

BOARD OF ALDERMEN

ITEM NO.D(1)

AGENDA ITEM ABSTRACT

MEETING DATE: NOVEMBER 12, 2002

**SUBJECT: CONTINUATION OF PUBLIC HEARING FOR THE OLD FARMER'S MARKET OFFICE
BUILDING CONDITIONAL USE PERMIT, 300 ROBERSON STREET**

DEPARTMENT: PLANNING DEPARTMENT	PUBLIC HEARING: YES
ATTACHMENTS: A. PROJECT PLANS B. STAFF REPORT C. LAND USE PERMIT APPLICATION D. EXCERPTS FROM TRANSPORTATION IMPACT ANALYSIS E. PARKING JUSTIFICATION LETTER FROM APPLICANT F. LETTER FROM TOWN ENGINEER G. SECTION 15-185 OF THE LUO H. NEIGHBORHOOD INFORMATION MEETING FORM I. LETTER FROM CITIZEN REGARDING ENVIRONMENTAL CONCERNS J. ZONING DIVISION'S RESPONSE LETTER REGARDING ENVIRONMENTAL CONCERNS K. LETTER FROM APPLICANT REGARDING TOWN-ADOPTED POLICIES & PLANS FOR DOWNTOWN AREA L. LETTER RECEIVED FROM CITIZEN ON 10/18/2 M. DRAFT OF BOARD OF ALDERMEN MINUTES FROM OCTOBER 22, 2002 N. MEMO & ATTACHMENTS FROM TRANSPORTATION PLANNER REGARDING ON-STREET PARKING O. LETTER FROM APPLICANT REGARDING REQUESTS FOR ADDITIONAL INFORMATION P. LETTER FROM APPLICANT REGARDING POSSIBLE REQUIREMENT TO SHIFT LOCATION OF BUILDING Q. MEMO FROM PUBLIC WORKS DIRECTOR R. ANALYSIS FROM TOWN ENGINEER REGARDING POSSIBLE SIDEWALK ALONG SWEET BAY PLACE S. LETTER & ATTACHMENTS FROM TRANSPORTATION PLANNER REGARDING INTERSECTIONS T. MEMORANDUM FROM ENVIRONMENTAL PLANNER REGARDING ENVIRONMENTAL CONTINGENCY PLAN U. COMMENTS RECEIVED FROM CITIZENS SINCE OCTOBER 22, 2002 V. ADVISORY BOARD RECOMMENDATION STATEMENTS (INCLUDING SUMMARY SHEET) W. CONDITIONAL USE PERMIT WORKSHEET	FOR INFORMATION CONTACT: MARTY ROUPE, 918-7333

PURPOSE

N. R. Milian Associates, on behalf of Carr Mill Limited Partnership, has submitted an application for a major modification to an existing Conditional Use Permit (CUP) to allow for the construction of a three-story mixed-use office building to be located at 300 Roberson Street. Pursuant to Section 15-64(c) of the Town of Carrboro Land Use Ordinance, a major modification to a CUP shall be processed as an application for a new CUP. The Board of Aldermen held a public hearing on October 22, 2002. At that time, the Board chose to continue the public hearing during the November 12, 2002 meeting in order to seek additional information related to the application. Additional information is attached. At this time, the Administration recommends that the Board continue review and deliberation, and then make a decision regarding the conditional use permit application.

INFORMATION

The CUP for Carr Mill Mall was originally issued on February 11, 1976. Various modifications to the CUP have been granted since that time. The application currently before you amounts to a major modification, which is processed as a new CUP application. If approved, the CUP would allow the addition of a three-story, 18,755 square foot office building, consisting of various office and retail uses, on the site where the Farmer's Market was once held. The land currently serves as a parking lot for Carr Mill Mall, and is located south of Roberson Street, west of Sweet Bay Place, and east of the Maple Avenue/Carr Street intersection. A detailed staff report analyzing the proposed project is attached – see **Attachment B**.

Additional Information as Requested by Board of Aldermen:

During the public hearing on October 22, 2002, Board members requested additional information related to the following topics: 1) on-street parallel parking, 2) an alternate site for the dumpster, 3) the width of the sidewalk along Sweet Bay Place from the entrance point to the southern property line, 4) increased screening, and 5) possible improvements to the Carr Street/Greensboro Street intersection and the Roberson Street/Greensboro Street intersection (**Attachment M**). Additional information follows:

1) Regarding on-street parking, please note that Town staff has further analyzed the situation and continued discussing the matter with the applicant. The Town's Transportation Planner has compiled information from various sources supporting the provision of on-street parking (**Attachment N**), but the applicant has stated that he does not desire to offer the additional right-of-way along Roberson Street necessary for the provision of on-street parking. The applicant has provided a letter outlining the reasons for this stance (**Attachment O, #4**). As a part of the discussions, staff indicated that on-street parking potentially could be provided within an additional eight-feet (8') of right-of-way instead of the additional nine and one-half (9 ½ ') discussed earlier during the review process.

Based on current case law, the Town Attorney has indicated that the Board of Aldermen does not have the authority to require that the applicant dedicate the additional right-of-way; however, the Town Attorney does feel it would be reasonable to require that the proposed building be setback some distance to accommodate future public purpose needs within the Roberson Street right-of-way. In other words, it would be reasonable to require that the applicant place the building some distance from the property line in order to provide ample space for future right-of-way improvements along Roberson Street. Doing so would allow the Town to acquire (via eminent domain) additional right-of-way in the future without the building's location being in potential conflict with right-of-way improvements. To that end, staff recommends that the following condition be attached to the permit:

- That the proposed building be located eight-feet (8') south of the location currently shown on the CUP plans, and that this location be shown on the construction plans.

The applicant has submitted a letter addressing the possible requirement of setting the building back without dedicating additional right-of-way (**Attachment P**).

As a reminder, if the Board chooses to make the building setback a condition of the permit, then the Board should be prepared to reduce the number of parking spaces found to be sufficient to serve the proposed development to 592 (see Recommended Condition #1). This number reflects that four (4) parking spaces potentially would be lost if the building were set back eight-feet (8').

Also of note in relation to on-street parking, please note that the Town Arborist is of the opinion that the 12-inch incense cedar (tree of rare species per LUO) is in good health (**Attachment Q**). As a reminder, the incense cedar tree is an existing tree located within the Roberson Street right-of-way. The tree would have to be removed in order to provide on-street parking along the south side of Roberson Street. At the October 22, 2002 meeting, staff offered an opinion that the tree was not in good health. Since that time, Town Arborist Chris Gerry has examined the tree and determined that it is in good health, as referenced in the attached memo from the Public Works Director. Mr. Gerry also verbally indicated that it would be very expensive to attempt to move the tree, and that it likely would not survive the transplantation.

2) Regarding the alternate site for the dumpster, please note that Town staff and the applicant have explored the matter. The applicant has indicated that he was able to reach a satisfactory agreement with Ray DeVries of Orange County Rescue Squad (**Attachment O, #1**). In short, Orange Rescue Squad is willing to forego their rollout carts and share use of a dumpster to be located on their site. The Public Works Director also has examined this situation and concluded that shared use of a dumpster is an acceptable situation (**Attachment Q**). Therefore, staff recommends that the following condition be attached to the permit:

- That the applicant share use of a dumpster with the neighboring property owner to the west (Orange County Rescue Squad), and that the dumpster be located on the neighboring property.

3) Staff and the applicant also have further analyzed and discussed the possibility of placing a sidewalk along Sweet Bay Place from the driveway entrance point for the development to the southern property line. The applicant is not in favor of dedicating right-of-way to the Town for this purpose, as indicated in the attached letter (**Attachment O, #4**). Again based on current case law, the Town Attorney has indicated that the Board of Aldermen does not have the authority to require that the applicant dedicate the additional right-of-way that is being requested.

The Town Engineer reviewed the area of the property in question and determined that the sidewalk could be put in place in a way that would only impact three (3) parking spaces. A five-foot (5') sidewalk plus a three-foot (3') planter strip could be designed into the northern half of the subject area, but for the southern portion of the subject area, the limited width between the existing curb and where the existing parking spaces begin would limit the design to a maximum of a five-foot (5') wide sidewalk with no planter strip. The current right-of-way line along the northern half of the subject area runs along the back of the existing curb line. For the southern portion of the subject area, the right-of-way line extends approximately seven-feet (7') westward from the existing curb line but then narrows to approximately five-feet (5') at the southernmost point of the property. If the Board were able to reach a compromise with the applicant regarding this matter, then staff would recommend that the condition placed on the permit state that the right-of-way line be extended to eight-feet (8') or five-feet (5') (whichever might be chosen) behind the existing curb line. As further explanation, please note that little to no right-of-way would have to be dedicated along the southern portion of the subject area, but staff still would recommend

that a condition be attached to the permit so that the information presented herein could be confirmed by survey. For the northern half of the property, the right-of-way dedication would amount to either an eight-foot (8') dedication or a five-foot (5') dedication (again, whichever might be chosen), since the right-of-way line currently runs along the existing curb line. Again though, the applicant has stated that they are not interested in donating the additional right-of-way.

The engineer also provided an approximate cost estimate for the construction of such a sidewalk (**Attachment R**). The approximate costs were found to be \$46,344.00, in part because a retaining wall would be necessary along a large portion of the right-of-way where the sidewalk would be placed (the estimated costs of the retaining wall alone is \$25,000). Also of note, eight (8) six-inch (6") existing magnolia trees would have to be displaced along the northern portion of the subject area to put the sidewalk in place.

4) Regarding the possibility of additional screening, please note that the applicant has offered to locate an oak tree in the proposed planting island in lieu of relocating the three (3) existing trees as indicated on the plans (**Attachment O, #2**). With time, the oak tree could provide a substantial screen when looking north from south of the property. Staff discussed this matter and consulted with the Town Arborist who suggested adding three (3) Foster Holly trees in the planting island instead of one (1) oak tree. In his opinion, three (3) Foster Holly trees would mature more quickly and would provide a substantial amount of screening upon maturity. Based on the opinion of the Town Arborist, and instead of the one oak tree that the applicant has offered, staff recommends the following additional condition:

- That the applicant place three (3) Foster Holly trees in the proposed planting island directly west of the entrance point for the development in lieu of transplanting the existing trees on the site into the planting island.

5) Regarding the Carr Street and Roberson Street intersections at Greensboro Street, please find attached a letter from Transportation Planner Dale McKeel (**Attachment S**). In the letter, Mr. McKeel recommends that the Board of Aldermen request that NCDOT study the aforementioned intersections and recommend ways to reduce speeds and improve safety. Since this request is not directly related to the project being considered, staff is not recommending that a condition be attached to the permit regarding the matter.

Additional Information Not Related to Requests by Board of Aldermen:

Staff left a memorandum from Town Environmental Planner Phil Prete at the desk of each Board member on the night of the initial public hearing (**Attachment T**). The memorandum discussed a possible additional condition to be added to the permit related to an environmental contingency plan in case environmental problems are discovered during the construction process. Please note that the applicant has provided such a plan. The Environmental Planner now has reviewed and approved the contingency plan. Therefore, staff feels it is not necessary to add a condition to the permit regarding this matter.

Also of note, staff has received additional comments from two citizens since October 22, 2002. The comments are attached for your review (**Attachment U**).

RECOMMENDATION

The Administration recommends that the Board of Aldermen approve the Conditional Use Permit to allow the construction of a three-story mixed use office building (Use 27.000, consisting of Uses 2.120, 3.110, 3.120 and 3.130) at 300 Roberson Street, subject to the following conditions:

1. That the Board hereby finds that 596 parking spaces are sufficient to serve the proposed office building as well as the Carr Mill Mall Shopping Center. The Board makes this finding based on the evidence submitted showing that between 40-60 parking spaces regularly remain vacant at 300 Roberson Street, based on the development's close proximity to the central business district, and based on the site's proximity to bus lines;
2. That the construction plans shall appropriately illustrate the re-striping of parking spaces, to match the number of subcompact spaces described in the chart on page L-1 of the CUP plans;
3. That the construction plans shall include a bike rack within the bicycle parking area, along with a detail drawing for a 'wave' model bike rack that can accommodate at least five (5) bikes;
4. That all on-site lights be reduced to a maximum height of fifteen-feet (15'), in accordance with Section 15-243(c) of the Land Use Ordinance, prior to the issuance of a 'certificate of occupancy' for the building;
5. That the proposed building be located eight-feet (8') south of the location currently shown on the CUP plans, and that this location be shown on the construction plans;
6. That the applicant share use of a dumpster with the neighboring property owner to the west (Orange County Rescue Squad), and that the dumpster be located on the neighboring property;
7. That the applicant place three (3) Foster Holly trees in the proposed planting island directly west of the entrance point for the development in lieu of transplanting the existing trees on the site into the planting island.

Additionally and as a reminder, please note that staff identified five (5) 'items for discussion with the property owner' in the original staff report for the project. Included below, as a reminder of the issues, is the original text of two items (two possible sidewalk right-of-way dedications) that the Board discussed with the applicant, but for which additional information was not requested. Not included are the issues discussed earlier in this abstract (i.e.- issues for which the Board did request additional information), nor issues that the Board chose not to discuss during the initial public hearing. The Board may wish to continue discussing the following issues with the property owners:

1. A possible dedication of additional sidewalk right-of-way along Roberson Street. It is staff's suggestion that the right-of-way line should extend to the beginning of the handicap ramp on the Roberson Street side of the property, and that the dedication of sidewalk right-of-way should extend the entire length of the northern side of the property. Further, staff suggests that the Board may want to consider requesting that the edges of the sidewalk within the public right-of-way be clearly demarcated with a brick border, consistent with other sidewalks in the downtown area. If the property owners are willing to do this, then staff recommends that the dedication of sidewalk right-of-way and the brick borders be shown on the construction plans;
2. A possible dedication of additional sidewalk right-of-way along Sweet Bay Place. In this case, it is staff's suggestion that the right-of-way line should extend to the beginning of the water garden feature on the Sweet Bay Place side of the property, and that the dedication should extend from the Roberson Street/Sweet Bay Place intersection to the proposed entrance/exit point on the property. Further, staff suggests that the Board may want to consider requesting that the edges of

the sidewalk within the public right-of-way be clearly demarcated with a brick border, consistent with other sidewalks in the downtown area. If the property owners are willing to do this, then staff recommends that the dedication of sidewalk right-of-way and the brick borders be shown on the construction plans.