withdrawal followed by written notice to the other parties within 30 days of the public hearing. The withdrawal shall be effective one (1) year following receipt by the other parties of the written notice.
2. If a party to the agreement withdraws as provided above, the agreement remains in effect as to the other parties until all but one party withdraws in the manner provided for the in this agreement.

F. Accountability of Future Parties

Future utility providers that wish to become parties of this agreement must be financially and technically capable of providing water/sewer service to address public health emergencies or other identified public facility needs, as defined by the parties of the boundary agreement. The provider must have adequate system capacity, technical capability and financial assets to address system problems within its interest area without compromising service to current customers.

G. Courtesy Review of Development Proposals Within Service and Interest Areas

The water and sewer providers that are parties to this agreement will be provided courtesy review and the right to provide written input into utility design and the provision of easements for all new major subdivisions and other residential and non-residential site plan approvals within their service area and

interest area. The party to this agreement with development plan review authority shall retain approval authority for all development proposals within its planning jurisdiction.

H. **Linkage with the Orange County-Chapel Hill-Carrboro Joint Planning Agreement and other future agreements**

This agreement shall be made part of the Orange County-Chapel Hill-Carrboro Joint Planning Agreement, by reference, and to any future cooperative planning agreements that may be entered into among some or all of the parties. Termination of the Joint Planning Agreement or any other cooperative planning agreement does not terminate this agreement. Termination of this agreement can only be accomplished as provided in this agreement. Similarly, the withdrawal of a party from the Joint Planning Agreement or from any other cooperative planning agreement does not constitute withdrawal from this agreement. Withdrawal from this agreement can only be accomplished as provided in this agreement.

III. DEFINITIONS

Primary Service Area: An area (as shown on the Water and Sewer Service Boundary Map, which is Appendix A) where water and/or sewer service is now provided, or might reasonably be provided in the future, according to adopted plans and future amendments to adopted plans (hereinafter referred to as “service area”)².

² *As per the map in Appendix A, the Town of Hillsborough Long-Term Interest Area and Primary Service Area are combined and for purposes of this agreement is its Primary Service Area.*

OWASA Long-Term Interest Area: An area (as shown on the Water and Sewer Service Boundary Map, which is Appendix A) within which public water and/or sewer service is not anticipated to be made, but if such services are to be provided, OWASA will be the responsible utility service provider. Long-Term Interest Areas are not service areas, and do not include areas outside of Orange County.

OWASA's Long-Term Interest Area is hereinafter referred to as OWASA's "interest area."

Orange County Long-Term Interest Area: The areas of Orange County planning jurisdiction (as shown on the Water and Sewer Service Boundary Map, which is Appendix A) not part of a Primary Service Area or another Long-Term Interest Area within which public water and/or sewer service is not anticipated to be made, but if such services are to be provided, Orange County will be responsible for coordinating the provision of utility service. Long-Term Interest Areas are not service areas, and do not include areas outside of Orange County. Orange County's Long-Term Interest Area is hereinafter referred to as Orange County's "interest area."

Essential Public Facility: A publicly-owned facility, or a facility wholly financed by Federal, State or local government (or a combination thereof) that provides a service for the health, safety and general welfare of County residents (for example, a school, fire station, public safety substation or solid waste convenience center).

Adverse Public Health Condition: An Adverse Public Health Condition exists in the case of a wastewater system(s) when it is (1) failing, (2) documented to be failing by the Orange County Health Department, and (3) no on-site repair is approvable or recommended by the Orange County Health Department; or, in the case of a well water supply system, it meets all of the following criteria:

- ◆ the well water supply system is contaminated with a microbial, chemical or other agent which is known to cause disease or other serious health effects;
- ◆ the well water supply system is not reparable to the point where the contamination can be eliminated;
- ◆ the water from the well water supply system is not treatable prior to withdrawal to the point where the threat of disease or serious health effects is eliminated;
- ◆ there is no alternate location on-site for a new well water supply system which can be permitted under Orange County Health Department regulatory

criteria in effect at the time of the contamination or an alternative site is unacceptable because widespread existence of contamination or because of the potential of contaminant migration to the alternate site.

A description of these terms and their application is provided in Section VI of this Agreement.

Public Water or Public Sewer Service: The provision of water and/or sewer service by a party to this agreement. This definition does not include consulting services and/or technical assistance services.

Emergency Water Transfer: Any short-term transfer of raw water supply or finished drinking water supply from one service provider to assist another service provider in meeting water needs during:

- a) unanticipated disruptions or emergencies relating to raw or finished water supply. Such disruptions or emergencies may result from events including, but not limited to: (i) human error; ii) equipment or power failure; iii) supply contamination; iv) major fires, floods, droughts or other disasters; and v) operations or facility maintenance activities, or
- b) periods when temporary, short-term disruption of water supply or finished water service may occur as a result of planned or unplanned maintenance of major water supply, pumping, transmission, treatment, or storage facilities.

Non-Emergency Water Transfer: Any transfer from one water service provider to another water service provider of raw water supply or finished drinking water supply which is not an emergency water transfer.

Wastewater Transfer: Any transfer from one wastewater service provider to another wastewater service provider.

Water and/or Sewer Provider: A municipal corporation, county, private non-profit water system, or public water and sewer authority

under the N.C. General Statutes that provides water and/or sewer service to the public.

IV. BOUNDARIES

A. Service Areas and Interest Area Boundaries

The service area and interest area boundaries are as shown in Appendix A.

B. Adherence to Boundaries

1. The boundaries on the map (Appendix A) define the areas in which the parties may provide water and sewer service, and no party to this agreement shall extend service beyond the designated boundaries, except as provided in this agreement. In no case shall service be extended beyond the boundaries of Orange County without the approval of the elected boards which exercise planning jurisdiction on either side of the County boundary. Any extension of lines or service into Chatham County requires the approval of Orange County, Chapel Hill or Carrboro, and OWASA.
2. OWASA presently provides water and sewer service outside of the OWASA Service Area shown on Appendix A as follows:

<u>location</u>	<u>service provided</u>
Heritage Hills Subdivision	water and sewer
Rangewood Subdivision	water and sewer
Piney Mountain Subdivision	sewer only

OWASA may continue to provide water and sewer service and may extend water and sewer service within these subdivisions provided it does so consistent with OWASA policies and interlocal agreements related to these services that exist on the effective date of this agreement. Any change to those policies and interlocal agreements after the effective date of this agreement can only be accomplished by an amendment to this agreement.

V. PROCEDURES FOR PROVIDING SERVICE

A. Policy Issues

Planning and growth management issues are influenced by the location of water and sewer. This agreement is not intended to supersede other land use agreements made by the local governments.

B. Procedures for the provision of service within the Service Areas and Interest Areas

1. When water and sewer service provision is required to address an adverse public health condition, or to provide service to an essential public facility, the designated provider for the service area or interest area shall have the right of first refusal to provide such service.
2. Within the service areas and interest areas, the water and sewer provider will agree to provide service, as defined in this agreement, as system capacity, financial resources, and other reasonable utility considerations allow, and as provided in this agreement.

C. Policy of “first-refusal”

1. The designated water and sewer provider within a service area or interest area has first right to provide service if an adverse public health condition or essential public facility service need is established, and public water or public sewer service is determined to be required to address the adverse public health condition.
2. If the designated water and sewer provider declines to provide service, it must notify the other parties to the agreement with a statement of rationale.
3. The designated water and sewer provider may contract with another service provider to address the situation, in the manner prescribed in Section VI of this agreement, upon consultation with other jurisdictions.
4. If no other water and sewer provider is available, Orange County retains the right to address the adverse public health condition or essential public facility need in the manner prescribed in Section VI of this agreement.

VI. LIMITATIONS ON SERVICE

A. Prohibitions and Limitations on Extension Into Interest Areas

The development of land within interest areas is not projected to occur at urban densities, and therefore, public water and sewer service shall be prohibited in these areas, except as provided in this agreement {Section VI.B, VI.C, VI.D, VI.F, VII.A, VII.B, VII.C}³. Individual on-site and small/community-scale alternative water supply and wastewater treatment systems not physically connected to central systems will be the primary methods of meeting the water and sewer service needs of existing and future development.

³. *ibid.*

B. Adverse Public Health Conditions

An exception to the prohibition of public water and sewer service in interest areas may be made to allow the extension of lines in the event the Orange County Health Department documents an “adverse public health condition.”

An adverse public health condition exists where:

1. In the case of existing wastewater system(s), it meets all of the following criteria:
 - ◆ the wastewater system is failing;
 - ◆ the wastewater system is documented to be failing by the Orange County Health Department;
 - ◆ there is no on-site repair approvable or recommended by the Orange County Health Department.

The following terms used in the criteria above mean:

Failing Wastewater System: A wastewater system is failing when sewage or effluent is seeping or discharging to the ground surface or to surface waters. A permitted, properly-functioning non-discharge wastewater system (e.g., a spray-irrigation system) and a permitted, properly-functioning discharge system are not failing wastewater systems.

Approvable On-Site Repair: An approvable on-site wastewater system repair that can be completed in a designated repair area which is approvable under Orange County Health Department regulatory soil/site criteria in effect at the time of the needed repair.

Recommended On-Site Repair: A recommended on-site repair is one that is not an approvable on-site repair, but is one that in the best professional judgment of the Orange County Health Department will reasonably enable the system to function properly. A recommended on-site repair may incorporate engineered design (a design certified by an engineer to overcome all soil/site limitations in the particular situation), site

or system modification, flow reduction or other measures calculated to improve functionality of the system.

2. In the case of an existing well water supply system(s), it meets all of the following criteria:
- ◆ the well water supply system is contaminated with a microbial, chemical or other agent which is known to cause disease or other serious health effects;
 - ◆ the well water supply system is not reparable to the point where the contamination can be eliminated;
 - ◆ the water from the well water supply system is not treatable prior to withdrawal to the point where the threat of disease or serious health effects is eliminated;
 - ◆ there is no alternate location on-site for a new well water supply system which can be permitted under Orange County Health Department regulatory criteria in effect at the time of the contamination or an alternative site is unacceptable because of widespread existence of contamination or because of the potential of contaminant migration to the alternate site.

The following terms used in the criteria above mean:

Well: A well is any excavation that is cored, bored, drilled, jetted, dug or otherwise constructed for the purpose of locating, testing, developing, draining or recharging any ground water reserves or aquifer, or that may control, divert, or otherwise control the movement of water from or into any aquifer.

Well Water Supply System: A well water supply system is any well that is intended for use or is usable as a source of water supply for domestic use (including household purposes, farm livestock, or gardens) and the pump and

pipe used in connection with or pertaining thereto, including well pumps, distribution pipes, plumbing pipes, tanks, fittings, and water treatment devices.

The Orange County Health Department shall make the determination as to whether an adverse public health condition exists, and shall make a recommendation on the appropriate remedy to the governmental entity(ies) in the appropriate interest area.

The final decision to use any particular means or tool for rectifying any particular adverse public health condition remains, through zoning regulations or other land use ordinances, with the governmental entity or entities having zoning or planning jurisdiction over the area where the adverse public health condition exists. In the Orange County-Chapel Hill-Carrboro Joint Planning Area, the Joint Development Review Areas shall be used to determine which of the JPA parties shall jointly decide on the appropriate means or tool for rectifying an adverse public health condition. Public water or public sewer lines extended to provide service to an adverse public health condition or essential public facility cannot be used for other purposes or other parties, except as provided in Section VI.D.

C. Sizing of Lines Extended Into Interest Areas

The extension of public water or public sewer lines into an interest area shall be sized so as to comply with State technical and engineering regulations and only to serve the intended use, as defined in this agreement. However, in the case of a public water line extension, provisions shall be made to address adequate line sizing for pressure and volume considerations.

D. Controlling Access to Lines In Interest Areas

Public water or public sewer lines extended to provide service to an adverse public health condition or essential public facility cannot be used for other purposes or other parties, except to remedy another adverse public health condition.

E. Siting of Essential Public Facilities Within Interest Areas

The location of some essential public facilities, particularly schools, requires special consideration for access to public water and sewer lines.

Where possible, schools shall be sited in a manner that promotes the efficient use of existing water and sewer service. Preferably, a set of criteria governing such situations would be developed based on consultations between the appropriate school boards and the elected officials of affected jurisdictions, and applied as necessary.

Publicly-owned facilities other than a public school shall be located in a manner that promotes the orderly provision of water and sewer service. The preferred method of connection is to lines that already exist, or in a manner that would minimize the need to extend existing lines.

F. Water and Sewer Service Into/Out of Orange County

Water and sewer service of any of the service providers that are parties to this agreement shall not be extended outside of the boundaries of Orange County without the approval of the elected boards which exercise planning jurisdiction on either side of the County boundary. Any extension of lines or service into Chatham County requires the approval of Orange County, Chapel Hill or Carrboro, and OWASA. This approval is not required when water and sewer service is required as a condition of annexation by the towns of Chapel Hill or Carrboro.

VII. WATER TRANSFERS AND WASTEWATER TRANSFERS

- A. Emergency Water Transfers** (This subsection shall not apply to any system operated by a municipality)

Emergency water transfers are transfers that:

1. Are made for short-term duration. For the purpose of this Agreement, short-term duration shall be reviewed at 30 days, 60 days and 90 days, with subsequent 90-day intervals up to one year, as per the following process:
 - a. After 30 days duration, a memo from the chief administrative officials of the service providers will be sent to the managers of the jurisdictions that are parties to this Agreement. The memo shall document the emergency, steps being taken to address the situation, and notify the managers of the potential for a longer period of the emergency water transfer.
 - b. At 60 days, the service provider sending the water shall notify its elected board (or, in the case of OWASA, the member government elected boards) on the status of the emergency and provide opportunity for the boards to review and comment on the situation. The receiving provider shall provide similar information.
 - c. Between 60 days and 90 days from inception of transfer, the elected boards which exercise planning jurisdiction on either side of the boundary in which the service is provided shall review and approve or not approve the continuation of the transfer beyond 90 days. If continuation of the transfer is approved, it may continue for an additional 90-day period. Approval shall be required for each subsequent 90-day period, with a maximum emergency water transfer duration of 365 days from inception. Lack of action by the elected boards as provided in this subsection

constitutes approval for the subsequent 90-day period.

- d. At the 30-day point, the service provider shall determine that adequate water and other resources and facility capacities are available to support the extended emergency transfer without adversely affecting the quality and quantity of water supply and services to customers within its service area, and without adversely affecting environmental quality within its service area;

AND

- 2. Are not intended to provide raw or finished water supply necessary to support new growth and development within the service area of the service provider receiving the transfer. Neither party shall, in planning for future growth and associated increases in water supply needs, rely upon water from the other party supplied under this agreement to serve such growth.
 - a. A service provider experiencing a water emergency and receiving emergency water transfers must agree to act expeditiously and adequately to mitigate and remove the causes of the emergency conditions.

B. Non-Emergency Water Transfers (This subsection shall not apply to the Town of Hillsborough until January 1, 2005.)

Non-emergency water transfers are only permitted with the approval of the Orange County Board of Commissioners and the elected or appointed boards of the service providers providing and/or receiving the transfer. If OWASA is the service provider, approval must come from the OWASA Board

of Directors and the elected boards of Carrboro, Chapel Hill and Orange County.

C. Wastewater Transfers

Wastewater transfers are only permitted with the approval of the Orange County Board of Commissioners and the elected or appointed boards of the service providers providing the transfer. If OWASA is the service provider, approval must come from the OWASA Board of Directors and the elected boards of Carrboro, Chapel Hill and Orange County.

VIII. LINKAGE TO OTHER AGREEMENTS

Linkages to Other Agreements

There are a number of existing agreements among the parties to this agreement that are relevant to the management and planning of public water and sewer service. In addition, this agreement and those listed below should all be read together. Where inconsistencies exist, this agreement shall control, except as otherwise provided by law. Included among these relevant agreements with linkages are:

- Hillsborough-Durham Service Area Agreement
- OWASA-Durham Service Agreement
- Eno River Capacity Use Agreement
- Hillsborough/Orange-Alamance Water Systems Agreement
- OWASA-Hillsborough Service Agreement
- OWASA-Hillsborough Bulk Water Transfer Agreement
- Chapel Hill-Durham Annexation Agreement
- Mutual Aid Agreement
- Jordan Lake Allocations from NC DEHNR
- OWASA Agreements of Purchase and Sale between 1) OWASA and Carrboro, 2) OWASA and Chapel Hill, and 3) OWASA and UNC

- OWASA Agreement and Policy related to extensions of water and sewer into University Lake Watershed (applicable to water and sewer service to Rangewood Subdivision and Heritage Hills Subdivision)
- OWASA-Orange County Agreements related to Piney Mountain Subdivision sewer service

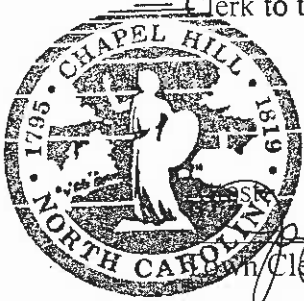
IX. APPENDICES

- A. Water and Sewer Service Boundaries Map
 - B. Charge to the Water and Sewer Boundary Task Force
 - C. Toolbox of Remedies for Adverse Public Health Conditions
 - D. Joint Planning Area Boundary Map
 - E. Comprehensive Plan Land Use Maps for all Orange County local governments, and of Chatham County
-
-

THIS AGREEMENT ENTERED INTO THIS 3rd DAY OF November, 2001.

[Signature]
Chair, Orange County Board of Commissioners

Attest: [Signature]
Clerk to the Orange County Board of Commissioners

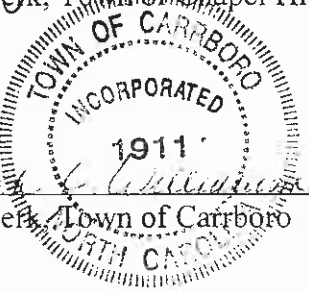


[Signature]
Mayor, Town of Chapel Hill

[Signature]
Clerk, Town of Chapel Hill

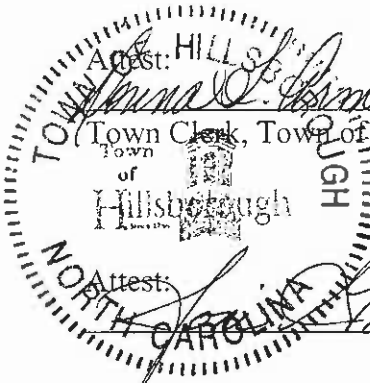
[Signature]
Mayor, Town of Carrboro

Attest: [Signature]
Town Clerk, Town of Carrboro



[Signature]
Mayor, Town of Hillsborough

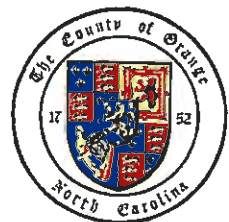
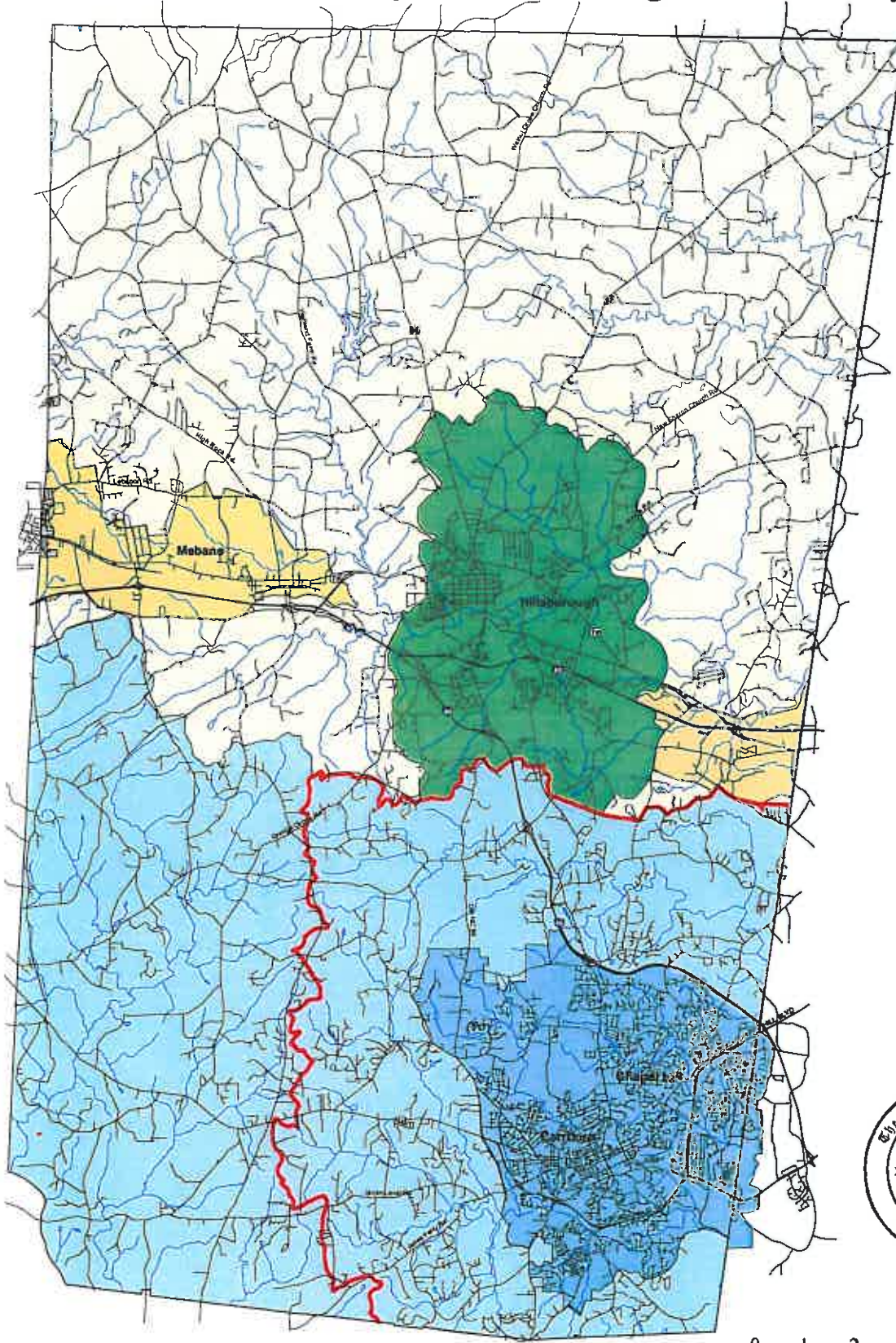
[Signature]
Town Clerk, Town of Hillsborough









[Signature]
Chair, OWASA Board of Directors

Appendix A

Water and Sewer Management Planning and Boundary Agreement



Legend	
	Hillsborough Primary Service Area
	OWASA Long-Term Interest Area
	Orange County Primary Service Area
	OWASA Primary Service Area
	Orange County Long-Term Interest Area
	Rural Buffer Boundary

Orange County Planning and Inspections Department
Revised Map to show retracted Chapel Hill Urban Service Boundary
Prepared by Carrie Whitehill
11/14/01
Original Map Prepared by Beth McFarland
04/17/97

Appendix B

A RESOLUTION APPROVING A PROPOSED COMPOSITION OF AND CHARGE TO A COMMITTEE TO PROPOSE UTILITY SERVICE AREA BOUNDARIES, AND APPOINTING TWO COUNCIL MEMBERS TO SERVE ON THE COMMITTEE
(94-4-11/R-5)

BE IT RESOLVED that the Council of the Town of Chapel Hill approves the following composition of and charge to a committee to proposed utility service area boundaries.

Purposes of considering water and sewer service area boundaries:

To enable local governments and utilities to make long-term plans with known rather than continuously changing boundaries.

To eliminate or minimize the potential for conflicts regarding utility service areas and future annexation areas.

To complement the existing framework of land use plans under the Joint Planning and Cooperative Planning agreements.

Composition: Two representatives from each of the following entities:

Orange County Board of Commissioners
Hillsborough Board of Commissioners
Carrboro Board of Aldermen
Chapel Hill Town Council
Orange Water and Sewer Authority Board of Directors

Charge 1: To make a report and recommendations by October, 1994 to the Orange County Board of Commissioners, Hillsborough Board of Commissioners, Carrboro Board of Aldermen, Chapel Hill Town Council and Orange Water and Sewer Authority Board of Directors regarding long-term water and sewer service area boundaries in Orange County.

Charge 2: To develop a proposal for water and sewer service areas which is based on broad policy considerations of the elected boards, including those policies in intergovernmental planning agreements.

Charge 3: The Committee's report to be submitted in October, 1994 shall be considered a proposed basic framework as a starting point for developing an agreement(s). This report shall not include a discussion of oversight of community or alternative wastewater systems or of the timing of public water or sewer extensions within long-term service area boundaries.

Charge 4: If the boards represented on the Committee agree in principle on a proposal for long-term service area boundaries, the Committee shall draft a proposed agreement(s) for consideration by the local government and utility boards. This agreement may provide

that matters involving extension of public water and sewer in the Rural Buffer are to be separately discussed.

Charge 5: If the boards agree in principle on a proposed agreement, the Committee shall seek to meet with representatives of additional jurisdictions and utilities which may need to be included in agreement(s). The additional entities would include but not necessarily be limited to the Orange Alamance Water System, City of Durham, Mebane, Graham, etc. A proposed agreement with these additional entities would be submitted for consideration by all parties.

Footnotes: The Committee, and each of the boards involved in the process above, would hold public hearing(s) at such times as each determines appropriate. The Committee would be a public body with open meetings in accord with State law.

BE IT FURTHER RESOLVED that the Council appoints
and
 to represent the Council on the Committee.

This the 11th day of April, 1994.

Appendix C

LAW OFFICES

COLEMAN, GLEDHILL & HARGRAVE

A PROFESSIONAL CORPORATION

129 E. TRYON STREET

P. O. DRAWER 1529

HILLSBOROUGH, NORTH CAROLINA 27278

919-732-2196

FAX 919-732-7997

March 2, 1998

FROM THE DESK OF
GEOFFREY E. GLEDHILL

Mr. Dave Stancil
Orange County Planning Department
Post Office Box 8181
Hillsborough, North Carolina 27278

**RE: Water and Sewer Boundary Agreement - Adverse Public
Health Condition**

Dear Dave:

Enclosed are the following:

1. A replacement for VI.A. of the draft Agreement which replacement contains the expanded definitions related to adverse public health conditions, both failing septic system and contaminated well water systems.
2. A three page document which includes a matrix of solutions for a failing septic system adverse public health condition and a contaminated well adverse public health condition that I have put together after several meetings with Paul Thames and Ron Holdway.

Using the format that you used in presenting this with the agenda materials for the March 3 Task Force Committee meeting, everything except the first paragraph in the first enclosure would be in bold and italicized. Some of this, principally a few definitions in the well water area, is new. Some of it is not but for some reason did not get incorporated into the draft of the agreement that was provided with the agenda for the meeting. Also, the very last paragraph has been expanded to include the notion that the use of an extension of a public water or public sewer line to correct an adverse public health conditions is limited.

During the Board of County Commissioners and OWASA meeting I gave you some editing suggestions for the emergency water transfers section. A copy of the document with the various suggestions and thoughts is enclosed. The bold, italicized sentence that concludes subsection A.1.c. should be eliminated from the section on emergency water transfers. That sentence deals with non emergency water transfers and should be in the

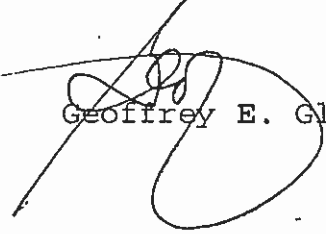
Mr. Dave Stancil
Page 2
March 2, 1998

section of the agreement related to non emergency water transfers. As you can see from my marginal notes about the non emergency water transfers section, I think it needs more work.

Please fax as much of this as you think would be helpful to those expected to attend the Committee meeting. At a minimum, please send the revised language for section VI.A. of the Agreement. As you know, I will not be able to attend the March 3, 1998 Committee meeting. I understand that Paul and Ron will attend and should be able to help with any questions on the adverse public health condition issue.

Very truly yours,

COLEMAN, GLEDHILL & HARGRAVE, P.C.



Geoffrey E. Gledhill

GEG/lsg
Enclosures
xc: Ron Holdway
Paul Thames

lsg-12
stancil.ltr

Matrix of Solutions

The categories of Interest Area applicable to each Interest Area defined in the Water and Sewer Boundary Agreement and the "tool bag" of remedies available to respond to an adverse public health condition are as follows:

FAILING EXISTING WASTEWATER SYSTEM

<u>Interest Area Categories</u>	<u>Remedies</u>
1. Transition	*1. Offsite repair - individual
2. University Lake (CA and PW and Carrboro ETJ)	*2. Offsite repair - community (WTMP program)
3. Cane Creek (CA and PW) and Upper Eno (CA)	*3. Offsite repair - community, OWASA operated (WTMP program)
4. All other protected watershed areas	*4. public sewer
5. Rural Buffer (not within a protected watershed)	*5. State permitted system
6. AR/R1	6. nothing and degrees of nothing
	7. imminent health hazard declaration
	8. premises vacating
	*9. pump and haul

*Regulatory, approvable repairs or actions

Matching the remedies to the Interest Area categories in a way that seems consistent with the discussion of the committee follows:

1. Offsite repair - individual: all categories of Interest Areas;
2. Offsite repair - community: Transition, AR/R1;
3. Offsite repair - community OWASA operated: all categories of Interest Areas;
4. public sewer: Transition, Rural Buffer (not in protected watershed), all other protected watersheds, AR/R1;
5. State permitted system: all categories of Interest Areas;
6. Nothing and degrees of nothing: all categories of Interest Areas;
7. Imminent health hazard declaration: all categories of Interest Areas;
8. premises vacating: all categories of Interest Areas.

CONTAMINATED WELL WATER SYSTEM

<u>Interest Area Categories</u>	<u>Remedies</u>
1. Transition 2. University Lake (CA and PW and Carrboro ETJ) 3. Cane Creek (CA and PW) and Upper Eno (CA) All other protected watershed areas 5. Rural Buffer (not within a protected watershed) 6. AR/R1	*1. Offsite repair - individual *2. Offsite repair - community (locally permitted) *3. Offsite repair - community other than municipal and water and sewer authority (State permitted) *4. public water - municipal, OWASA and Orange-Alamance Water System, Inc. 5. nothing and degrees of nothing 6. imminent health hazard declaration 7. premises vacating 8. water buffaloes/bottled water

*Regulatory approvable repairs or actions

Matching the remedies to the Interest Area categories in a way that seems consistent with the discussion of the committee follows:

1. Offsite repair - individual: all categories of Interest Areas;

2. Offsite repair - community (locally permitted): all categories of Interest Areas;

3. Offsite repair - community other than municipal and water and sewer authority (State permitted): all categories of Interest Areas;

4. public water: Transition, Rural Buffer (not in protected watershed), all other protected watersheds, AR/R1;

5. Nothing and degrees of nothing: all categories of Interest Areas;

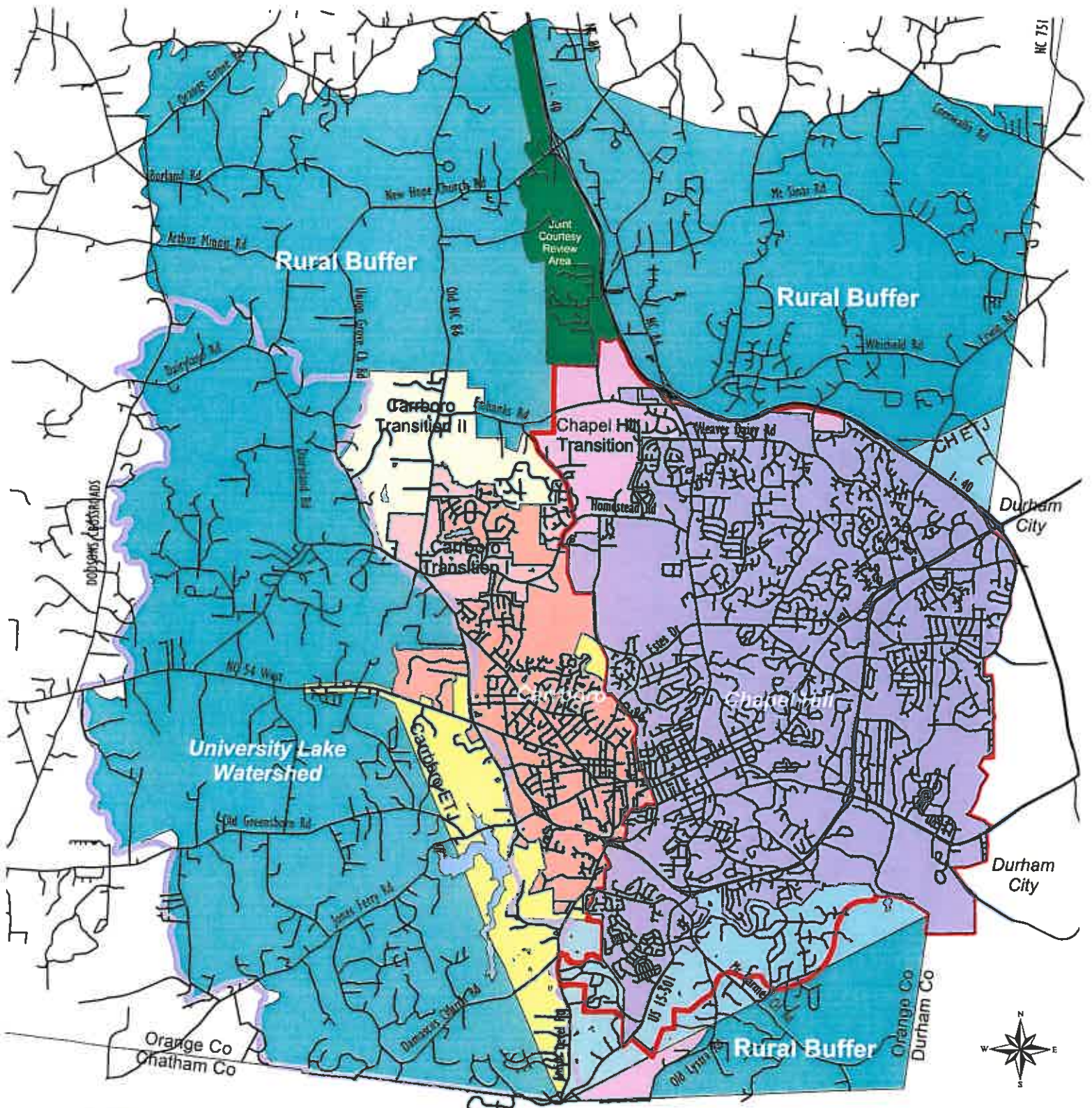
6. Imminent health hazard declaration: all categories of Interest Areas;

7. premises vacating: all categories of Interest Areas;

8. water buffaloes/bottled water: all categories of Interest Areas.

lsg-12
matrix.doc

Appendix D Joint Planning Area Boundary Map



Chapel Hill Planning Areas

- Chapel Hill City Limits
- Chapel Hill ETJ
- Chapel Hill Urban Services Area

Carrboro Planning Areas

- Carrboro City Limits
- Carrboro ETJ

**Orange County, Chapel Hill, Carrboro
Joint Planning Agreement (JPA)**

- Carrboro Transition I
- Carrboro Transition II
- Chapel Hill Transition Areas
- Rural Buffer, Orange County
- Joint Courtesy Review Area
- University Lake Watershed



Map prepared by
Orange County Planning
February 18, 2004

Appendix E

Comprehensive Plan Land Use Maps for all Orange County local governments, and of Chatham County

Land Use Maps for the following local governments follow:

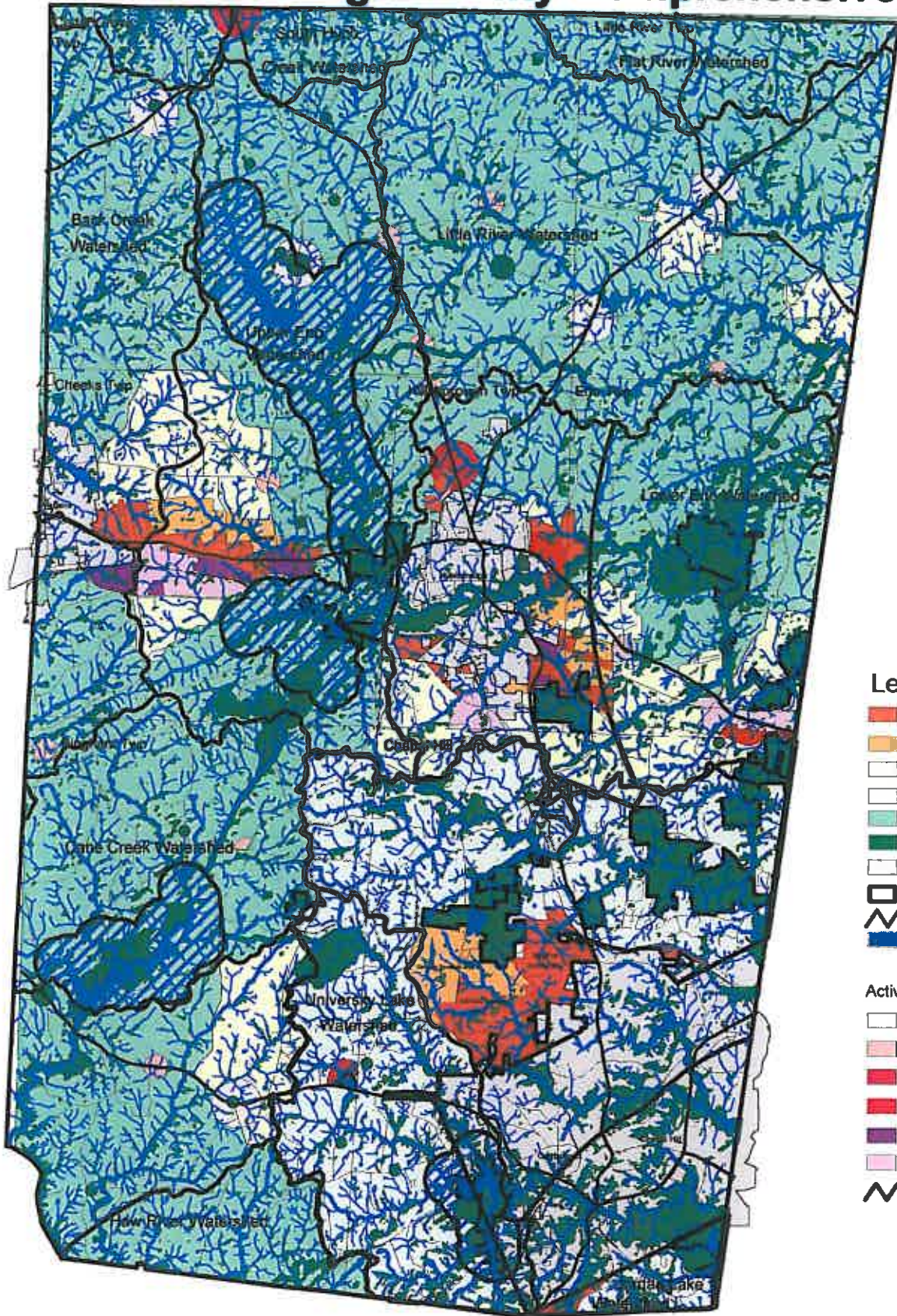
- **Orange County**
- **Chapel Hill**
- **Hillsborough**

Land Use Maps are not available for the following local governments and Zoning Maps are substituted:

- **Carrboro**
- **Chatham County**

LAND USE ELEMENT

of the Orange County Comprehensive Plan



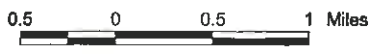
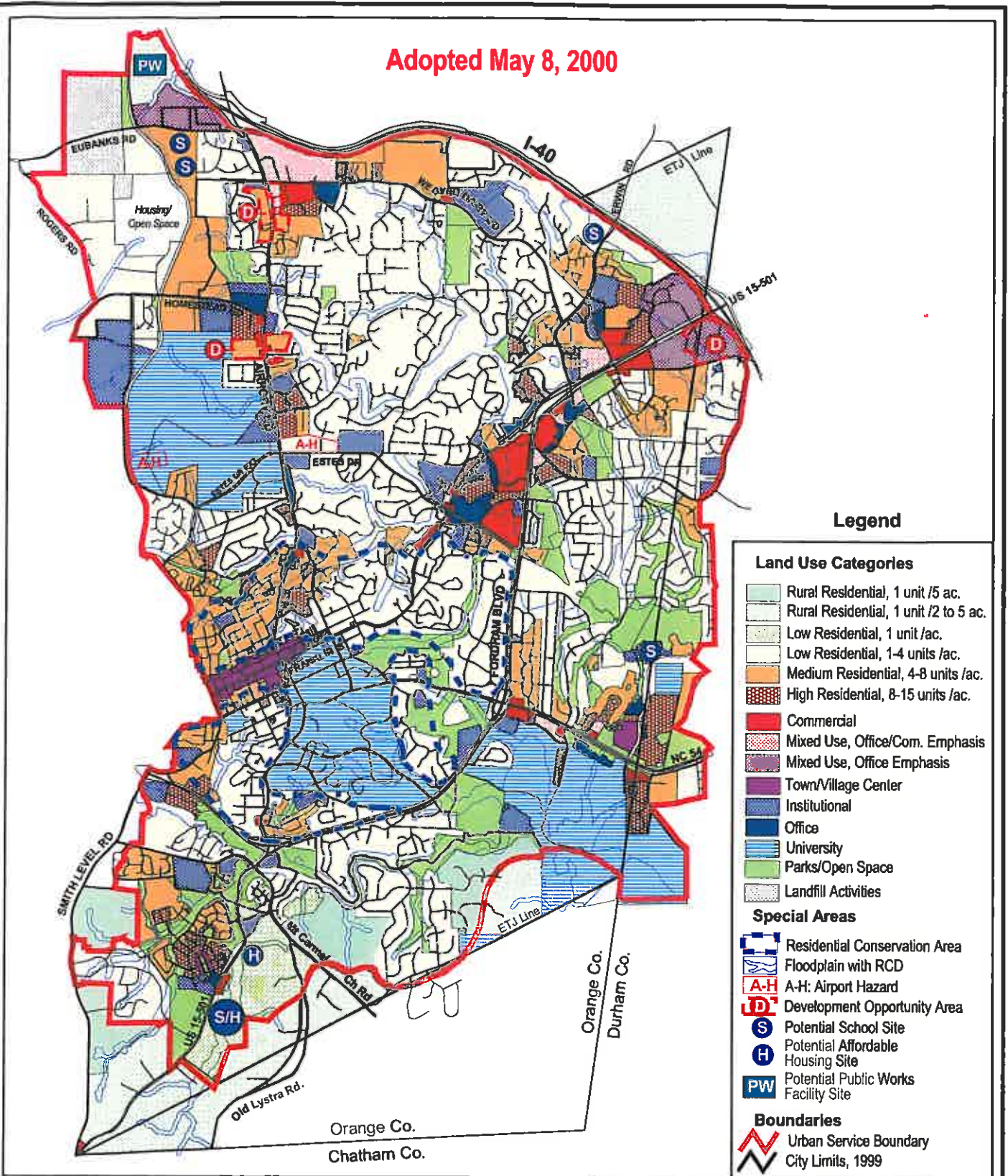
Original Adoption Date: 9-8-81
Amended through: 8-29-00



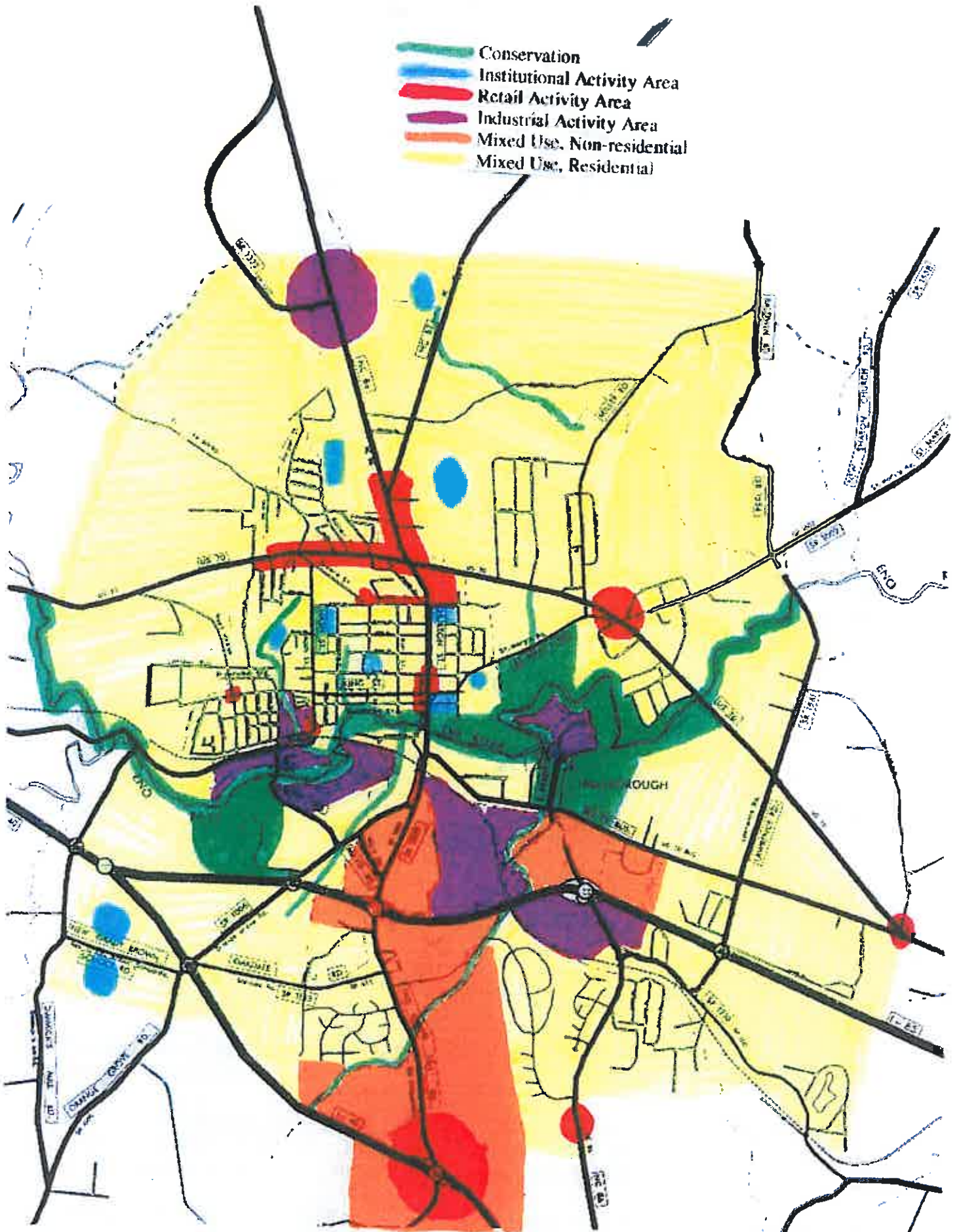
Legend:

- 10 year transition
 - 20 year transition
 - Rural Residential
 - Rural Buffer
 - Agricultural Residential
 - Resource Protection Areas
 - Municipal Jurisdictions
 - Public Interest Areas
 - Water Supply Watersheds
 - Watershed Critical Areas
-
- Activity Nodes**
- Rural Community Node
 - Rural Neighborhood Node
 - Rural Industrial Node
 - Commercial Node
 - Commercial/Industrial Node
 - Economic Development
 - OC/CH/CA Joint Planning Area

Adopted May 8, 2000



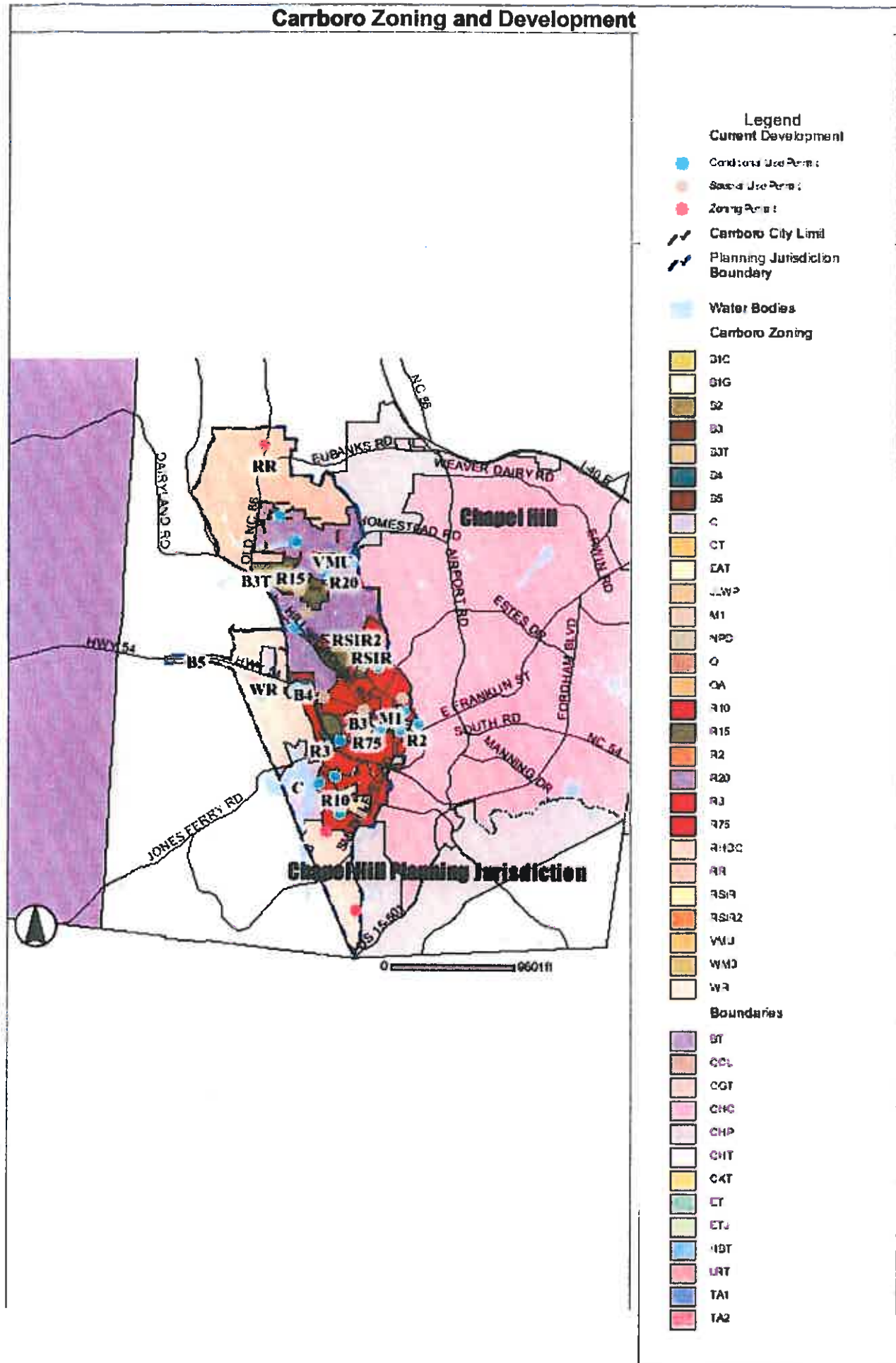
The Land Use Plan
Comprehensive Plan
 Chapel Hill, North Carolina
 Revised Nov. 13, 2000



Future Land Use Map

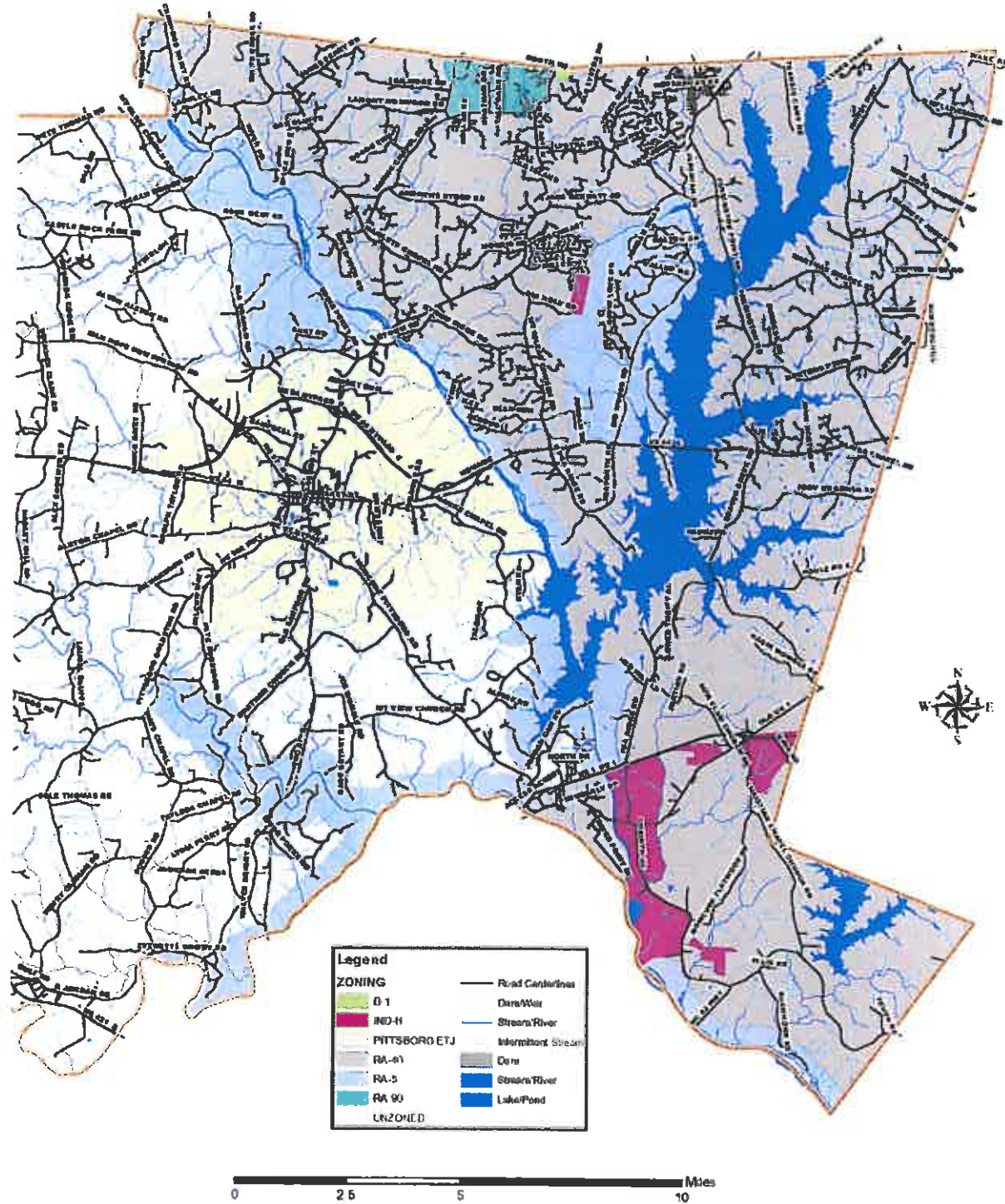
From: *Revised Vision 2010 Town of Hillsborough Comprehensive Plan, Adopted March 13, 2000*

Carrboro Zoning and Development

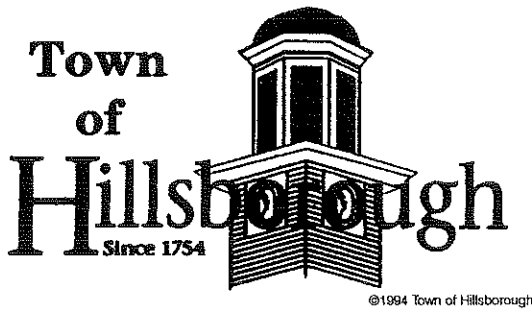


Chatham County

MAJOR ZONING DISTRICTS



2010 Amendments & Approvals



RESOLUTION AMENDING THE 2001
WATER AND SEWER BOUNDARY AGREEMENT

WHEREAS, in 2001, Carrboro, Chapel Hill, Hillsborough, Orange County, and OWASA adopted a Water and Sewer Management, Planning and Boundary Agreement; and

WHEREAS, in 2006, the Efland-Mebane Small Area Plan, which studied a specific area of Orange County's jurisdiction, was adopted by Orange County; and


WHEREAS, in 2006, the joint Hillsborough-Orange County Strategic Growth Plan was adopted by the Town of Hillsborough and Orange County; and

WHEREAS, said adopted plans recommend modifications to the Water and Sewer Management, Planning and Boundary Agreement; and

WHEREAS, amendments to the Water and Sewer Management, Planning and Boundary Agreement require the approval of all signatories to the Agreement.

NOW THEREFORE, BE IT RESOLVED that the **Hillsborough Town Board of Commissioners** approves the: changes to Exhibit A of the Agreement; addition of text to Section IV. BOUNDARIES, subsection B. Adherence to Boundaries and to Section III, DEFINITIONS; and the addition of Appendix F.

Upon motion of MIKE GERING, seconded by L. ERIC HILLMAN, the foregoing resolution was adopted this the 12th day of April, 2010.



Tom Stevens, Mayor

I, Sabrina M. Oliver, Town Clerk of the Town of Chapel Hill, North Carolina, hereby certify that the attached is a true and correct copy of (2010-05-10/R-2) adopted by the Chapel Hill Town Council on May 10, 2010.

This the 14th day of May, 2010.



**Sabrina M. Oliver
Town Clerk**



A RESOLUTION APPROVING CHANGES TO THE WATER AND SEWER MANAGEMENT, PLANNING, AND BOUNDARY AGREEMENT BETWEEN CHAPEL HILL, CARRBORO, HILLSBOROUGH, AND ORANGE COUNTY (2010-05-10/R-2)

WHEREAS, in 2001, Carrboro, Chapel Hill, Hillsborough, Orange County, and OWASA adopted a Water and Sewer Management, Planning and Boundary Agreement (the Agreement); and

WHEREAS, in 2006, the Efland-Mebane Small Area Plan, which studied a specific area of Orange County's jurisdiction, was adopted by Orange County; and

WHEREAS, in 2006, the joint Hillsborough-Orange County Strategic Growth Plan was adopted by the Town of Hillsborough and Orange County; and

WHEREAS, said adopted require an amendment to the Agreement; and

WHEREAS, amendments to the Agreement require the approval of all signatories to the Agreement.

NOW THEREFORE, BE IT RESOLVED that the Chapel Hill Town Council hereby approves the amendment to the Agreement proposed by Orange County and the Town of Hillsborough described in the accompanying materials and at the March 25, 2010 Assembly of Governments meeting and authorizes the Mayor to execute on behalf of the Town an amendment to the Agreement incorporating the changes.

This the 10th day of May, 2010.



TOWN OF CARRBORO
NORTH CAROLINA

The following resolution was introduced by Alderman Dan Coleman and duly seconded by Alderman Randee Haven-O'Donnell.

**A RESOLUTION APPROVING CHANGES TO THE WATER AND SEWER
MANAGEMENT, PLANNING AND BOUNDARY AGREEMENT
Resolution No. 130/2009-10**

WHEREAS, in 2001, Carrboro, Chapel Hill, Hillsborough, Orange County, and OWASA adopted a Water and Sewer Management, Planning and Boundary Agreement; and

WHEREAS, in 2006, the Efland-Mebane Small Area Plan, which studied a specific area of Orange County's jurisdiction, was adopted by Orange County; and

WHEREAS, in 2006, the joint Hillsborough-Orange County Strategic Growth Plan was adopted by the Town of Hillsborough and Orange County; and

WHEREAS, said adopted plans recommend modifications to the Water and Sewer Management, Planning and Boundary Agreement; and

WHEREAS, amendments to the Water and Sewer Management, Planning and Boundary Agreement require the approval of all signatories to the Agreement.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO:

Section 1. The Board of Aldermen approves the addition of "Appendix F" reflecting service area boundary changes associated with the Town of Hillsborough and associated changes to Exhibit A of the Agreement; addition of text to Section IV BOUNDARIES, subsection B. Adherence to Boundaries and to Section III, DEFINITIONS.

Section 2. This resolution shall become effective upon adoption.

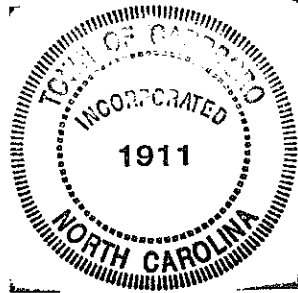
The following resolution having been submitted to a vote received the following vote and was duly adopted this 6th day of April 2010:

Ayes: Dan Coleman, Sammy Slade, Lydia Lavelle, Mark Chilton, Joal Hall Broun, Jacquelyn Gist, Randee Haven-O'Donnell

Noes: None

Absent or Excused: None

I, Sarah C. Williamson, Town Clerk of the Town of Carrboro, North Carolina, do hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Carrboro Board of Aldermen at its meeting on April 6, 2010.



Sarah C. Williamson

Town Clerk



TOWN OF CARRBORO
NORTH CAROLINA

The following resolution was introduced by Alderman Dan Coleman and duly seconded by Alderman Joal Hall Broun.

**A RESOLUTION APPROVING CHANGES TO THE WATER AND SEWER
MANAGEMENT, PLANNING, AND BOUNDARY AGREEMENT**
Resolution No. 08/2010-11

WHEREAS, in 2001, Carrboro, Chapel Hill, Hillsborough, Orange County, and the Orange Water and Sewer Authority adopted a Water and Sewer Management, Planning, and Boundary Agreement (WASMPBA); and

WHEREAS, in 2006, the Efland-Mebane Small Area Plan, which studied a specific area of Orange County's jurisdiction, was adopted by Orange County; and

WHEREAS, said adopted plan recommends modifications to the to the WASMPBA; and

WHEREAS, amendments to the WASMPBA require the approval of all signatories; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Aldermen of the Town of Carrboro:

1. Approves the changes in the Efland-Mebane corridor to the map titled Appendix A Water and Sewer Management Planning and Boundary Agreement, as presented in the agenda materials.

The following resolution having been submitted to a vote received the following vote and was duly adopted this 7th day of September 2010:

Ayes: Sammy Slade, Lydia Lavelle, Mark Chilton, Joal Hall Broun, Jacquelyn Gist, Randee Haven-O'Donnell

Noes: Dan Coleman

Absent or Excused: None

I, Catherine Wilson, Town Clerk for the Town of Carrboro, NC do hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Carrboro Board of Aldermen on September 7, 2010.



Catherine Wilson
Town Clerk

RESOLUTION

WHEREAS, in 2001, Carrboro, Chapel Hill, Hillsborough, Orange County, and OWASA adopted a Water and Sewer Management, Planning and Boundary Agreement; and

WHEREAS, in 2006, the Efland-Mebane Small Area Plan, which studied a specific area of Orange County's jurisdiction, was adopted by Orange County; and

WHEREAS, in 2006, the joint Hillsborough-Orange County Strategic Growth Plan was adopted by the Town of Hillsborough and Orange County; and

WHEREAS, said adopted plans recommend modifications to the Water and Sewer Management, Planning and Boundary Agreement; and

WHEREAS, amendments to the Water and Sewer Management, Planning and Boundary Agreement require the approval of all signatories to the Agreement.

NOW THEREFORE, BE IT RESOLVED that the Orange County Board of Commissioners approves:

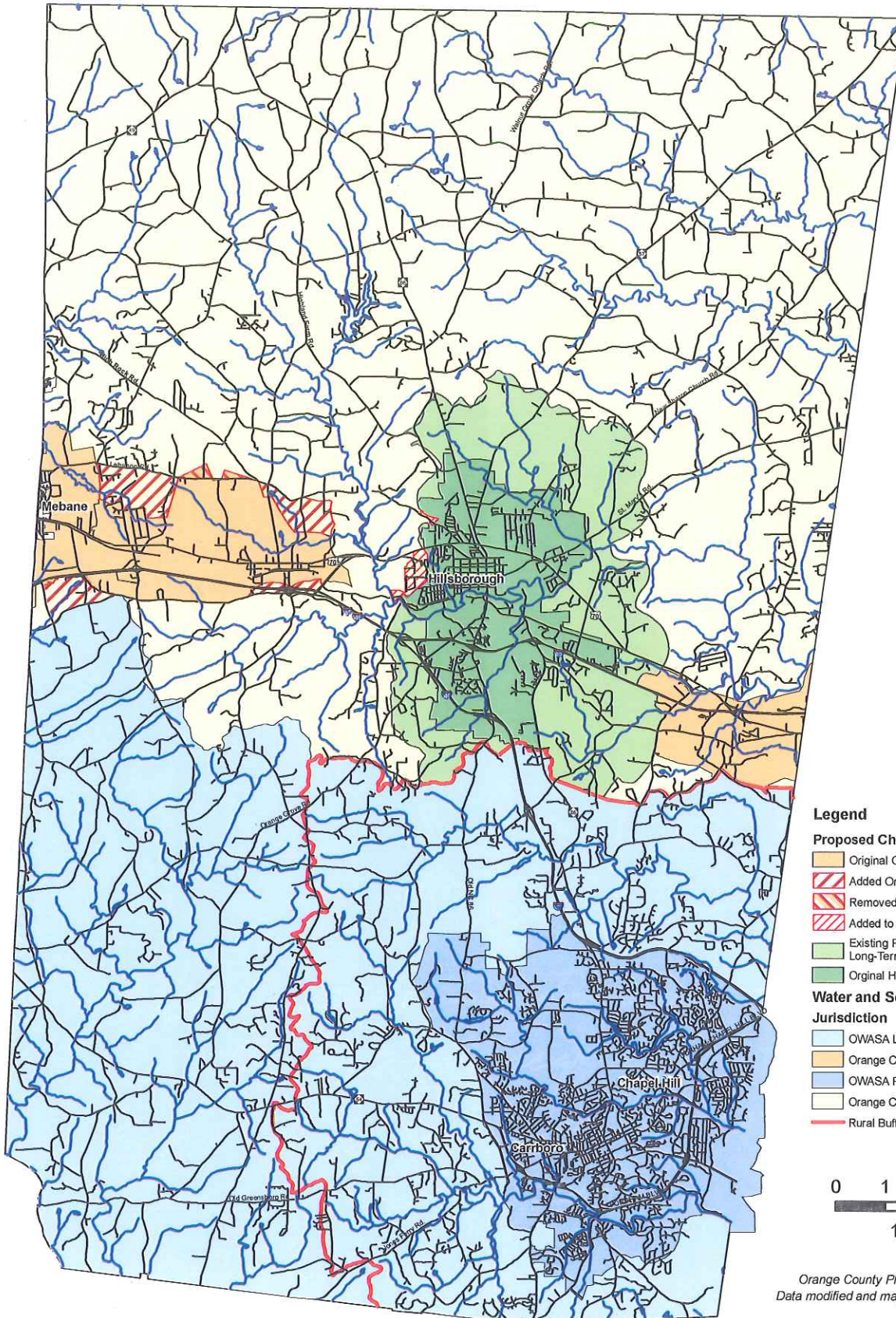
1. The changes to Appendix A of the Agreement as attached hereto;
2. The addition of text to Section IV. BOUNDARIES, subsection B. Adherence to Boundaries and to Section III, DEFINITIONS as attached hereto; and
3. The addition of Appendix F as attached hereto.

Upon motion of Commissioner *Hamminger*, seconded by Commissioner *Hester*, the foregoing amendments were adopted this the 5th day of *October*, 2010.









Donna Baker
Donna Baker, Clerk, Orange County Commissioners

Proposed Changes to Water and Sewer Management Planning and Boundary Agreement



Legend

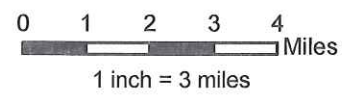
Proposed Changes

-  Original Orange County Primary Service Area to be Retained
-  Added Orange County Primary Service Area
-  Removed Orange County Primary Service Area
-  Added to Hillsborough Primary Service Area
-  Existing Primary Service Area to be changed to Long-Term interest Area
-  Original Hillsborough Primary Service Area to be retained

Water and Sewer Boundary

Jurisdiction

-  OWASA Long-Term Interest Area
-  Orange County Primary Service Area
-  OWASA Primary Service Area
-  Orange County Long-Term Interest Area
-  Rural Buffer Boundary



Orange County Planning and Inspections Department
 Data modified and map created by Miriam Coleman, 03/26/10

Proposed Text Amendment and Addition of Appendix F Map to the Water and Sewer Management, Planning and Boundary Agreement

Add the following text to Section IV. BOUNDARIES, subsection B. Adherence to Boundaries:

3. The Town of Hillsborough presently provides water service outside of the proposed Hillsborough Primary Service Area shown in Appendix A as follows (see Map in Appendix F for precise locations):
 1. Along NC 86S to slightly south of New Hope Church Road
 2. Joppa Oaks, Byrdsville, Wyndfall, and Strayhorn Hills neighborhoods
 3. Wayside Baptist Church area
 4. Lands across Strouds Creek Rd from Mars Hill Baptist Church and Pathways Elementary School
 5. Portions of the Watkins Rd, former Mill Run subdivision and Perry farm
 6. Along Orange Grove Road southwest of Interstate 40 and along New Grady Brown School Road to Dimmocks Mill Road and along Old Grady Brown School Road

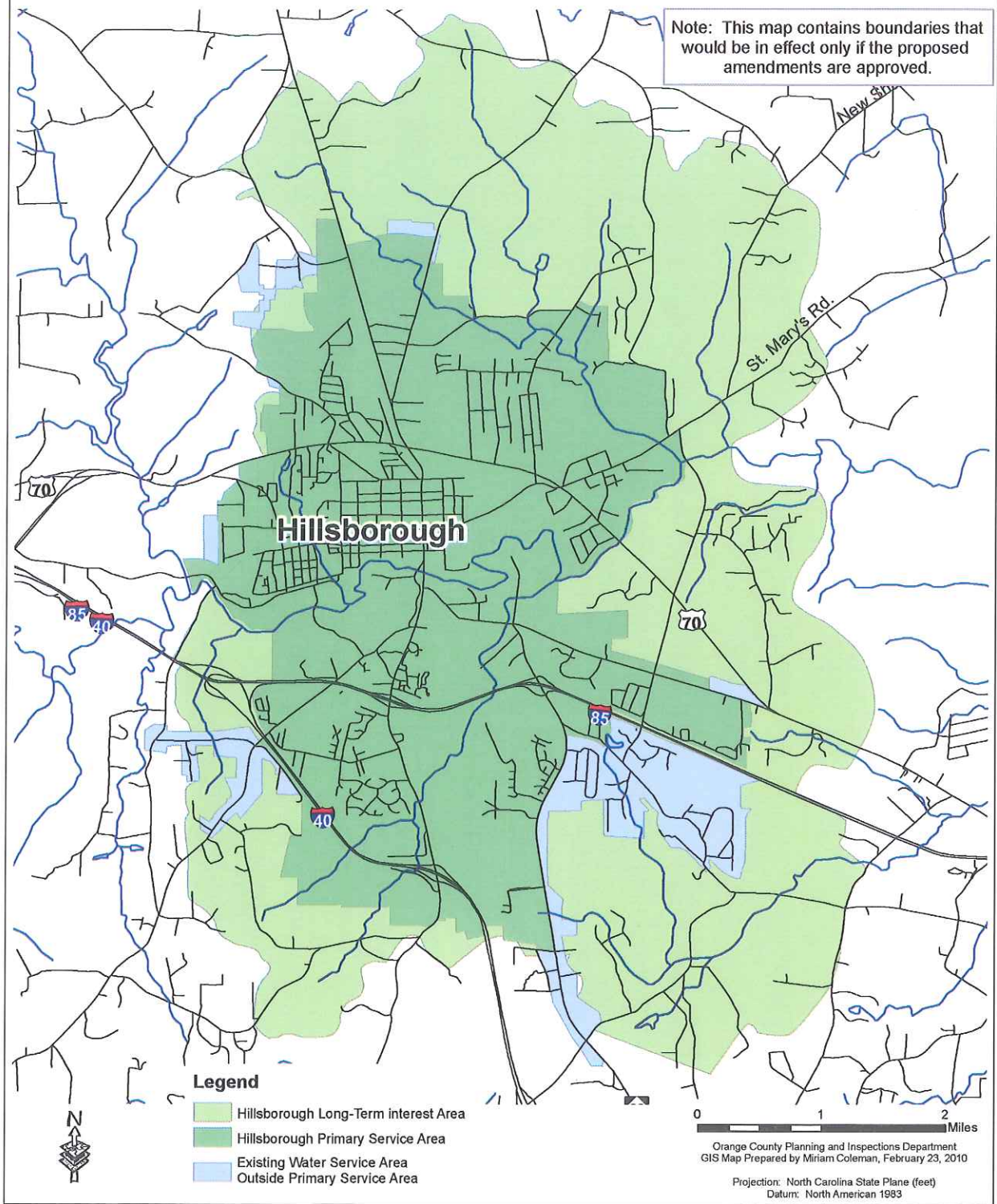
The Town of Hillsborough may continue to provide water service to these areas but may not extend water service in these areas or outside of the Primary Service Area.

Add the following text to Section III. DEFINITIONS:

Hillsborough Long-Term Interest Area: An area (as shown on the Water and Sewer Service Boundary Map, which is Appendix A) within which public water and/or sewer service is not anticipated to be made, but if such services are to be provided, the Town of Hillsborough will be the responsible utility service provider. Long Term Interest Areas are not service areas, and do not include areas outside of Orange County. Hillsborough's Long-Term Interest Area is hereinafter referred to as Hillsborough's "interest area."

Town of Hillsborough Existing Water Service Outside of Primary Service Area - Appendix F

Note: This map contains boundaries that would be in effect only if the proposed amendments are approved.



- Legend**
- Hillsborough Long-Term interest Area
 - Hillsborough Primary Service Area
 - Existing Water Service Area Outside Primary Service Area

Orange County Planning and Inspections Department
GIS Map Prepared by Miriam Coleman, February 23, 2010
Projection: North Carolina State Plane (feet)
Datum: North American 1983

**RESOLUTION APPROVING CHANGES TO THE WATER AND SEWER
MANAGEMENT, PLANNING AND BOUNDARY AGREEMENT**

WHEREAS, in 2001, Carrboro, Chapel Hill, Hillsborough, Orange County, and OWASA adopted a Water and Sewer Management, Planning and Boundary Agreement; and

WHEREAS, in 2006, the Efland-Mebane Small Area Plan, which studied a specific area of Orange County's jurisdiction, was adopted by Orange County; and

WHEREAS, in 2006, the joint Hillsborough-Orange County Strategic Growth Plan was adopted by the Town of Hillsborough and Orange County: and

WHEREAS, said adopted plans recommend modifications to the Water and Sewer Management, Planning and Boundary Agreement; and

WHEREAS, amendments to the Water and Sewer Management, Planning and Boundary Agreement require the approval of all signatories to the Agreement:

**NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF DIRECTORS
OF ORANGE WATER AND SEWER AUTHORITY APPROVES:**

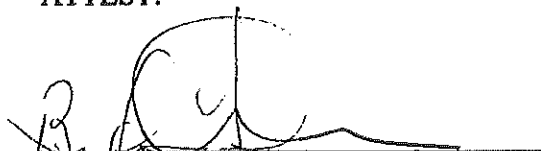
1. The changes to Appendix A of the Agreement as attached hereto.
2. The addition of text to Section IV. BOUNDARIES, subsection B. Adherence to Boundaries and to Section III, DEFINITIONS as attached hereto.
3. The addition of Appendix F as attached hereto.

Adopted this the 13th day of May, 2010.



Randy Kabrick, P.E., Chair

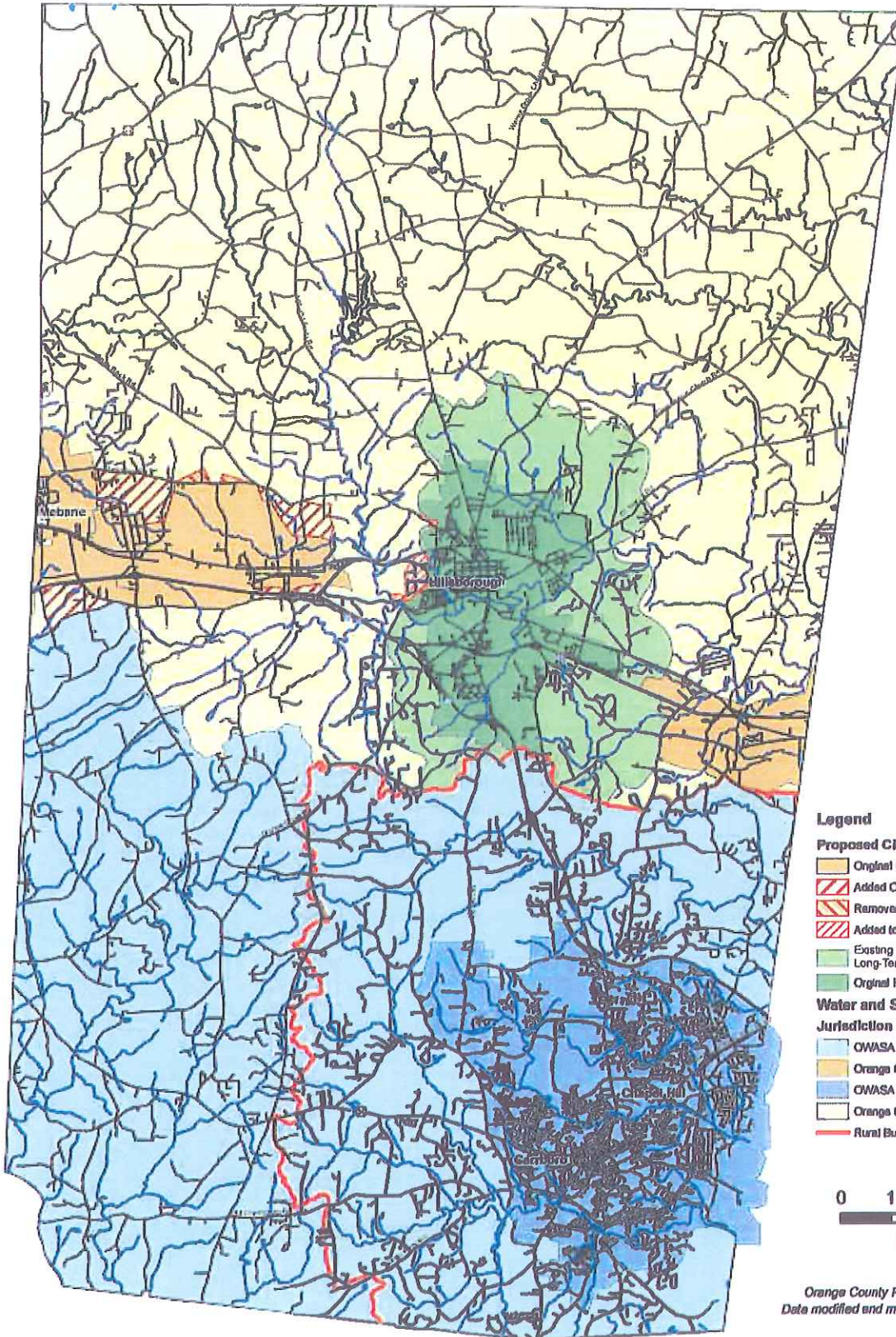
ATTEST:



Braxton Foushee, Secretary

Appendix A

Proposed Changes to Water and Sewer Management Planning and Boundary Agreement



Legend

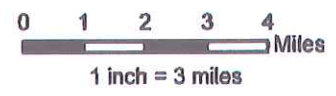
Proposed Changes

- Original Orange County Primary Service Area to be Retained
- Added Orange County Primary Service Area
- Removed Orange County Primary Service Area
- Added to Hillsborough Primary Service Area
- Existing Primary Service Area to be changed to Long-Term Interest Area
- Original Hillsborough Primary Service Area to be retained

Water and Sewer Boundary

Jurisdiction

- OWASA Long-Term Interest Area
- Orange County Primary Service Area
- OWASA Primary Service Area
- Orange County Long-Term Interest Area
- Rural Buffer Boundary



Orange County Planning and Inspections Department
 Date modified and map created by Minam Coleman, 03/28/10

Proposed Text Amendment and Addition of Appendix F Map to the Water and Sewer Management, Planning and Boundary Agreement

Add the following text to Section IV. BOUNDARIES, subsection B. Adherence to Boundaries:

3. The Town of Hillsborough presently provides water service outside of the proposed Hillsborough Primary Service Area shown in Appendix A as follows (see Map in Appendix F for precise locations):
 1. Along NC 86S to slightly south of New Hope Church Road
 2. Joppa Oaks, Byrdsville, Wyndfall, and Strayhorn Hills neighborhoods
 3. Wayside Baptist Church area
 4. Lands across Strouds Creek Rd from Mars Hill Baptist Church and Pathways Elementary School
 5. Portions of the Watkins Rd, former Mill Run subdivision and Perry farm
 6. Along Orange Grove Road southwest of Interstate 40 and along New Grady Brown School Road to Dimmocks Mill Road and along Old Grady Brown School Road

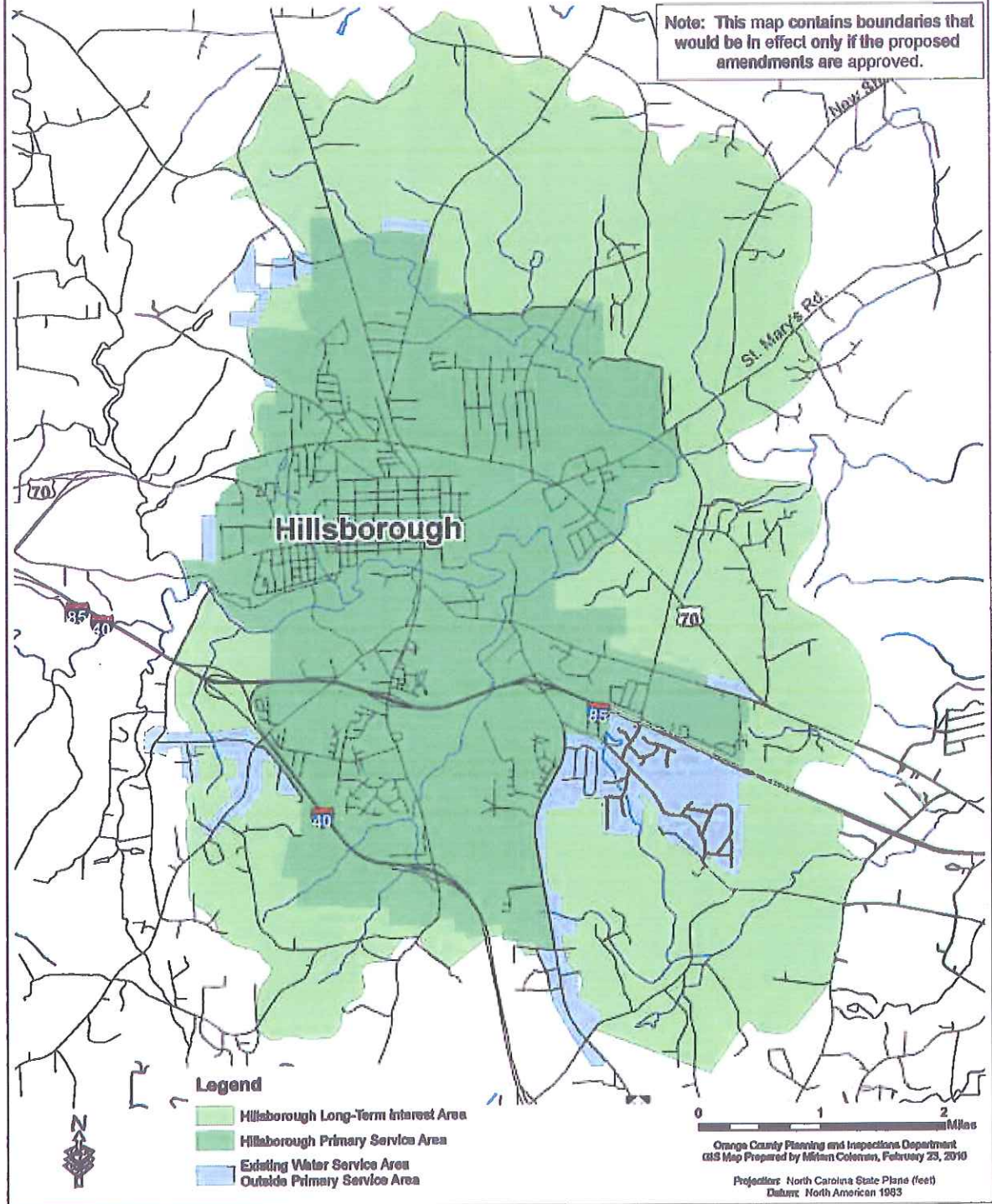
The Town of Hillsborough may continue to provide water service to these areas but may not extend water service in these areas or outside of the Primary Service Area.

Add the following text to Section III. DEFINITIONS:

Hillsborough Long-Term Interest Area: An area (as shown on the Water and Sewer Service Boundary Map, which is Appendix A) within which public water and/or sewer service is not anticipated to be made, but if such services are to be provided, the Town of Hillsborough will be the responsible utility service provider. Long Term Interest Areas are not service areas, and do not include areas outside of Orange County. Hillsborough's Long-Term Interest Area is hereinafter referred to as Hillsborough's "interest area."

Town of Hillsborough Existing Water Service Outside of Primary Service Area - Appendix F

Note: This map contains boundaries that would be in effect only if the proposed amendments are approved.



- Legend**
- Hillsborough Long-Term Interest Area
 - Hillsborough Primary Service Area
 - Existing Water Service Area Outside Primary Service Area

Orange County Planning and Inspections Department
GIS Map Prepared by Milton Coleman, February 23, 2010
Projection: North Carolina State Plane (feet)
Datum: North American 1983