

A regular meeting of the Carrboro Board of Aldermen was held on Tuesday, April 6, 2004 at 7:30 p.m. in the Town Hall Board Room.

Present and presiding:

Mayor	Michael Nelson
Aldermen	Joal Hall Broun
	Mark Chilton (arrived at 7:35 p.m.)
	Jacquelyn Gist
	John Herrera
	Diana McDuffee
	Alex Zaffron
Town Manager	Steven E. Stewart
Town Attorney	Michael B. Brough
Town Clerk	Sarah C. Williamson

### **APPROVAL OF MINUTES OF PREVIOUS MEETINGS**

MOTION WAS MADE BY JOAL HALL BROUN AND SECONDED BY JACQUELYN GIST TO APPROVE THE MARCH 16 AND 23, 2004 MINUTES. VOTE: AFFIRMATIVE SIX, ABSENT ONE (CHILTON)

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### **PROCLAMATIONS**

Mayor Nelson read a proclamation proclaiming May 8-16 as National Tourism Week. In addition, Mayor Nelson announced that the Orange County Human Relations Commission is having a One-Book – One Community Project with a discussion on April 18<sup>th</sup> at 2:00 p.m. at Carrboro Library.

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### **MINOR MODIFICATION TO THE CARR MILL MALL CONDITIONAL USE PERMIT TO ALLOW AN AWNING OVER THE OUTSIDE SEATING AREA AT ELMO'S DINER**

Cindy McMahan, representing Elmo's Diner, Inc., has submitted an application for a minor modification to an existing Conditional Use Permit (CUP) to allow an awning to be placed over the outside seating area of Elmo's Diner at 200 North Greensboro Street. Pursuant to Section 15-64(b) of the Town of Carrboro Land Use Ordinance, a minor modification to a CUP is permissible with the approval of the Board of Aldermen. The Administration requested that the Board review, deliberate and make a decision regarding the minor modification to the existing CUP.

The following resolution was introduced by Alderman Jacquelyn Gist and duly seconded by Alderman Alex Zaffron.

A RESOLUTION APPROVING THE MINOR MODIFICATION TO THE CUP FOR THE CARR MILL MALL LOCATED AT 200 NORTH GREENSBORO STREET TO ALLOW AN AWNING TO BE PLACED OVER THE OUTSIDE SEATING AREAS IN FRONT OF ELMO'S DINER

Resolution No. 135/2003-04

WHEREAS, the Carrboro Board of Aldermen approved a Conditional Use Permit for The Carr Mill Mall at 200 North Greensboro Street on February 11, 1976; and

WHEREAS, the applicant has requested a modification to allow the addition of an awning over the existing outdoor dining area; and

WHEREAS, the Administration has determined that the requested change is a minor modification, which requires approval by the permit issuing authority (in this case, the Board of Aldermen); and

WHEREAS, the Board of Aldermen finds that the applicant has satisfied the requirements related to minor modifications contained in the Land Use Ordinance.

NOW, THEREFORE BE IT RESOLVED by the Carrboro Board of Aldermen that the minor modification to the Carr Mill Mall conditional use permit located at 200 North Greensboro Street allowing an awning to be placed over the outside seating areas in front of Elmo's Diner is approved subject to the following condition:

- That the signage proposed on the awning is subject to the receipt of a separate sign permit.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 6th day of April, 2004:

Ayes: Joal Hall Broun, Mark Chilton, Jacquelyn Gist, John Herrera, Diana McDuffee, Michael Nelson, Alex Zaffron

Noes: None

Absent or Excused: None

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**REPORT ON ADVISORY BOARD REVIEW OF INVASIVE PLANT SPECIES AND RECOMMENDED TREES AND SHRUBS**

The Board of Aldermen's 2003 Action Agenda directed advisory board review of the Invasive Plant Species list. Both the EAB and AC have reviewed and offer recommendations to the Board of Aldermen. A resolution accepting the report was presented.

Noah Ranells, the town's Environmental Planner, made the presentation.

Kathy Buck, a member of the Environmental Advisory Board, stated that the lists proposed are recommendations only; it would not prohibit planting of the species.

The following resolution was introduced by Alderman Alex Zaffron and duly seconded by Alderman Joal Hall Broun.

A RESOLUTION ACCEPTING THE REPORT ON ADVISORY BOARD  
REVIEW OF APPENDIX E-17: INVASIVE PLANT SPECIES AND UPDATE TO  
APPENDICES E-10 THROUGH 3-16: RECOMMENDED TREES AND SHRUBS  
Resolution No. 134/2003-04

WHEREAS, the Carrboro Board of Aldermen seeks to ensure that its existing and proposed policies and regulations are responsive to environmental concerns of plant species; and

NOW, THEREFORE BE IT RESOLVED by the Carrboro Board of Aldermen that the Aldermen accepts this report and express its intent to consider a text amendment in the 2004 Action Agenda.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 6th day of April, 2004:

Ayes: Joal Hall Broun, Mark Chilton, Jacquelyn Gist, John Herrera, Diana McDuffee, Michael Nelson, Alex Zaffron

Noes: None

Absent or Excused: None

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**REQUEST TO SET A PUBLIC HEARING TO CONSIDER A LAND USE ORDINANCE TEXT AMENDMENT TO PROVIDE FOR CONDITIONAL USE DISTRICTS**

The possibility of developing conditional use districts for use in the downtown and elsewhere in Carrboro's jurisdiction has been noted in the review of development potential for some time. A draft ordinance that would establish conditional use district "twins" to nearly all of the existing zoning districts was provided for the Board's consideration. A resolution setting a public hearing for May 25, 2004 was presented.

Trish McGuire, the town's Planning Administrator, made the presentation.

The following resolution was introduced by Alderman Alex Zaffron and duly seconded by Alderman John Herrera.

A RESOLUTION CALLING A PUBLIC HEARING ON A LAND USE ORDINANCE TEXT AMENDMENT TO PROVIDE FOR CONDITIONAL USE DISTRICTS  
Resolution No. 140/2003-04

WHEREAS, the Carrboro Board of Aldermen seeks to provide ample opportunities for the public to consider modifications to existing policies and regulations; and

NOW, THEREFORE BE IT RESOLVED that the Board of Aldermen calls a public hearing on May 25, 2004 to consider adopting "An Ordinance Amending the Carrboro Land Use Ordinance to Provide for Conditional Use Districts."

BE IT FURTHER RESOLVED that the draft amendment is referred to Orange County for review per the Joint Planning Agreement and to the Town of Carrboro Planning Board for its recommendations.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 6th day of April, 2004:

Ayes: Joal Hall Broun, Mark Chilton, Jacquelyn Gist, John Herrera, Diana McDuffee, Michael Nelson, Alex Zaffron

Noes: None

Absent or Excused: None

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**REQUEST TO SET A PUBLIC HEARING TO CONSIDER A LAND USE ORDINANCE TEXT AMENDMENT TO PERMIT MODIFICATIONS WHERE NONCONFORMING SITUATIONS MAY BE ALLOWED TO REMAIN**

Over time, changes to town regulations may create nonconforming situations in existing development. Staff has determined the need for ordinance provisions associated with such situations in order to clearly administer the review and approval process when new permits or permit modifications have been requested. A resolution setting a public hearing for May 25, 2004 was presented.

Mike Brough made the presentation.

The following resolution was introduced by Alderman Alex Zaffron and duly seconded by Alderman John Herrera.

**A RESOLUTION CALLING A PUBLIC HEARING ON LAND USE ORDINANCE TEXT AMENDMENTS RELATED TO THE ISSUANCE OF PERMIT MODIFICATIONS WHERE EXISTING NONCONFORMING SITUATIONS REMAIN  
Resolution No. 138/2003-04**

WHEREAS, the Carrboro Board of Aldermen seeks to provide ample opportunities for the public to consider modifications to existing policies and regulations; and

NOW, THEREFORE BE IT RESOLVED that the Board of Aldermen calls a public hearing on May 25, 2004 to consider adopting “An Ordinance Amending the Carrboro Land Use Ordinance to Clarify the Circumstances Under Which Permits May be Issued or Modifications of Permits Approved Without Requiring the Elimination of Nonconforming Situations.”

BE IT FURTHER RESOLVED that the draft amendment is referred to Orange County for review per the Joint Planning Agreement and to the Town of Carrboro Planning Board for its recommendations.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 6th day of April, 2004:

Ayes: Joal Hall Broun, Mark Chilton, Jacquelyn Gist, John Herrera, Diana McDuffee, Michael Nelson, Alex Zaffron

Noes: None

Absent or Excused: None

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**REQUEST TO SET A PUBLIC HEARING TO CONSIDER LAND USE ORDINANCE TEXT AMENDMENTS RELATED TO GROUP HOMES**

Town staff has determined that the Land Use Ordinance’s group home provisions are in need of revision. A draft ordinance has been prepared. A resolution setting a public hearing for May 25, 2004 was presented

Mike Brough made the presentation.

Alderman Gist requested that Residential Services and the management of other group homes in Carrboro be notified of the May 25th public hearing.

The following resolution was introduced by Alderman Jacquelyn Gist and duly seconded by Alderman Joal Hall Broun.

A RESOLUTION CALLING A PUBLIC HEARING ON LAND USE ORDINANCE TEXT  
AMENDMENTS TO PROVISIONS RELATED TO GROUP HOMES  
Resolution No. 137/2003-04

WHEREAS, the Carrboro Board of Aldermen seeks to provide ample opportunities for the public to consider modifications to existing policies and regulations; and

NOW, THEREFORE BE IT RESOLVED that the Board of Aldermen calls a public hearing on May 25, 2004 to consider adopting "An Ordinance Amending the Carrboro Land Use Ordinance Provisions Dealing with Group Homes."

BE IT FURTHER RESOLVED that the draft amendment is referred to Orange County for review per the Joint Planning Agreement and to the Town of Carrboro Planning Board for its recommendations.

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 6th day of April, 2004:

Ayes: Joal Hall Broun, Mark Chilton, Jacquelyn Gist, John Herrera, Diana McDuffee, Michael Nelson, Alex Zaffron

Noes: None

Absent or Excused: None

MOTION WAS MADE BY JOAL HALL BROUN AND SECONDED BY JOHN HERRERA THAT THE TOWN STAFF REPORT ON WHAT AFFECT FEDERAL LAWS AND TOWN REGULATIONS HAVE ON HOMEOWNERS ASSOCIATION RULES AND DOCUMENTS THAT MAY OR MAY NOT PREVENT GROUP HOMES. VOTE: AFFIRMATIVE ALL

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**DISCUSSION OF LEGISLATIVE ISSUES**

The Mayor and Board of Aldermen requested a discussion of legislative issues to prepare for their annual meeting with the local legislative delegation. A breakfast meeting has been scheduled for April 19, 2004 at 7:30 a.m. The purpose of this item was for the Board to discuss potential legislative issues that may be included in the town's 2004 legislative agenda packet for the 2004 North Carolina General Assembly Session.

Alderman Chilton urged the Board to oppose the N.C. League of Municipalities' 2004 Municipal Legislative Goal #49 (The League will oppose legislation to replace the current contributory negligence doctrine with a comparative fault system.)

It was the consensus of the Board to oppose the League's Goal #49.

Alderman Broun urged the Board to oppose legislation to provide funding of for-profit prisons. She suggested supporting funding for Orange County mental health court, and suggested opposition to legislation that would weaken predatory lending.

Alderman Zaffron asked that the Legislature earmark funds to make safety improvements to the Homestead/High School Road intersection. He also requested that the Legislative delegation remain vigilant about legislation to weaken legislation that was passed to prohibit the Governor from attaching local government revenues.

Alderman Herrera suggested exploring enabling legislation to shorten the time required to become a U.S. citizen. He also requested legislation to make the Drivers' License Office more efficient.

Mayor Nelson requested more information on the citizenship issue.

Mayor Nelson requested that the following issues be discussed with the legislative delegation: changes in annexation laws, electronic waste recycling, impact tax, occupancy tax, extension of revenue options for all local governments, repeal of the defense of marriage act.

Alderman Zaffron requested that the Board talk with the delegation about support for a dedicated source of funding for the MPO.

The following resolution was introduced by Alderman Alex Zaffron and duly seconded by Alderman Jacquelyn Gist.

A RESOLUTION IDENTIFYING LEGISLATIVE ISSUES  
FOR THE 2004 NORTH CAROLINA GENERAL ASSEMBLY SESSION  
Resolution No. 139/2003-04

Whereas, in previous years the Board of Aldermen has developed a package of legislative issues for the local delegation to pursue during the North Carolina General Assembly sessions; and

Whereas, the Board will meet with the local delegation on April 19, 2004;

Now, therefore be it resolved by the Carrboro Board of Aldermen that the following topics will be discussed with the local delegation:

1. Opposition to the League's Goal #49.
2. Opposition to additional funding of for-profit prisons.
3. Support of funding for Orange County Mental Health Court.
4. Opposition to legislation that would weaken predatory lending.
5. Funding of safety improvements to the Homestead/High School Road intersection.
6. Support legislation that would prohibit the Governor from attaching local government revenues.

7. Support of legislation to shorten the time required to become a U.S. citizen.
8. Support of legislation to increase the efficiency of the Driver's License Bureau.
9. Opposition to changes in annexation laws;
10. Support of electronic waste recycling;
11. Support of an impact tax;
12. Support of an occupancy tax;
13. Support of the extension of revenue options for all local governments;
14. Support repeal of the Defense of Marriage Act;
15. Support for a dedicated source of funding for the MPO

The foregoing resolution having been submitted to a vote, received the following vote and was duly adopted this 6th day of April, 2004:

Ayes: Joal Hall Broun, Mark Chilton, Jacquelyn Gist, John Herrera, Diana McDuffee, Michael Nelson, Alex Zaffron

Noes: None

Absent or Excused: None

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### **TWIN CREEK PARK DESIGN**

Alderman Broun requested that the County Commissioners hold a charrette in Carrboro on the design of the Twin Creek Park.

Mayor Nelson requested that the town staff forward this request to the County Commissioners.

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### **REQUESTS FROM SCROGGS ELEMENTARY SCHOOL STUDENTS**

Alderman Broun stated that she had met with a 5<sup>th</sup> grade class at Scroggs Elementary School and they had spoken in support of taller buildings in Carrboro, and requested a different type of shredded material be used on playgrounds.

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**REQUEST TO OPEN A RESTAURANT ADJACENT TO MIDWAY BARBER SHOP**

Alderman Chilton stated that there is a request to open a restaurant in the space adjacent to Midway Barber Shop and asked if there is a land use ordinance provision preventing the restaurant from going in at that location.

Marty Roupe stated that that property is zoned B-1(g) and would require a c.u.p.

Alderman Zaffron and Chilton will meet with town staff to discuss this matter.

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**REQUEST TO AMEND NON-DISCRIMINATORY POLICIES**

Mayor Nelson requested that the town staff expand the protections offered by the town's non-discrimination policies and ordinances to include gender identity and gender expression.

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MOTION WAS MADE BY JOAL HALL BROUN AND SECONDED BY JOHN HERRERA TO ADJOURN TO CLOSED SESSION AT 9:04 P.M. TO DISCUSS ACQUISITION OF PROPERTY. VOTE: AFFIRMATIVE ALL

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Mayor

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Town Clerk