

A regular meeting of the Carrboro Board of Aldermen was held on Tuesday, September 24, 1991 at 7:30 p.m. in the Town Hall Board Room.

Present and presiding:

Mayor	Eleanor Kinnaird
Aldermen	Randy Marshall
	Hilliard Caldwell
	Frances Shetley
	Jacquelyn Gist
	Jay Bryan
Town Manager	Robert W. Morgan
Town Clerk	Sarah C. Williamson
Town Attorney	Michael Brough

Absent:

Alderman	Tom Gurganus
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APPROVAL OF MINUTES OF PREVIOUS MEETING

MOTION WAS MADE BY HILLIARD CALDWELL AND SECONDED BY JAY BRYAN THAT THE MINUTES OF SEPTEMBER 17, 1991 BE APPROVED. VOTE: AFFIRMATIVE ALL

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PUBLIC HEARING/CONDITIONAL USE PERMIT REQUEST/FRANCIS CHAN

Melen Waldrop, the town's Zoning Administrator, was sworn in. Ms. Waldrop stated that Francis Chan was requesting a conditional use permit which would allow high volume retail sales, restaurants, and office uses at 201 N. Greensboro Street (formerly First Union Bank). The parcel is identified as Tax Map 98, Block H, Lots 1 and 7 and is zoned B-1(c). Ms. Waldrop presented slides of the existing site and the proposed site plan. Ms. Waldrop stated that the administration recommended approval of the conditional use permit with the following conditions: (1) That the right turn only island be reconfigured to effectively prohibit left turns in and out; and (2) That signs indicating "a right-in right-out only" onto North Greensboro Street be erected prior to issuance of certificate of compliance and occupancy.

Phillip Post, the engineer for the proposed project, was sworn in. Mr. Post stated that N.C. DOT had approved the entrance onto North Greensboro Street. That the plans for the enclosure of the drive through area will be taken back to the town's Appearance Commission for review. The planting island and foundation plantings will be refurbished and lighting will be added. Since the main entrance to the building is about 28 feet from the proposed dumpster, the applicant will be very conscious of the condition of the dumpster. A trash compactor will be used to compact the garbage. In addition, the applicant will be freezing wastes and then place them in the dumpster just prior to pickup. Mr. Post presented a letter indicating the trip generation rates for a 2,000 square foot building for four different uses.

Robin Lackey, representing the Planning Board, was sworn in. Ms. Lackey stated that the Planning Board recommended approval of the conditional use permit with the staff recommendations plus the following condition: That a traffic barrier be erected at the exit onto Center Street to prevent traffic from entering Center Street between the hours of 8:00 p.m. through 6:00 a.m.

Jane Hamborsky, a resident of Center Street, was sworn in. Ms. Hamborsky stated her concern about the night traffic on Center Street is a restaurant were allowed on this site, about the type of restaurant, and the size of exhaust fans to be used. Ms. Hamborsky requested that the bushes be trimmed and stated that she was concerned about the traffic congestion caused by large delivery trucks if a restaurant were allowed on this site.

Trudy Williams, a resident of Center Street, was sworn in. Ms. Williams stated that she would like to see something in the building but does not want a restaurant there. Ms. Williams stated that she was concerned about the location of dumpster and the smells and the possibility of rodents.

James Williams, the owner of property adjacent to the proposed site, was sworn in. Mr. Williams stated that he was concerned about locating a restaurant on the proposed site and the odors associated with the dumpster if placed as proposed. Mr. Williams stated that he was also concerned about undesirables at the restaurant at night. Mr. Williams stated that he was totally opposed to a restaurant at the proposed location.

John Alderson, a resident of Oak Avenue, was sworn in. Mr. Alderson stated that he would encourage a business at this location, but was concerned about the increased traffic on neighborhood streets. Mr. Alderson stated that dumpsters are always going to have bad odors, questioned whether there would be take-out or delivery service from the restaurant and requested that the Board separate the three uses and issue a permit for an office only at this time.

Ransom Boyles, a resident of 103 Center Street, was sworn in. Mr. Boyles stated his opposition to the proposed location of the dumpster and the odors associated with it.

Michell Rivest, a resident of 100 Oak Avenue, was sworn in. Ms. Rivest stated that she was supportive of the site being used as an office building, but concerned about it being used as a restaurant.

Scott Simmons, a resident of Center Street, was sworn in. Mr. Simmons stated that he was concerned about the site being used as a restaurant.

MOTION WAS MADE BY RANDY MARSHALL AND SECONDED BY JACQUELYN GIST THAT THE PUBLIC HEARING BE CLOSED. VOTE: AFFIRMATIVE ALL

It was the consensus of the Board to reopen the public hearing to hear additional testimony from the town staff concerning the dumpster location.

Chris Peterson, the town's Public Works Director, was sworn in. Mr. Peterson discussed alternate locations for the dumpster, but stated that the proposed location would work best as far as servicing it with the truck.

Phil Post stated that roll-out carts would be an acceptable alternative to the dumpster.

John Alderson stated that he felt there were more important issues to deal with other than the dumpster.

MOTION WAS MADE BY RANDY MARSHALL AND SECONDED BY JACQUELYN GIST THAT THE PUBLIC HEARING BE CLOSED. VOTE: AFFIRMATIVE ALL

MOTION WAS MADE BY RANDY MARSHALL AND SECONDED BY HILLIARD CALDWELL THAT THE APPLICATION TO ALLOW HIGH VOLUME RETAIL SALES AND OFFICE USE WAS COMPLETE. VOTE: AFFIRMATIVE ALL

MOTION WAS MADE BY RANDY MARSHALL AND SECONDED BY HILLIARD CALDWELL THAT THE APPLICATION TO ALLOW HIGH VOLUME RETAIL SALES AND OFFICE USE COMPLIES WITH ALL APPLICABLE REQUIREMENTS OF THE LAND USE ORDINANCE. VOTE: AFFIRMATIVE ALL

MOTION WAS MADE BY RANDY MARSHALL AND SECONDED BY HILLIARD CALDWELL THAT THE APPLICATION TO ALLOW HIGH VOLUME RETAIL SALES AND OFFICE USE WAS GRANTED, SUBJECT TO THE FOLLOWING CONDITIONS:

1. THE APPLICANT SHALL COMPLETE THE DEVELOPMENT STRICTLY IN ACCORDANCE WITH THE PLANS SUBMITTED TO AND APPROVED BY THIS BOARD, A COPY OF WHICH IS FILED IN THE CARRBORO TOWN HALL. ANY DEVIATIONS FROM OR CHANGES IN THESE PLANS MUST BE SUBMITTED TO THE ZONING ADMINISTRATOR IN WRITING AND SPECIFIC WRITTEN APPROVAL OBTAINED AS PROVIDED IN SECTION 15-64 OF THE LAND USE ORDINANCE.

2. IF ANY OF THE CONDITIONS AFFIXED HERETO OR ANY PART THEREOF SHALL BE HELD INVALID OR VOID, THEN THIS PERMIT SHALL BE VOID AND OF NO EFFECT.

3. THAT THE RIGHT TURN ONLY ISLAND BE RECONFIGURED TO EFFECTIVELY PROHIBIT LEFT TURNS IN AND OUT.

4. THAT SIGNS INDICATING "A RIGHT-IN RIGHT-OUT ONLY" ONTO NORTH GREENSBORO STREET BE ERECTED PRIOR TO ISSUANCE OF A CERTIFICATE OF COMPLIANCE AND OCCUPANCY.

5. THAT DURING REJUVENATION OF THE BUILDING THE APPLICANT SHOULD USE A COLOR THAT IS LESS CONTRASTING THAN CURRENT COLOR (SUCH AS NOT WHITE, SKY BLUE BUT PERHAPS SOMETHING REDDISH-BROWN WITH A SIMILAR VALUE TO THE BRICK ON THE BUILDING.)

6. THAT THE PLANTING ISLANDS AND FOUNDATION PLANTINGS BE REFURBISHED IN A MANNER TO SUIT THE APPLICANT.

7. THAT UPON ENCLOSURE OF THE DRIVE-THROUGH AREA THAT ELEVATIONS SHOULD BE BROUGHT BEFORE THE APPEARANCE COMMISSION FOR APPROVAL.

8. THAT A TRAFFIC BARRIER BE ERECTED AT THE EXIT ONTO CENTER STREET TO PREVENT TRAFFIC FROM ENTERING CENTER STREET BETWEEN THE HOURS OF 8:00 P.M. THROUGH 6:00 A.M.

9. THAT THE DUMPSTER SHOWN ON THE SITE PLAN BE DELETED.

VOTE: AFFIRMATIVE ALL

MOTION WAS MADE BY HILLIARD CALDWELL AND SECONDED BY RANDY MARSHALL THAT THE APPLICATION TO ALLOW A RESTAURANT USE IS COMPLETE. VOTE: AFFIRMATIVE ALL

MOTION WAS MADE BY HILLIARD CALDWELL AND SECONDED BY RANDY MARSHALL THAT THE APPLICATION TO ALLOW A RESTAURANT USE COMPLIES WITH ALL APPLICABLE REQUIREMENTS OF THE LAND USE ORDINANCE. VOTE: AFFIRMATIVE FOUR, NEGATIVE TWO (BRYAN, SHETLEY)

MOTION WAS MADE BY HILLIARD CALDWELL AND SECONDED BY RANDY MARSHALL THAT THE APPLICATION TO ALLOW A RESTAURANT USE BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. THE APPLICANT SHALL COMPLETE THE DEVELOPMENT STRICTLY IN ACCORDANCE WITH THE PLANS SUBMITTED TO AND APPROVED BY THIS BOARD, A COPY OF WHICH IS FILED IN THE CARRBORO TOWN HALL. ANY DEVIATIONS FROM OR CHANGES IN THESE PLANS MUST BE SUBMITTED TO THE ZONING ADMINISTRATOR IN WRITING AND SPECIFIC WRITTEN APPROVAL OBTAINED AS PROVIDED IN SECTION 15-64 OF THE LAND USE ORDINANCE.

2. IF ANY OF THE CONDITIONS AFFIXED HERETO OR ANY PART THEREOF SHALL BE HELD INVALID OR VOID, THEN THIS PERMIT SHALL BE VOID AND OF NO EFFECT.

3. THAT THE RIGHT TURN ONLY ISLAND BE RECONFIGURED TO EFFECTIVELY PROHIBIT LEFT TURNS IN AND OUT.

4. THAT SIGNS INDICATING "A RIGHT-IN RIGHT-OUT ONLY" ONTO NORTH GREENSBORO STREET BE ERECTED PRIOR TO ISSUANCE OF A CERTIFICATE OF COMPLIANCE AND OCCUPANCY.

5. THAT DURING REJUVENATION OF THE BUILDING THE APPLICANT SHOULD USE A COLOR THAT IS LESS CONTRASTING THAN CURRENT COLOR (SUCH AS NOT WHITE, SKY BLUE BUT PERHAPS SOMETHING REDDISH-BROWN WITH A SIMILAR VALUE TO THE BRICK ON THE BUILDING.)

6. THAT THE PLANTING ISLANDS AND FOUNDATION PLANTINGS BE REFURBISHED IN A MANNER TO SUIT THE APPLICANT.

7. THAT UPON ENCLOSURE OF THE DRIVE-THROUGH AREA THAT ELEVATIONS SHOULD BE BROUGHT BEFORE THE APPEARANCE COMMISSION FOR APPROVAL.

8. THAT A TRAFFIC BARRIER BE ERECTED AT THE EXIT ONTO CENTER STREET TO PREVENT TRAFFIC FROM ENTERING CENTER STREET BETWEEN THE HOURS OF 8:00 P.M. THROUGH 6:00 A.M.

9. THAT THE DUMPSTER SHOWN ON THE SITE PLAN BE DELETED.

VOTE: AFFIRMATIVE TWO, NEGATIVE FOUR (KINNAIRD, SHETLEY, GIST, BRYAN)

MOTION WAS MADE BY JAY BRYAN AND SECONDED BY JACQUELYN GIST THAT THE APPLICATION TO ALLOW A RESTAURANT USE BE DENIED BECAUSE, IF COMPLETED AS PROPOSED, THE DEVELOPMENT MORE PROBABLY THAN NOT:

1. Will substantially injure the value of adjoining and abutting residential property because of the size, location and use of the dumpster as well as the issues concerning the odor from the restaurant, traffic and traffic congestion as a result of the restaurant use. In addition, testimony offered by speakers at the public hearing on this matter stated that they would strongly consider moving from the area and leaving their properties if a restaurant were placed at this location.

2. The development will not be in harmony with the area in which it is to be located because of the above-listed reasons.

3. The application was denied because sufficient information was not presented by the applicant to rule that the concerns listed above would not be true.

VOTE: AFFIRMATIVE FIVE, NEGATIVE ONE (CALDWELL)

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**170 PUBLIC HEARING/LAND USE ORDINANCE TEXT AMENDMENT/VESTED RIGHTS**

This was a public hearing to receive public comments on an amendment the Land Use Ordinance to provide for the vesting of rights with respect to developments that are approved through the issuance of zoning, special or conditional use permits.

MOTION WAS MADE BY RANDY MARSHALL AND SECONDED BY JACQUELYN GIST THAT THE PUBLIC HEARING BE CLOSED AS NO ONE WISHED TO SPEAK. VOTE: AFFIRMATIVE ALL

MOTION WAS MADE BY RANDY MARSHALL AND SECONDED BY JACQUELYN GIST THAT THE ORDINANCE ENTITLED, "AN ORDINANCE AMENDING THE CARRBORO LAND USE ORDINANCE TO PROVIDE FOR THE VESTING OF RIGHTS WITH RESPECT TO DEVELOPMENTS THAT ARE APPROVED THROUGH THE ISSUANCE OF ZONING OR SPECIAL OR CONDITIONAL USE PERMITS," BE ADOPTED. (MOTION WITHDRAWN)

MOTION WAS MADE BY JACQUELYN GIST AND SECONDED BY RANDY MARSHALL THAT DISCUSSION OF THIS MATTER BE CONTINUED AT THE BOARD'S OCTOBER 1, 1991 MEETING. VOTE: AFFIRMATIVE ALL

It was the consensus of the Board to request that the Town Attorney make revisions to the proposed ordinance so that a vested right would not automatically be established with respect to the issuance of zoning permits.

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**REVOLVING LOAN FUND REQUEST/MAGGIE'S MUFFINS**

James Harris, the town's Community/Economic Development Officer, stated that the town had received an application from Maggie's Muffins for a loan in the amount of \$45,000 for the expansion of the existing bakery shop to a new location. The term of the loan would be 8 years at 6% interest with a balloon payment in 3 years. Mr. Harris stated that the Downtown Development Commission recommended approval of the request from Maggie's for a loan in the amount of \$45,000 for 8 years at 6% interest. This loan would balloon in three years at which time its financial situation would be examined to determine if Maggie's should seek conventional financing.

MOTION WAS MADE BY JACQUELYN GIST AND SECONDED BY FRANCES SHETLEY THAT THE LOAN IN THE AMOUNT OF \$45,000 FOR 8 YEARS AT 6% INTEREST WITH A BALLOON PAYMENT IN 3 YEARS BE APPROVED. VOTE: AFFIRMATIVE ALL

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**RENTAL REHABILITATION APPLICATION**

James Harris, the town's Community/Economic Development Officer, stated that the administration was requesting authorization to submit a 1991 grant application to the N.C. Housing Finance Office for rental rehabilitation funds in the amount of \$34,250.

The following resolution was introduced by Alderman Randy Marshall and duly seconded by Alderman Jay Bryan.

A RESOLUTION AUTHORIZING SUBMISSION OF  
A RENTAL REHABILITATION APPLICATION  
Resolution No. 10/91-92

WHEREAS, the Town of Carrboro has been notified that 1991 Rental Rehabilitation funds are available; and

WHEREAS, the town has rental units that would qualify for rehabilitation under the Rental Rehabilitation Program; and

WHEREAS, the town is required to submit a completed application on or before September 30, 1991 to be eligible for consideration of funding.

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

Section 1. The Mayor is hereby authorized to sign and submit an application for 1991 Rental Rehabilitation funds to the North Carolina Housing Finance Agency.

Section 2. 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 24th day of September, 1991:

Ayes: Randy Marshall, Hilliard Caldwell, Eleanor Kinnaird, Frances Shetley, Jacquelyn Gist, Jay Bryan

Noes: None

Absent or Excused: Tom Gurganus

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**DISCUSSION OF RELEASE OF FUNDS TO ARTSCENTER**

Larry Gibson, the town's Assistant Town Manager, stated that the ArtsCenter has requested that the town release funds to it approved in the 1991-92 budget. Mr. Gibson stated that the administration recommended that the Board authorize the Town Manager to pay \$1,250 a month to Main Street Partners during fiscal year 1991-92 on behalf of the ArtsCenter as partial payment towards rent.

MOTION WAS MADE BY RANDY MARSHALL AND SECONDED BY JACQUELYN GIST THAT THE TOWN MANAGER BE AUTHORIZED TO PAY \$1,250 A MONTH TO MAIN STREET PARTNERS DURING FY'91-92 ON BEHALF OF THE ARTSCENTER AND THAT THE ARTSCENTER CONTINUE TO SEND STATUS REPORTS AND A COPY OF THEIR AUDIT TO THE TOWN. VOTE: AFFIRMATIVE FOUR, NEGATIVE TWO (SHETLEY, CALDWELL)

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**REQUEST TO ESTABLISH A PUBLIC OPINION POLL**

The Mayor request that a request from the UNC School of Journalism to establish a public opinion poll be presented to the Board as information.

MOTION WAS MADE BY JACQUELYN GIST AND SECONDED BY JAY BRYAN THAT THIS MATTER BE REFERRED BACK TO THE TOWN STAFF FOR A RECOMMENDATION. VOTE: AFFIRMATIVE ALL

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**STATE STREET PROJECT U-2002**

Board authorized the town staff to request that N.C.DOT compute the cost of reconstructing the 2 to 1 slopes to 3 to 1 slopes on the 64 properties identified along West Main Street, Hillsborough Road and North Greensboro Street.

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**ANIMAL CONTROL ORDINANCE**

Alderman Shetley requested a status report on the revised animal control ordinance. The Town Attorney stated that he would begin work on revising the proposed ordinance.

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MOTION WAS MADE BY JAY BRYAN AND SECONDED BY JACQUELYN GIST THAT THE MEETING BE ADJOURNED AT 12:10 A.M. VOTE: AFFIRMATIVE ALL

*Sarah C. Williamson*  
Town Clerk

*Eleanor Kinnaird*  
Mayor