

AGENDA
CARRBORO BOARD OF ALDERMEN
TUESDAY, FEBRUARY 17, 1998
7:30 P.M., TOWN HALL BOARD ROOM

Approximate Time*

7:30 - 7:40 A. REQUESTS FROM VISITORS AND SPEAKERS FROM THE FLOOR

7:40 - 7:45 B. CONSENT AGENDA

(1) **Approval of Minutes of Previous Meeting:** February 3, 1998

7:45 - 7:55 C. RESOLUTIONS, PROCLAMATIONS AND CHARGES

D. PUBLIC HEARING

7:55 – 8:05 (1) **Voluntary Annexation/Lake Hogan Farms Subdivision, Phase II**
NP

Dale Redfoot, representing the Lake Hogan Farms Development Company, LLC, has submitted a petition for annexation requesting that 17.44 acres located at Lake Hogan Farms Subdivision be annexed into the town. The administration recommends that the Board approve the annexation, effective February 28, 1998.

E. OTHER MATTERS

8:05 – 8:10 (1) **Time Warner Cable's Transfer of Ownership – Second Reading**
NP

On August 8, 1995 the Mayor and Board of Aldermen approved the purchase of Alert Cable to Time Warner. Although the transfer of ownership was approved, Time Warner did not request transfer of the cable t.v. franchise from Alert. The Board of Aldermen is requested to adopt the attached resolution approving the transfer of the Alert Cable T.V. franchise to Time Warner Cable.

8:10 – 8:30 (2) **Request for Waiver of Sprinkler Ordinance Requirement**
P/5

On February 03, 1998, Jack Haggerty, representing David and Sherry Ontjes, appeared before the Board of Aldermen to request that any projects that were in the review process prior to the adoption of the sprinkler ordinance be grandfathered in so that the sprinkler requirements are waived. The sprinkler ordinance amendment was adopted on November 25, 1998.

8:30 – 8:35 F. MATTERS BY TOWN CLERK

8:35– 8:45 G. MATTERS BY TOWN MANAGER

8:45 – 8:55 H. MATTERS BY TOWN ATTORNEY

8:55 – 9:10 I. MATTERS BY BOARD MEMBERS

*The times listed on the agenda are intended only as general indications. Citizens are encouraged to arrive at 7:30 p.m. as the Board of Aldermen at times considers items out of the order listed on the agenda.

BOARD OF ALDERMEN

ITEM NO.: D(1)

AGENDA ITEM ABSTRACT

MEETING DATE: FEBRUARY 17, 1998

SUBJECT: PUBLIC HEARING: VOLUNTARY ANNEXATION OF LAKE HOGAN FARMS
SUBDIVISION – PHASE II

| | | |
|--|--|--------------|
| DEPARTMENT: PLANNING DEPARTMENT | PUBLIC HEARING: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | |
| ATTACHMENTS: PETITION FOR ANNEXATION LEGAL DESCRIPTION LOCATION MAP ORDINANCE | FOR INFORMATION CONTACT: ROY M. WILLIFORD, 968-7713 | |
| THE FOLLOWING INFORMATION IS PROVIDED: | | |
| (X) PURPOSE | (X) ACTION REQUESTED | (X) ANALYSIS |
| () SUMMARY | (X) RECOMMENDATION | |

PURPOSE:

To receive citizens' comments regarding the proposed annexation of 17.44 acres located at Lake Hogan Farm Subdivision.

ANALYSIS:

Dale Redfoot, representing the Lake Hogan Farms Development Company, LLC, submitted a **PETITION FOR ANNEXATION** on January 23, 1998. The **PETITION FOR ANNEXATION** requests that 17.44 acres located at Lake Hogan Farms Subdivision be annexed into the Town. The 17.44 acres to be annexed is non-contiguous to the Town of Carrboro and is tax referenced, 7.109..2.

At the Board of Aldermen's February 03, 1998 meeting, a public hearing was set to receive citizens' comments regarding the **PETITION FOR ANNEXATION**.

ACTION REQUESTED:

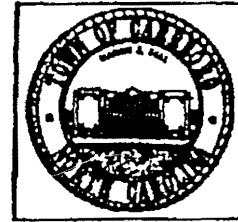
The Board of Aldermen is requested to receive citizens' comments and to consider the **PETITION FOR ANNEXATION** submitted by Dale Redfoot, representing The Lake Hogan Farms Development Company, LLC.

RECOMMENDATION:

The Administration recommends that the Board of Aldermen adopts the attached ordinance which annexes the 17.44 acres of the Lake Hogan Farms Subdivision into the Town Limits effective February 28, 1998.

TOWN OF CARRBORO

PETITION FOR ANNEXATION OF NON-CONTIGUOUS PROPERTY



TO THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO:

1) THE UNDERSIGNED, BEING THE OWNER OF ALL REAL PROPERTY LOCATED WITHIN THE AREA DESCRIBED IN PARAGRAPH #2 BELOW, REQUESTS THAT SUCH AREA BE ANNEXED TO THE TOWN OF CARRBORO, NORTH CAROLINA.

2) THE AREA TO BE ANNEXED IS NON-CONTIGUOUS TO THE TOWN OF CARRBORO, AND IS LOCATED AT Lake Hogan Farms Subdivision AND TAX MAP REFERENCED 7.109..2. THE BOUNDARIES OF SUCH TERRITORY ARE AS SHOWN ON THE METES AND BOUNDS DESCRIPTION ATTACHED HERETO.

3) A MAP (NO LARGER THAN 18" X 24") OF THE FOREGOING PROPERTY, SHOWING ITS RELATIONSHIP TO THE EXISTING CORPORATE LIMITS OF THE TOWN, IS ALSO ATTACHED HERETO.

4) THE TOTAL ACREAGE AND DWELLINGS UNITS LOCATED ON THIS PROPERTY ARE AS FOLLOWS:

17.44 ACRES 29 DWELLING UNITS

RESPECTFULLY SUBMITTED THIS 23 DAY OF January, 1998.

| | |
|------------------|--|
| NAME: | Lake Hogan Farms Development Company, LLC |
| ADDRESS: | 123 Blackcherry Lane |
| | Chapel Hill, NC 27514 |
| OWNER/PRESIDENT: | Dale Redfoot <i>Dale E Redfoot</i> MANAGING MEMBER |

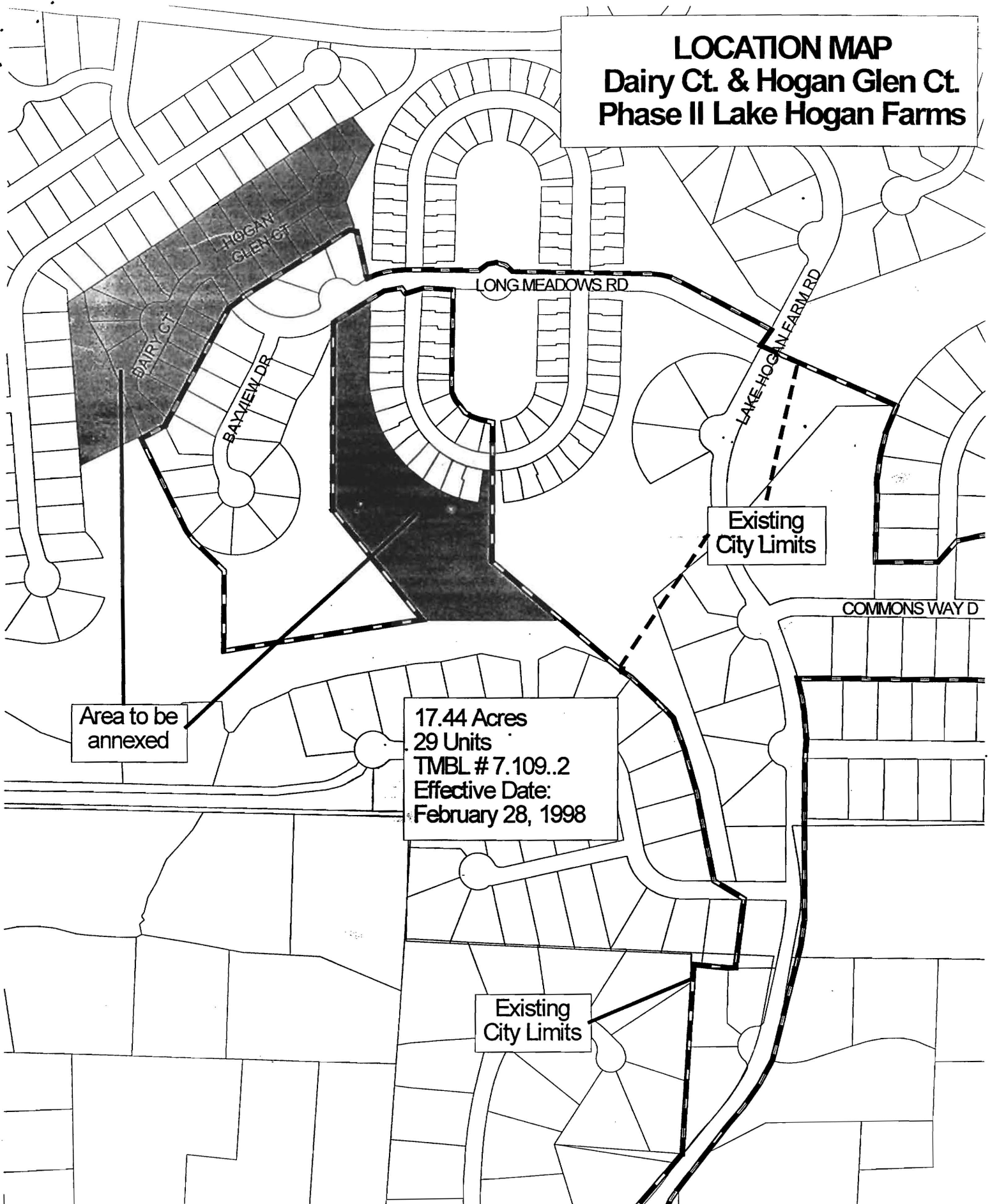
ATTEST: *[Signature]* SECRETARY

I, Sarah W. Williamson, Town Clerk of the Town of Carrboro, do hereby certify that the sufficiency of the above-reference petition has been checked and found to be in compliance with G.S. 1601-31.

This the 2nd day of February, 19 98.

TOWN CLERK: *Sarah C. Williamson*

LOCATION MAP
Dairy Ct. & Hogan Glen Ct.
Phase II Lake Hogan Farms



" This map is not a certified survey and no reliance may be placed in its accuracy."

Craig M. Harmon Craig M. Harmon, GIS Specialist

BRADY H. GOFORTH & ASSOCIATES, INC.



121 West Clay Street ◆ Suite "A" ◆ Mebane, NC 27302

Phone (919) 563-3623

DEED DESCRIPTION (ANNEXATION OF PROPERTY):

Being Phase Two of Lake Hogan Farms Subdivision, located in Chapel Hill Township, Orange County, North Carolina and being more particularly described as follows:

Beginning at an existing iron rod, said iron being the northeast corner of lot #271 of Lake Hogan Farms Subdivision, Phase One, Section "G"; Thence N 55°35'22" E - 140.01 feet to an existing iron rod; Thence S 00°00'00" W - 228.61 feet to a new iron rod; Thence S 03°03'15" E - 72.09 feet to a new iron rod; Thence S 07°16'52" E - 20.08 feet to a new iron rod; Thence S 14°46'49" E - 68.92 feet to a new iron rod; Thence S 24°28'06" E - 68.55 feet to a new iron rod; Thence S 34°17'53" E - 71.34 feet to a new iron rod; Thence S 46°17'19" E - 67.35 feet to a new iron rod; Thence S 51°20'53" E - 74.80 feet to a new iron rod; Thence S 63°33'45" E - 68.45 feet to a new iron rod; Thence S 73°05'52" E - 67.71 feet to a new iron rod; Thence S 80°48'00" E - 68.16 feet to a new iron rod; Thence N 02°45'40" W - 110.03 feet to a new iron rod; Thence S 86°54'02" E - 17.62 feet to an existing iron rod; Thence S 01°15'39" E - 168.69 feet to an existing manhole; Thence S 61°17'12" E - 396.54 feet to a new iron rod; Thence S 77°54'06" W - 624.46 feet to a computed point; Thence N 41°54'09" W - 403.86 feet to an existing iron rod; Thence N 00°00'00" E - 500.00 feet to an existing iron rod; Thence N 68°34'36" E - 88.57 feet to an existing iron rod; Thence N 29°27'34" W - 151.40 feet to the place and point of beginning. Containing 7.12 acres± as surveyed by Brady H. Goforth & Associates, Inc. dated January 22, 1998 and being based on a plat north meridian.

DEED DESCRIPTION (ANNEXATION OF PROPERTY):

Being Phase Two of Lake Hogan Farms Subdivision, located in Chapel Hill Township, Orange County, North Carolina and being more particularly described as follows:

Beginning at an existing iron rod, said iron rod being the northeast corner of lot #266 of Lake Hogan Farms Subdivision, Phase One, Section "G"; Thence S 55°25'03" W - 423.33 feet to an existing iron rod; Thence S 55°51'01" W - 60.03 feet to an existing iron rod; Thence S 26°40'59" W - 487.68 feet to an existing iron rod; Thence S 33°44'19" W - 132.42 feet to an existing iron rod; Thence S 90°00'00" W - 50.00 feet to an existing iron rod; Thence S 80°14'31" W - 136.75 feet to a new iron rod; Thence N 05°33'37" W - 572.75 feet to a new iron rod; Thence N 55°16'06" E - 1109.78 feet to a new iron rod; Thence S 34°43'54" E - 113.04 feet to a new iron rod; Thence S 24°05'38" W - 173.76 feet to a new iron rod; Thence S 24°11'29" W - 27.32 feet to a new iron rod; Thence S 23°53'22" E - 90.63 feet to the place and point of beginning. Containing 10.32 acres± as surveyed by Brady H. Goforth & Associates, Inc., dated January 22, 1998, and being based on a plat north meridian.

The following ordinance was introduced by Alderman _____ and duly seconded by Alderman _____.

AN ORDINANCE ANNEXING
PHASE II, LAKE HOGAN FARMS SUBDIVISION

WHEREAS, a petition was received requesting the annexation of Phase II of the Lake Hogan Farms Subdivision; and

WHEREAS, the petition was signed by the owners of all the real property located within such area; and

WHEREAS, a public hearing on the question of annexation was held on February 17, 1998, following notice of such hearing published in The Chapel Hill News on February 6, 1998.

NOW, THEREFORE, THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. The Board of Aldermen finds that a petition requesting the annexation of the area described in Section 2 was properly signed by the owners of all the real property located within such area and that such area is noncontiguous to the boundaries of the Town of Carrboro.

Section 2. The following area is hereby annexed to and made a part of the Town of Carrboro:

Beginning at an existing iron rod, said iron being the northeast corner of Lot #271 of Lake Hogan Farms Subdivision, Phase One, Section "G"; thence N 55 degrees 35' 22" E – 140.01 feet to an existing iron rod; thence S 00 degrees 00' 00" W – 228.61 feet to a new iron rod; thence S 03 degrees 03' 15" E – 72.09 feet to a new iron rod; thence S 07 degrees 16' 52" E – 20.08 feet to a new iron rod; thence S 14 degrees 46' 49" E – 68.92 feet to a new iron rod; thence S 24 degrees 28' 06" E – 68.55 feet to a new iron rod; thence S 34 degrees 17' 53" E – 71.34 feet to a new iron rod; thence S 46 degrees 17' 19" E – 67.35 feet to a new iron rod; thence S 51 degrees 20' 53" E – 74.80 feet to a new iron rod; thence S 63 degrees 33' 45" E – 68.45 feet to a new iron rod; thence S 73 degrees 05' 52" E – 67.71 feet to a new iron rod; thence S 80 degrees 48' 00" E – 68.16 feet to a new iron rod; thence N 02 degrees 45' 40" W – 110.03 feet to a new iron rod; thence S 86 degrees 54' 02" E – 17.62 feet to an existing iron rod; thence S 01 degrees 15' 39" E – 168.69 feet to an existing manhole; thence S 61 degrees 17' 12" E – 396.54 feet to a new iron rod; thence S 77 degrees 54' 06" W – 624.46 feet to a computed point; thence N 41 degrees 54' 09" W – 403.86 feet to an existing iron rod; thence N 00 degrees 00' 00" E – 500.00 feet to an existing iron rod; thence N 68 degrees 34' 36" E – 88.57 feet to an existing iron rod; thence N 29 degrees 27' 34" W 151.40 feet to the place and point of beginning. Containing 7.12 acres as surveyed by Brady H. Goforth & Associates, Inc. dated January 22, 1998 and being based on a plat north meridian.

Being Phase Two of Lake Hogan Farms Subdivision, located in Chapel Hill Township, Orange County, North Carolina and being more particularly described as follows:

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Section 3. The area within the street right-of-way (to the center of the street) immediately adjacent to the boundaries of the above-described area is also annexed to the Town of Carrboro.

Section 4. The Board hereby strongly requests that the applicant for the annexation and all persons associated with the annexed property indicate in all advertisements and sales information regarding this property that the property is located within the corporate limits of the Town of Carrboro.

Section 5. This ordinance shall become effective on February 28, 1998.

Section 6. The Town Clerk shall cause to be recorded in the Office of the Register of Deeds of Orange County and in the Office of the Secretary of State an accurate map of the annexed territory described in Sections 2 and 3 together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Orange County Board of Elections as required by G.S. 163-288.1.

The foregoing ordinance having been submitted to a vote, received the following vote and was duly adopted this ____ day of _____, 1998:

Ayes:

Noes:

Absent or Excused:

The following ordinance was introduced by Alderman Hilliard Caldwell duly seconded by Alderman Alex Zaffron.

AN ORDINANCE ANNEXING
PHASE II, LAKE HOGAN FARMS SUBDIVISION
Ordinance No. 16/97-98

WHEREAS, a petition was received requesting the annexation of Phase II of the Lake Hogan Farms Subdivision; and

WHEREAS, the petition was signed by the owners of all the real property located within such area; and

WHEREAS, a public hearing on the question of annexation was held on February 17, 1998, following notice of such hearing published in The Chapel Hill News on February 6, 1998.

NOW, THEREFORE, THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

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Section 5. This ordinance shall become effective on February 28, 1998.

Section 6. The Town Clerk shall cause to be recorded in the Office of the Register of Deeds of Orange County and in the Office of the Secretary of State an accurate map of the annexed territory described in Sections 2 and 3 together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Orange County Board of Elections as required by G.S. 163-288.1.

The foregoing ordinance, having been submitted to a vote, received the following vote and was duly adopted this 17th day of February, 1998:

Ayes: Hilliard Caldwell, Hank Anderson, Michael Nelson, Diana McDuffee, Jacquelyn Gist, Alex Zaffron, Allen Spalt

Noes: None

Absent or Excused: None

BOARD OF ALDERMEN

ITEM NO. E(1)

AGENDA ITEM ABSTRACT

MEETING DATE: February 17, 1998

SUBJECT: TRANSFER OF ALERT CABLE TV FRANCHISE TO TIME WARNER - SECOND READING

| | |
|------------------------------|---|
| DEPARTMENT: MANAGER'S OFFICE | PUBLIC HEARING: YES _____ NO <u>X</u> |
| ATTACHMENTS: ■ Resolution | FOR INFORMATION CONTACT: Robert Morgan, 968-7706 |

PURPOSE

To adopt a resolution approving the transfer of Alert Cable TV Franchise to Time Warner Cable.

SUMMARY

On August 8, 1995 the Mayor and Board of Aldermen approved the purchase (transfer of control) of Alert Cable to Time Warner. Although the transfer of ownership was approved, Time Warner did not request transfer of the Cable TV Franchise from Alert.

In November 1997, Carrboro and other local governments in the Triangle area received appropriate documentation from Time Warner requesting approval to transfer Alert Cable TV Franchise to Time Warner. The consultants with the Triangle J Council of Governments Cable Consortium have reviewed the documentation submitted by Time Warner and advise local governments in the area to adopt the attached resolution.

The resolution requires two readings of the Board. This is the second reading.

RECOMMENDATION

The Cable TV Committee and Town Administration recommend that the Mayor and Board of Aldermen adopt the resolution approving the transfer of Alert Cable TV Franchise to Time Warner.

ACTION REQUESTED

To authorize the Mayor to execute the attached resolution.

MANAGER'S OFFICE
TOWN OF CARRBORO
COPY

Hatch, Little & Bunn, LLP
Attorneys at Law

Harold W. Berry, Jr.
Edward B. Borris
Thomas D. Bunn
Tina L. Frazier
John N. McClain, Jr.
David H. Permar
A. Bartlett White
Douglas Q. Wickham
William D. Young IV

J. Wilbur Bunn (1882-1969)
William T. Hatch (1905-1979)
James C. Little (1917-1977)

327 Hillsborough Street
Post Office Box 527
Raleigh, North Carolina 27602
919/856-3940
Fax 919/856-3950

JAN 2 1997

December 31, 1997

Mr. Robert W. Morgan
Town Manager
Town of Carrboro
Post Office Box 829
Carrboro, North Carolina 27510

Dear Mr. Morgan:

In November, 1997, you received a letter and FCC Form 394 from Time Warner Cable seeking your Town's approval of the transfer of your cable franchise from the current franchise holder, Alert Cable TV of North Carolina, Inc., to Time Warner Entertainment-Advance/Newhouse Partnership. Under federal law, you have 120 days to act on the transfer or it is automatically approved.

The Triangle J Cable Consortium has reviewed the transfer application and related documents and recommends that you approve the transfer. As indicated in Time Warner Cable's letter to you, both the transferor and the transferee are controlled by Time Warner Cable and the transfer will simply allow all Time Warner franchises in the Triangle Region to have the same legal ownership.

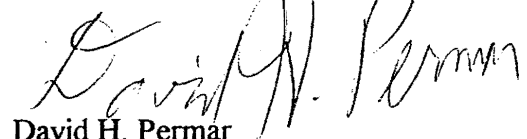
However, since you are in the process of negotiating a renewal of your Time Warner franchise, the Cable Consortium is of the opinion that the proposed Resolution approving the transfer provided to you by Time Warner should be modified in several respects. We have discussed the matter with representatives of Time Warner Cable and they have agreed to a revised Resolution that I am enclosing. Note that I am enclosing two original Resolutions that have already been consented to and executed by the transferor and the transferee. It is the Cable Consortium's recommendation that you approve the transfer and adopt the enclosed Resolution in the following manner: place the matter on your next available, regularly-scheduled Town meeting in accordance with your usual procedure for a resolution. The Resolution does require two readings. There is no requirement for a public notice or a public hearing. Following adoption, execute the Resolution in the same fashion as any other resolution and mail one of the originals to Brad Phillips, Vice President-Government/Public Affairs, Time Warner Cable, 101 Innovation Avenue, Suite 100, Morrisville, North Carolina 27560, and mail a copy to Bob Sepe, Information Access Manager, City of Raleigh, Post Office Box 590, Raleigh, North Carolina 27602.

You should soon be receiving Bob Sepe's report and proposed order on the Time Warner Cable rate increases for 1998 that will also require action by your Town. You may wish to schedule both matters on the same agenda.

If you have any questions, please do not hesitate to contact Bob Sepe or myself.

Sincerely yours,

HATCH, LITTLE & BUNN, L.L.P.

A handwritten signature in black ink, appearing to read "David H. Permar", is written over the printed name.

David H. Permar
Attorney for TJCOG Cable Consortium

DHP/rt

Enclosures

c: John Fogarty
Chick Krautler
Brad Phillips
Bob Sepe

The following resolution was introduced by Alderman _____ and duly seconded by Alderman _____.

**A RESOLUTION TRANSFERRING THE CABLE T.V. FRANCHISE
TO TIME WARNER**

Resolution No. 22/97-98

WHEREAS, Alert Cable T.V. of North Carolina, Inc. ("Alert") is the holder of a franchise to provide cable television service for the Town of Carrboro (the "Franchise"); and

WHEREAS, Alert has proposed to transfer the Franchise to Time Warner Entertainment-Advance/Newhouse Partnership ("TWEAN"); and

WHEREAS, TWEAN will be bound by the terms and conditions of the Franchise subject to applicable law.

NOW, THEREFORE, be it resolved that, insofar as may be necessary or advisable under the Franchise, transfer of the Franchise and the cable television system operating pursuant to the Franchise from Alert to TWEAN (including any necessary transfers through one or more Time Warner entities) is hereby authorized and consented to in all respects. This transfer shall not affect any ongoing franchise renewal proceedings which shall continue subject to the provisions of 47U.S.C.546, except that, upon transfer of the Franchise TWEAN shall succeed to the rights and obligations of Alert in the renewal process. Since the transfer of the Franchise to TWEAN involves no change in control, the Town of Carrboro may, after the transfer of the Franchise to TWEAN, consider in any ongoing renewal proceeds the past performance of Alert while under common control with TWEAN to the extent permitted under 47U.S.C.546, as if it were the past performance of TWEAN.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this ____ day of February, 1998:

Ayes:

Noes:

Absent or Excused:

The following resolution was introduced by Alderman Jacquelyn Gist and duly seconded by Alderman Diana McDuffee.

**A RESOLUTION TRANFERRING THE CABLE T.V. FRANCHISE
TO TIME WARNER
Resolution No. 22/97-98**

WHEREAS, Alert Cable T.V. of North Carolina, Inc. ("Alert") is the holder of a franchise to provide cable television service for the Town of Carrboro (the "Franchise"); and

WHEREAS, Alert has proposed to transfer the Franchise to Time Warner Entertainment-Advance/Newhouse Partnership ("TWEAN"); and

WHEREAS, TWEAN will be bound by the terms and conditions of the Franchise subject to applicable law.

NOW, THEREFORE, be it resolved that, insofar as may be necessary or advisable under the Franchise, transfer of the Franchise and the cable television system operating pursuant to the Franchise from Alert to TWEAN (including any necessary transfers through one or more Time Warner entities) is hereby authorized and consented to in all respects. This transfer shall not affect any ongoing franchise renewal proceedings which shall continue subject to the provisions of 47U.S.C.546, except that, upon transfer of the Franchise TWEAN shall succeed to the rights and obligations of Alert in the renewal process. Since the transfer of the Franchise to TWEAN involves no change in control, the Town of Carrboro may, after the transfer of the Franchise to TWEAN, consider in any ongoing renewal proceeds the past performance of Alert while under common control with TWEAN to the extent permitted under 47U.S.C.546, as if it were the past performance of TWEAN.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 17th day of February, 1998:

Ayes: Hank Anderson, Hilliard Caldwell, Diana McDuffee, Jacquelyn Gist, Michael Nelson, Allen Spalt, Alex Zaffron

Noes: None

Absent or Excused: None

TOWN OF CARRBORO

RESOLUTION NO. 22/97-98

WHEREAS, Alert Cable T.V. of North Carolina, Inc. ("Alert") is the holder of a franchise to provide cable television service for the Town of Carrboro (the "Franchise"); and

WHEREAS, Alert has proposed to transfer the Franchise to Time Warner Entertainment-Advance/Newhouse Partnership ("TWEAN"); and

WHEREAS, TWEAN will be bound by the terms and conditions of the Franchise subject to applicable law.

NOW THEREFORE, be it resolved that, insofar as may be necessary or advisable under the Franchise, transfer of the Franchise and the cable television system operating pursuant to the Franchise from Alert to TWEAN (including any necessary transfers through one or more Time Warner entities) is hereby authorized and consented to in all respects. This transfer shall not affect any ongoing franchise renewal proceedings which shall continue subject to the provisions of 47U.S.C.546, except that, upon transfer of the Franchise TWEAN shall succeed to the rights and obligations of Alert in the renewal process. Since the transfer of the Franchise to TWEAN involves no change in control, the Town of Carrboro may, after the transfer of the Franchise to TWEAN, consider in any ongoing renewal proceedings the past performance of Alert while under common control with TWEAN to the extent permitted under 47U.S.C.546, as if it were the past performance of TWEAN.

Passed this 17 day of February, 1997 8

ATTEST:

James E. Spivey
Deputy Town Clerk James E. Spivey

February 17, 1998

Date

TOWN OF CARRBORO

BY: Michael R. Nelson
Name: Michael R. Nelson
Its: Mayor

CONSENTED TO: ALERT CABLE T.V. OF NORTH CAROLINA, INC.

BY: David E. Moore

TIME WARNER ENTERTAINMENT -
ADVANCE/NEWHOUSE PARTNERSHIP

BY: David E. Moore

BOARD OF ALDERMEN

ITEM NO.: E(2)

AGENDA ITEM ABSTRACT

MEETING DATE: FEBRUARY 17, 1998

SUBJECT: REQUEST FOR WAIVER OF SPRINKLER ORDINANCE REQUIREMENTS

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| DEPARTMENT: FIRE DEPARTMENT | PUBLIC HEARING: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> |
| ATTACHMENTS: AUTOMATIC SPRINKLER ORDINANCE (SECTION 12-17 OF THE TOWN CODE) | FOR INFORMATION CONTACT: RODNEY MURRAY, 968-7724 |
| THE FOLLOWING INFORMATION IS PROVIDED: | |
| (X) PURPOSE | (X) ACTION REQUESTED |
| (X) SUMMARY | (X) ANALYSIS |
| | () RECOMMENDATION |

PURPOSE

For the Board of Aldermen to discuss this request for waiver of the sprinkler ordinance requirements and give staff direction as to how to proceed.

SUMMARY

On February 03, 1998, Jack Haggerty, representing David and Sherri Ontjes, appeared before the Board of Aldermen to request that any projects that were in the review process prior to the adoption of the sprinkler ordinance be grandfathered in so that the sprinkler requirements are waived. The sprinkler ordinance amendment was adopted on November 25, 1997.

ANALYSIS

Sprinkler systems are a means of life and property **conservation** from the destructive effects of fire. The sprinkler ordinance was enacted to provide a safer environment from the destructive effects of fires. The Fire Chief continues to support the concept, how do we put a dollar figure on the importance of life safety? Sprinkler systems are expensive, but also is the cost of a life.

There is the initial expense of a sprinkler system, which is costly, but the saving due to lower insurance premiums, no rental fees from OWASA, and use of less fire resistive materials; the long term savings will pay for the system.

Unless all **present** buildings are required to have sprinkler systems there must be a starting point when a new ordinance is enacted. Staff considers the issuance of a building permit the most logical place to begin. This seems to be the most clear cut and less confusing method for the staff to make a determination as to who has applied for a specific permit or application. A building permit is a signed document that is dated. Some of the other applications and reviews are sometimes oral and judgmental as to the conceptual idea that is being presented. When a building permit is issued, we know more details of the building and its use.

For the reasons mentioned above, there is no way of defining how many other projects that will be effected by amending this ordinance. After discussions with the fire chief, fire inspector, planning director, zoning administrator, and chief building inspector; it was determined that there are possibly three (3) possible projects that could request the same variance. Those possible projects are as follows:

| PROJECT | APPLICATION SUBMITTED | FEES PAID | BLDG PERMIT ISSUED |
|---------------------|-----------------------|-----------|--------------------|
| Carrboro Apartments | July 28, 1997 | 04/16/97 | N/A |
| Rock Haven Center | September 15, 1997 | 09/16/97 | N/A |
| Ontjes Building | September 26, 1997 | 01/02/98 | N/A |

As stated previously, staff considers the issuance of a building permit less confusing for the starting date. If the Board elects, they could amend the ordinance to the date of the application/land use permit or the date the fees are paid.

ACTION REQUESTED

That the Board of Aldermen discuss the requested waiver of the sprinkler ordinance requirements, reach consensus on the issue, and give direction to staff as to how to proceed regarding this matter.

The following ordinance was introduced by Alderman Alex Zaffron and duly seconded by Alderman Diana McDuffee

**AN ORDINANCE AMENDING SECTION 12-17 (AUTOMATIC SPRINKLER SYSTEMS)
OF THE CARRBORO TOWN CODE**

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Section 12-17 of the Carrboro Town Code is amended and rewritten to read as follows:

Section 12-17. Automatic Sprinkler Systems

(a) Notwithstanding any provision of the North Carolina State Building Code or any public or local law, including but not limited to Chapter 143 of the General Statutes, all fraternity and sorority houses within the Town and its extraterritorial planning jurisdiction shall install and keep in operable condition automatic sprinkler systems, in accordance with subsection (c).

(b) Notwithstanding any provision of the North Carolina State Building Code, any building within the Town and its extraterritorial planning area that is of a type described in this subsection and for which a building permit is issued after the effective date of this subsection shall include an automatic sprinkler system, installed in accordance with subsection(c). This subsection shall apply to:

- (1) Buildings that are designed, intended, or used as multi-family residential buildings containing three or more attached housing units.
- (2) Nonresidential buildings that contain at least 5,000 square feet but less than 6,000 square feet of floor area, unless such buildings are equipped with smoke detectors that are installed in accordance with Volume 7 Sections 71-72(e) of the Standards of the National Fire Protection Association and tied into a central alarm system.
- (3) Nonresidential buildings containing 6,000 or more square feet of floor area.
- (4) Residential or non-residential buildings in excess of 50 feet in height.
- (5) Buildings that are designed, intended, or used for assembly occupancy.

(c) Automatic sprinkler systems shall be approved by the building inspector and the fire chief. Every automatic sprinkler system required by this section shall conform with the requirements of "Standard of the National Fire Protection Association For The Installation of Sprinkler Systems" (NFPA Pamphlet No. 13), incorporated by reference under Section 12-11, except that a single water supply required by those standards may be permitted by the building inspector and the fire chief.

(d) The owner of any building containing an automatic sprinkler system shall have that system inspected at least annually by an independent party approved by the fire chief as competent

to make such an inspection and shall furnish to the fire department a written certification signed by such party and stating the sprinkler system has been inspected and is in proper working order.

(e) All connections shall be located on the street side of each building, and activation of the sprinkler system shall activate both a local building alarm and a supervisory alarm at a twenty-four (24) hour certified and licensed alarm monitoring service.

(f) Four purposes of this section:

- (1) The height of a building shall be the vertical distance measured from the lowest mean elevation of the finished grade on any one side of the building to the highest point on the roof of the building.
- (2) A building shall be a structure designed to be used as a place of occupancy, storage, or shelter.
- (3) All portions of a building under a continuous roof structure shall be regarded as a single building, regardless of the existence of fire walls or separate ownership.
- (4) The term "extraterritorial planning area" shall mean that area defined in subdivision 15-15(22.1) of this code.
- (5) The term "assembly occupancy" shall have the meaning ascribed in Section 404 of the North Carolina State Building Code. In particular, the term "assembly shall include both large assemblies and small assemblies as those terms are described in Section 404.2 of the State Building Code (i.e., all assemblies having a capacity of 100 or more persons shall be included). (10/1/85, 2/4/86)

(g) Subsection (b) applies to existing buildings only to the extent and under the circumstances that the provisions of the North Carolina State Building Code apply to existing buildings.

Section 2. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 3. This ordinance shall become effective upon adoption.

The foregoing ordinance, having been submitted to a vote, received the following vote and was duly adopted this 25th day of November, 1997.

Ayes: Alex Zaffron, Diana McDuffee, Michael Nelson, Hank Anderson,

Noes: None

Absent or Excused: Jacquelyn Gist, Hilliard Caldwell